

CHAPTER-VI: OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records of the State Excise Department, Chief Electrical Inspectorate and Commercial Tax offices conducted during the year 2007-08 disclosed non-recovery or short recovery of duty, licence fee, etc., amounting to Rs. 40.45 crore in 87 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
State Excise			
1.	Non/short levy of licence fee	6	0.72
2.	Non-levy/collection of establishment charges	4	0.01
3.	Other irregularities	5	0.17
Total		15	0.90
Taxes and duties on Electricity			
1.	Non/short levy of electricity tax	3	6.92
2.	Others	1	0.13
Total		4	7.05
Entry tax, Entertainments tax and Professions tax			
Tax on entry of goods			
1.	Non/short levy of tax	64	1.54
2.	Non-levy of penalty	2	0.02
Total		66	1.56
Entertainments tax			
1.	Non-levy of tax	1	0.01
Total		1	0.01
Professions tax			
1.	Assessment, levy and collection of professions tax (A Review)	1	30.93
Total		1	30.93
Grand Total		87	40.45

During the year 2007-08, the departments accepted underassessments of Rs. 10.58 crore in 191 cases and recovered Rs. 9.15 crore in 160 cases pointed out in the earlier years.

A few illustrative cases involving Rs. 32.12 crore including the results of a review of **Assessment, levy and collection of professions tax** (Rs. 30.93 crore) are mentioned in the succeeding paragraphs. Of this, Rs. 11.31 lakh has been recovered.

6.2 Assessment, levy and collection of professions tax

Highlights

Non-existence of a system of co-ordination between the department and the licensing/registering authorities to bring the potential tax payers into the tax net resulted in non-enrolment of 23,105 persons and non-realisation of revenue of Rs. 30.93 crore.

(Paragraph 6.2.7)

Absence of a penal clause led to inordinate delay in applying for registration/enrolment.

(Paragraph 6.2.8)

6.2.1 Introduction

The Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 (KTPTCE Act) and the Karnataka Tax on Professions, Trades, Callings and Employments Rules, 1976 (KTPTCE Rules) framed thereunder govern levy and collection of professions tax (PT) in the State. The KTPTCE Act provides for levy and collection of professions tax on every person who exercises any profession or calling or is engaged in any trade or holds any appointment, public or private or is employed in any manner in the state at the rates specified in the schedule to the Act subject to a maximum of Rs. 2,500.

The tax payable by any person¹ earning a salary or wage shall be deducted by his employer² from the salary or wage payable to such person before such salary or wage paid to him and such employer shall, irrespective of whether such deduction has been made or not when the salary or wage is paid to such persons be liable to pay tax on behalf of all such persons. Every enrolled person shall pay the tax before 30 April of that year when he stands enrolled before the commencement of a year or within one month from the date of enrolment when he is enrolled after the commencement of a year. If a registered employer (RE) or an enrolled person (EP) fails to pay the tax as required, he shall be liable to pay simple interest at the rate of 1.25 *per cent* of the amount of the tax due.

¹ Any person who is engaged in any profession, trade, calling or employment in the State of Karnataka and includes a Hindu undivided family, firm, company, corporation or other corporate body, any society, club or association, so engaged but does not include any person who earns wages on a casual basis.

² In relation to an employee earning any salary or wages on regular basis under him, means the person or the officer who is responsible for the disbursement of such salary or wages and includes the head of the office or any establishment as well as the manager or agent of the employer.

A review of the functioning of the Commercial Taxes Department (CTD) regarding assessment, levy and collection of PT was conducted between February and May 2008. It revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

6.2.2 Organisational set up

The assessment, levy and collection of PT, interest, penalty and other dues under the KTPTCE Act are administered by the CTD under the administrative control of the Principal Secretary to the Government of Karnataka, Finance Department. The CTD is headed by the Commissioner of Commercial Taxes (CCT) and assisted by 12 Joint Commissioners of Commercial Taxes (JCCTs) at the divisional level. At the circle level, there are 25 professions tax officers (PTOs) responsible for assessment and collection of PT.

6.2.3 Audit objectives

The review was conducted with a view to ascertain whether:

- the department has devised any mechanism to identify the potential PT payers and bring them in the tax net;
- there exists any mechanism to monitor the returns filed by the employers and payment of PT by enrolled persons;
- assessment, levy and collection of PT are made in accordance with the provisions of the Acts/Rules; and
- an adequate internal control mechanism existed to ensure proper realisation of PT.

6.2.4 Scope and methodology of audit

Records for the period from 2002-03 to 2006-07 maintained in 12³ out of 25 PTOs covering six⁴ out of 12 divisions were selected for review. The divisions were selected on the basis of higher revenue collections and heavy pendency of assessments during the last five years. Audit has selected 14⁵ classes of persons for detailed scrutiny. The review was conducted between February and May 2008.

6.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Finance Department and CTD in providing necessary information and records for audit. An entry conference was held with CCT in February 2008, wherein the scope of audit, methodology and audit objectives including sampling were explained to the department. Thereafter, an exit conference was held with

³ 1 to 6 circles Bangalore, Bangalore district, Gadag, Hubli, Kolar, Sirsi, Tumkur.

⁴ Bangalore City Divisions I, II, III IV, Bangalore Division, Dharwad Division.

⁵ Air travel agents, Banking companies, Chit fund agencies, Co-operative societies/banks, Courier services, Film distributors, Legal practitioners, Members of stock exchange, Money lenders, Pawn brokers, Photo labs, Property developers, Race horse owners/trainers/jockeys/ book makers, Sub-brokers of stock exchange.

CCT in May 2008 wherein the department was informed of the audit findings. The draft review report was forwarded to the Government and department in May 2008 and was discussed in the Audit Review Committee meeting held in July 2008. The CCT represented the department. Views of the department have been incorporated in the relevant paragraphs.

6.2.6 Trend of revenue

The Karnataka Budget Manual stipulates that in the preparation of the budget, the aim is to achieve as close an approximation to the actuals as possible. It is, therefore, essential that not merely should all items of revenue and receipts that can be foreseen be provided but also only so much and no more should be provided as is expected to be realised, including past arrears, in the budget year.

The budget estimates (BEs), actual realisation of revenue, variation in receipts of PT over BEs and percentage of variation for the years 2002-03 to 2006-07 were as under:

(Rupees in crore)				
Year	BEs	Actuals	Variation of actuals over BEs	Percentage of variation
2002-03	159.22	180.20	(+) 20.98	(+) 13.18
2003-04	217.64	245.37	(+) 27.73	(+) 12.74
2004-05	272.00	277.94	(+) 5.94	(+) 2.18
2005-06	304.26	330.25	(+) 25.99	(+) 8.54
2006-07	342.18	392.58	(+) 50.40	(+) 14.73

It is seen from the above that the variations between BEs and actuals ranged between 2.18 per cent and 14.73 per cent. The CTD stated that increase in actual realisation of revenue for 2003-04 was due to expansion of tax base by bringing some new professions and service sectors into the tax net from 1 April 2003. However, reasons for the variations for the years 2002-03 and 2006-07 have not been furnished.

System deficiencies

6.2.7 Non-existence of a system of co-ordination between the department and the licensing/registering authorities

The Tax Reforms Commission in its first report (February 2001) emphasised the need for identification of non-enrolled persons (professionals) liable to pay PT by way of obtaining the listings made by various licensing/registering authorities like the Bar council of Karnataka, Turf clubs, Service tax offices, Reserve bank of India, Stock exchange, etc.

Audit noticed that there was no system of obtaining listings from various licensing/registering authorities to identify the potential tax payers and bring them into the PT net.

Cross-verification of the information collected from eight licensing authorities with the records of 12 PTOs revealed that lack of co-ordination between the department and the licensing/registering authorities for identification of potential tax payers, resulted in non-enrolment of 23,105 professionals and non-realisation of revenue of Rs. 30.93 crore as mentioned below:

(Rupees in lakh)

Sl. No.	Profession	Registering/licensing authorities	Number of persons not enrolled	PT leviable but not levied	Interest ⁶ payable	Penalty ⁷ leviable	Total
1.	Legal practitioners	Karnataka bar council	9,440	501.55	208.08	250.77	960.40
2.	Co-operative societies/banks	Registrar of co-operative societies	2,930	152.26	62.72	76.13	291.11
3.	Money lenders		2,722	296.77	122.08	148.38	567.23
4.	Chit fund agencies		30	2.50	1.00	1.25	4.75
5.	Pawn brokers		1,505	97.64	39.99	48.82	186.45
6.	Air travel agents	Service tax offices	335	24.50	9.57	12.25	46.32
7.	Courier services		1,371	104.62	41.12	52.31	198.05
8.	Photo labs		869	35.54	13.73	17.77	67.04
9.	Members of stock exchange	Bangalore stock exchange (BgSE)	191	23.87	9.91	11.94	45.72
10.	Sub brokers of stock exchange		189	21.59	8.89	10.79	41.27
11.	Banking companies	Reserve Bank of India	2,345	224.10	90.61	112.05	426.76
12.	Film distributors	Registrar of Firms	225	24.46	10.03	12.23	46.72
13.	Race horse owners, jockeys and book makers	Turf clubs	819	102.37	42.49	51.19	196.05
14.	Property developers	Bangalore Metropolitan Region Development Authority	134	8.07	3.05	4.04	15.16
TOTAL			23,105	1,619.84	663.27	809.92	3,093.03

After this was pointed out, the department accepted the audit observation and stated that necessary action would be taken in this regard.

⁶ With effect from 1 April 2005, if a person liable to be enrolled fails to pay the tax as required under the Act, he shall be liable to pay simple interest at the rate of 1.25 per cent per month of the amount of tax due for each month or part thereof for the period for which the tax remains unpaid.

⁷ For non-payment of tax within the specified time, penalty not exceeding 50 per cent of the amount of tax due was leviable.

The Government may consider to install a system in the department to obtain listings from various licensing/registering authorities periodically and bring them into PT net.

6.2.8 Absence of a penal provision for delay in submission of application for registration/enrolment

Under the KTPTCE Act and Rules, every employer/person shall within 30 days from the date of commencement of business/profession apply for certificate of registration (RC) in form 1 and enrolment certificate (EC) in form 2. However, form 1 does not provide any specific column for ascertaining the date of commencement of business in respect of employers. The Karnataka Commercial Taxes Manual (Manual) prescribes maintenance of Register No.1⁸ and Register No.2⁹. The KTPTCE Act does not provide any penal provision for delay in submission of applications for registration and enrolment.

6.2.8.1 Cross-verification of certificates of incorporation issued by the Registrar of companies, registration certificates issued by the Registrar of co-operative societies/firms, enrolment certificates issued by the Karnataka Bar Council, agency certificates issued by the insurance companies with form 1 and form 2 available with PTOs revealed the following.

- Application in form 1 was received in 10¹⁰ PTOs beyond 30 days from the date of commencement of business in 521 cases. The delay ranged from six days to 28 years 3 months and 29 days. A few illustrative cases are mentioned below:

Sl. No.	Name of the office	Name of the RE	Date of commencement of business	Date of receipt of application in form 1	Delay beyond 30 days (M-D)
1.	PTO 3 circle Bangalore	M/s. Mysore Pipe Suppliers	07.10.1963	30.10.2004	339-29*
2.	PTO 3 circle, Bangalore	M/s. Vinod Plastics	31.12.1966	27.09.2004	338-26*
3.	PTO 3 circle, Bangalore	M/s. Lal Machinery and Tools Corporation	13.08.1962	27.09.2004	338-26*
4.	PTO 3 circle, Bangalore	M/s. Associated Chemicals and Engineering Company	14.11.1978	12.10.2004	309-28
5.	PTO 3 circle, Bangalore	M/s. Kini Engineering Works	16.04.1984	21.06.2004	241-50

*In these cases, the delay has been calculated beyond three months from 1 April 1976, i.e., date of commencement of the KTPTCE Act.

⁸ Register of application for registration of employers.

⁹ Register of application for enrolment of persons.

¹⁰ 1 to 6 Circles Bangalore, Bangalore district, Hubli, Sirsi, Tumkur.

- Application for enrolment in form 2 was received in 11¹¹ PTOs beyond 30 days from the date of commencement of profession in 479 cases. The delay ranged from two days to 356 months 24 days. A few illustrative cases are mentioned below:

Sl. No.	Name of the office	Name of the EP	Date of commencement of profession	Date of receipt of application in form 2	Delay beyond 30 days (M-D)
1.	PTO 1 circle, Bangalore	M/s. Eshwar Seva Credit Co-operative Society	18.07.1952	25.03.2006	356-24*
2.	PTO 3 circle, Bangalore	M/s. Puttige R Ramesh	23.09.1977	16.03.2006	340-21
3.	PTO 3 circle, Bangalore	M/s. V Lakshmi Narayana	19.01.1979	29.06.2006	328-10
4.	PTO 6 circle, Bangalore	M/s. K T Dasappa	02.06.1979	29.09.2004	302-27
5.	PTO, Sirsi	M/s. Anant M Mahale	19.05.1982	23.03.2007	297-04

*In this case, the delay has been calculated beyond three months from 1 April 1976, i.e., date of commencement of the KTPTCE Act.

6.2.8.2 Test check of the records in four¹² PTOs revealed that in 63 cases the professionals had commenced their profession between April 1997 and November 2005. However, the PTOs concerned had not demanded tax from the effective date. This resulted in non-raising of demand of tax of Rs. 1.80 lakh for the years 2002-03 to 2006-07.

6.2.8.3 In 133 cases pertaining to seven¹³ PTOs details regarding date of commencement of profession and date of receipt of application were not mentioned in form 2. As such, delay caused in submission of application for enrolment in form 2 could not be ascertained.

After this was pointed out, the department stated that the lacunae pointed out in audit were mainly due to manual system and growth in number of professions which has resulted in increased work load in PTOs. The department has now increased the number of PTOs from 25 to 34 to enable better distribution of work and monitoring. The department also emphasised that on implementation of PELSOFT¹⁴ in all offices, the lacunae would be taken care of.

The Government may consider revising the form 1 suitably. Besides, penal provision may also be introduced in the Act to act as a deterrent against late submission of applications for grant of RC and EC.

¹¹ 1 to 6 Circles Bangalore, Bangalore district, Hubli, Kolar, Sirsi, Tumkur.

¹² Bangalore district, 3 circle Bangalore, Gadag, Kolar.

¹³ 2 to 5 circles Bangalore, Gadag, Sirsi, Tumkur.

¹⁴ Software for Professions tax, Entertainments tax and Luxury tax.

6.2.9 Monitoring of PT returns

Under the KTPTCE Act and the rules made thereunder, every RE shall furnish to the assessing authority (AA), a monthly or a quarterly return in form 5A within 20 days of the expiry of a month/quarter. In addition to this, an annual return in form 5 is to be filed by every RE within 60 days of the close of the year. In case of non-filing of returns, the AA shall serve notices in form 6 and form 12 requiring the RE to file the returns or conclude assessments to best of his judgement. Register No.3 is required to be maintained for watching the receipt of returns. Neither the Act nor the rules prescribe any penal provision for non-filing/belated filing of returns.

It was noticed in audit that the receipt of returns were not watched by any PTO through Register No.3 resulting in non-monitoring of returns. None of the 12 PTOs audited were able to furnish details regarding number of returns due, number of returns received, shortfall, etc.

An examination of records relating to receipt and disposal of returns revealed that:

- 372 REs were required to file 22,320 monthly returns for the years 2002-03 to 2006-07. Of these, 5,907 monthly returns were not filed in seven¹⁵ PTOs.
- 31 REs had filed 148 monthly returns belatedly in three¹⁶ PTOs. The delay ranged between one day and 55 months 6 days.
- 33 REs were required to file 165 annual returns for the years 2002-03 to 2006-07. Of these, 36 annual returns were not at all filed in six¹⁷ PTOs.
- 176 REs had filed 265 annual returns belatedly in six¹⁸ PTOs. The delay ranged between 23 days and 107 months 14 days.
- 78 REs had not specified the date of filing of 110 annual returns in six¹⁹ PTOs. Hence, the delay in submission of annual returns could not be ascertained by audit.

After this was pointed out, the department stated that updating of database in PELSOFT is in progress and once this is completed, the software would take care of this deficiency.

The Government may consider providing for penal clauses in the Act/Rules to act as a deterrent against late filing of returns.

6.2.10 Arrears of revenue

The Manual prescribes that demand, collection and balance (DCB) is to be maintained in G2 register. The tax liability admitted by the RE in the returns, additional demand created after conclusion of assessments, tax amount specified in the EC, interest and penalty are to be entered in the demand column of the G2 register. The collection against these demands either

¹⁵ 1 to 5 circles Bangalore, Sirsi, Tumkur.

¹⁶ 3 circle Bangalore, Sirsi, Tumkur.

¹⁷ 1 to 3 circles Bangalore, Gadag, Sirsi, Tumkur.

¹⁸ 1 to 5 circles Bangalore, Tumkur.

¹⁹ 1 to 5 circles Bangalore, Tumkur.

directly or through banks made in cash or cheque/demand drafts are to be entered in H Register and M Register respectively. The amounts so collected are to be remitted to the treasury through challan. With effect from 1 October 2004, the KTPTCE Rules were amended and the assesseees had an option to make payments directly in specified banks along with the statements and returns prescribed under the Act and Rules through a challan in form 9A. The banks were required to forward the copy of the challan marked as 'duplicate' to the concerned AAs. After receipt of the treasury schedule and challans by the PTO, remittances made are to be reconciled and reconciled challans are to be entered in collection column of the G2 register. After deducting the collections from demand, the balance for the month has to be arrived at. No time limit has, however, been prescribed for forwarding the copy of challan to AA by banks.

The Manual further prescribes that reconciliation of remittances with treasury figures shall be completed by 15th of the subsequent month at PTOs and DCB statements shall be submitted to JCCTs on or before 30th of the succeeding month to which the DCB relates.

The position of arrears of revenue for the period from 2002-03 to 2006-07 as furnished by the department is as under:

(Rupees in crore)

Year	Opening balance	Demand raised	Demand realised	Closing balance
2002-03	12.71	170.69	171.99	11.41
2003-04	11.41	230.16	230.24	11.33
2004-05	DCB yet to be completed			
2005-06				
2006-07				

Year-wise details of arrears of revenue as on 31 March 2004 were not furnished to audit. Also, arrears of revenue for the years 2004-05 to 2006-07 have not been furnished as the department is not reconciling remittances of PT from April 2005 onwards.

After this was pointed out, the department stated that non-reconciliation of remittances was due to non-receipt of details of office-wise/challan-wise remittances of PT in the treasury schedule.

The Government may consider amending the rule requiring the banks to forward the returns/statements also alongwith the copy of challan to AAs concerned to enable office-wise reconciliation of remittances. It may also consider fixing a time limit for sending challans from banks to the concerned AAs to enable them to carry out timely reconciliation.

6.2.11 Internal audit

The Manual recognises the Internal Audit Wing (IAW) as an essential and indispensable part of the CTD. The objectives enjoined on it are to have a deterrent and reforming effect in the 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 the functioning of the department so as to

reduce the criticism of the department by statutory audit and the Public Accounts Committee. The Manual lays down the criteria for prioritisation of audit and its duration and prescribes maintenance of control registers and records such as Internal Audit Report, Internal Audit Note Book and Register of discrepancies and defects, etc. for proper monitoring of the results of audit.

However, it was observed that IAW was not functioning in the department leaving it vulnerable to the risk of control failure.

The department stated that the working of PTOs would be upgraded through PELSOFT for better accounting, collection, remittances of PT and identification of defaulters. Thrust would be given to enforcement rather than IAW. Necessity of having an IAW would be examined after a year of operationalisation of PELSOFT. The reply of the department is not tenable as computerisation would not be a substitute for the IAW.

The Government may consider setting up of an IAW to ensure timely detection and correction of errors in assessment, levy and collection of PT.

Compliance deficiencies

6.2.12 Identification of tax payers

The growth of revenue is directly linked with the growth of the assessee base. While placing reliance on voluntary compliance by tax payers, it becomes important for the department to put in place an effective mechanism for collecting information from various sources in order to bring PT evaders into the tax net.

Survey is one of the tools used to detect errant unregistered dealers, widen the tax base and augment revenue. The Manual also emphasises the need for survey to identify the persons liable to pay PT and bring them into the tax net. The machinery for survey includes officers of intelligence wing and jurisdictional assessing officers.

No target prescribing the minimum number of persons to be registered/enrolled by each PTO was fixed till November 2006, in the absence of which, the performance of PTOs could not be evaluated against a fixed benchmark. However, CCT issued circular on 25 November 2006 requiring all PTOs to identify atleast two categories of PT payers every working day and get them finally registered which is being complied with.

As per information collected from 25 PTOs, the position of the number of persons registered/enrolled as against the number of persons identified during the surveys undertaken for the years 2002-03 to 2006-07 is mentioned below:

Year	Number of persons identified for registration/enrolment	Number of persons finally registered/enrolled
2002-03	808	712
2003-04	666	537
2004-05	1,298	1,055
2005-06	8,165	4,538

Year	Number of persons identified for registration/enrolment	Number of persons finally registered/enrolled
2006-07	17,368	13,195
Total	28,305	20,037

It would be seen from the above that 8,268 cases have not been registered/enrolled by the department.

After this was pointed out, the PTOs stated that action would be initiated to bring all the remaining cases identified during survey into the tax net.

6.2.13 Registration of employers and enrolment of persons

Under the KTPTCE Act and Rules made thereunder, every employer/person liable to pay PT shall obtain RC/EC from the AA concerned. The AA shall grant RC in form 3 for employers and EC in form 4 for persons within 30 days of the receipt of application in form 1 and form 2 respectively. The EC shall also be treated as a notice of demand indicating the amount of tax payable and the due date by which it shall be paid.

A scrutiny of RC and EC files revealed the following:

6.2.13.1 The RCs were issued beyond 30 days in 172 cases by 11²⁰ PTOs. The delay ranged from one day to 126 months, 4 days. A few illustrative cases are mentioned below:

Sl. No.	Name of the office	Name of the RE	Date of receipt of application in form 1	Date of issue of RC in form 3	Delay beyond 30 days (M-D)
1.	PTO Hubli	M/s. Norsey Associates	30.11.1995	04.07.2006	126-4
2.	PTO Tumkur	M/s. Hamsa Tech Tools	08.07.1998	18.01.2005	77-10
3.	PTO Tumkur	M/s. Cento Watches	04.06.1998	26.08.2004	73-22
4.	PTO 3 circle Bangalore	M/s. Hageyar India Private Limited	27.12.2001	04.12.2003	22-7
5.	PTO 1 circle Bangalore	M/s. Shanmukhi Industries	09.09.2005	17.01.2007	15-8

6.2.13.2 ECs were issued beyond 30 days in 159 cases by nine²¹ PTOs. The delay ranged from one day to 26 months, 3 days. A few illustrative cases are mentioned below:

Sl. No.	Name of the office	Name of the EP	Date of receipt of application in form 2	Date of issue of EC in form 4	Delay beyond 30 days (M-D)
1.	PTO 2 circle Bangalore	M/s. Reddy and Associates	30.09.2004	02.01.2007	26-3
2.	PTO Hubli	M/s. Balaji Interior Designers	21.10.2004	19.09.2006	21-29

²⁰ 1 to 6 circles Bangalore, Bangalore district, Gadag, Hubli, Sirsi, Tumkur.

²¹ 1 to 4, 6 circles Bangalore, Bangalore district, Hubli, Sirsi, Tumkur.

Sl. No.	Name of the office	Name of the EP	Date of receipt of application in form 2	Date of issue of EC in form 4	Delay beyond 30 days (M-D)
3.	PTO 6 circle Bangalore	M/s. Manjunatheswara Finance	30.04.2002	10.07.2003	13-10
4.	PTO Sirsi	M/s. Murali Beeranna Naik	26.12.2003	13.12.2004	10-17
5.	PTO Sirsi	M/s. Subhas Hanumanth Naik	07.03.2003	19.02.2004	10-12

6.2.13.3 Tax to be demanded and the due date of payment of tax was not mentioned in 225 ECs issued by five²² PTOs, in the absence of which, the correctness of tax and due date of payment of tax could not be ascertained by audit.

6.2.13.4 In one case (PTO Sirsi), audit noticed that interest of Rs. 1.94 lakh was not levied on tax of Rs. 3.80 lakh paid belatedly for the years 2000-01 to 2004-05.

After this was pointed out, the department stated that on implementation of PELSOFT in all offices, the deficiencies would be taken care of.

6.2.14 Delay in remittance of taxes to the Government by banks

6.2.14.1 All Government moneys received shall be paid in full without undue delay, in any case, within two days into the Government treasury for being credited to the appropriate head of account in terms of Karnataka Financial Code, 1958 (KFC). The KPTCE Rules as amended in October 2004 provided that the assessee may make payment directly in specified banks through a challan in form 9A. The payment of taxes and other dues by cheques is watched through M register.

A scrutiny of the M registers and bank scrolls revealed delay in remittance of taxes beyond 2 days in 1,798 cases. Agewise analysis is mentioned below:

Extent of delay	Number of cases
Delay upto 30 days	1,655
Delay between 31 days and 100 days	122
Delay between 101 days and 200 days	5
Delay between 201 days and 300 days	15
Delay beyond 300 days	1

Further, date of realisation of cheques was not specified in 1,047 cases. Hence, audit could not ascertain the delay in remittances of taxes.

After this was pointed out, the department stated that it is proposing to have an interface with banks for timely remittance of taxes.

6.2.14.2 Under the provisions of KFC, when payment of tax is made by cheques and in the event of the cheque being dishonoured by the bank on presentation, the fact shall be reported at once to the tenderer with a demand for payment in cash.

²² 2 to 4 circles Bangalore, Bangalore district, Sirsi.

A scrutiny of Register of dishonoured cheques for the years 2002-03 to 2006-07 revealed the following:

- Interest of Rs. 50,171 was not levied though payment of tax of Rs. 9.01 lakh was made belatedly in respect of nine dishonoured cheques.
- 449 cheques involving a tax effect of Rs. 11.53 lakh were dishonoured by the banks. However, notices demanding payment of taxes in cash were issued only in 225 cases. No action was taken in the remaining cases. Final payment is yet to be made in all the cases.

After this was pointed out, the department accepted the audit observation and stated that necessary action would be initiated.

6.2.15 Conclusion

There is no system in the department to obtain listings from various licensing/registering authorities to identify the potential PT payers and to bring them in PT net. The KTPTCE Act/Rules do not provide any penal clauses for delay in submission of application for registration/enrolment and for non-filing/belated filing of returns. Absence of such penal clauses resulted in ineffective monitoring of such applications/returns as well as non-payment/delayed payment of taxes. Owing to direct payment of taxes to banks, the correctness of taxes paid and timely submission of returns could not be ensured in the absence of returns accompanying the tax payments. The internal controls of the department were weak as is evidenced by the lack of an IAW.

6.2.16 Summary of recommendations

The Government may consider:

- installing a system in the department to obtain listings from various licensing/registering authorities periodically and bring them into PT net;
- revising the form 1 suitably. Besides, penal provision may also be introduced in the Act to act as a deterrent against late submission of applications for grant of RC and EC;
- providing for penal clauses in the Act/Rules to act as a deterrent against late filing of returns;
- amending the rule requiring the banks to forward the returns/statements also alongwith the copy of challans to AAs concerned to enable office-wise reconciliation of remittances;
- fixing a time limit for sending challans from banks to the AAs concerned to enable them to carry out timely reconciliation; and
- setting up of an IAW to ensure timely detection and correction of errors in assessment, levy and collection of PT.

A. STATE EXCISE

6.3 Short levy of licence fee

Under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, licence in Form 6-A²³ shall be granted by the Deputy Commissioner to Star hotels for possession and sale of liquor after levying prescribed licence fee. In addition, additional licence fee equivalent to 15 per cent of the licence fee was also leviable.

Test check of the records in three districts, between August and November 2007 revealed that four star hotels were granted CL-7²⁴ and CL-9²⁵ licence instead of form 6A licence resulting in short levy of licence fee of Rs. 23 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	District/ No. of star hotels/ Period of licence	Number of licences	Licence fee and additional licene fee recoverable	Licence fee and additional licence fee recovered	Short levy of licence fee and additional licence fee
1.	Bangalore (Urban)/ 2/ 2003-04 to 2006-07	8	41.40	32.43	8.97
2.	Mangalore/1/ 2002-03 to 2007-08	4	18.40	13.34	5.06
3.	Madikeri/1/ 2006-07 and 2007-08	2	13.80	4.83	8.97
Total		14	73.60	50.60	23.00

After the cases were pointed out between August and November 2007, the department reported in April 2008 recovery of entire amount of Rs. 8.97 lakh in respect of Madikeri and issue of notices in Bangalore and Mangalore for payment of deficit licence fees.

The cases were reported to the Government in March 2008; their reply has not been received (November 2008).

²³ Licence for hotel given star status by the Department of Tourism, Government of India. The rate of licence fee was Rs. 4 lakh upto 2006-07 and Rs. 8 lakh thereafter.

²⁴ Hotel and Boarding House licences to hotels and boarding houses having a minimum of 30 double rooms in corporation areas and 20 double rooms in other areas. The rate of licence fee ranges from Rs. 1.40 lakh to Rs. 3.30 lakh depending on the jurisdiction of municipal/corporation areas.

²⁵ Licence for refreshment room (Bar) for sale of Indian liquor combined with the supply of meals or eatables. The rate of licence fee ranges from Rs. 1 lakh to Rs. 3 lakh depending on the municipal/corporation areas.

B. ENTRY TAX

6.4 Non/short levy of entry tax

Under the Karnataka Tax on Entry of Goods (KTEG) Act, 1979, on entry of specified goods into a local area, tax is leviable at the rates notified from time to time.

Test check of the records in four²⁶ districts between April and October 2007 revealed that 20 assessments of 15 dealers for the years 2000-01 to 2004-05 were finalised by seven AAs between April 2006 and March 2007. Entry tax of Rs. 74.29 lakh leviable on the turnover of Rs. 28.62 crore relating to cement, petroleum products, diesel captive generator sets, ready made garments, machinery and their parts, bitumen, passenger lift, raw material and packing material was either not levied or levied short. This resulted in non/short realisation of Rs. 74.29 lakh.

After the cases were pointed out between April and October 2007, the AAs concerned accepted audit observations in nine cases of eight dealers involving Rs. 35.35 lakh. Of these, Rs. 2.34 lakh was recovered in respect of one case. In four cases, additional demand of Rs. 4.73 lakh was created by revision of assessments and in four cases notices for revision of assessments were issued. In respect of the remaining cases, final replies have not been received (November 2008).

The cases were reported to the Commissioner of Commercial Taxes between July and December 2007 and to the Government in April 2008 ; their reply has not been received (November 2008).

C. TAXES AND DUTIES ON ELECTRICITY

6.5 Short levy of electricity tax

Under the Karnataka Electricity (Taxation on Consumption) Act 1959, every non-licensee (i.e., a person not being a licensee like the State Electricity Board) who generates energy and supplies to any other person is liable to collect and remit electricity tax in respect of energy supplied by him at rates notified by the Government. The rate of electricity tax was revised with effect from 1 April 2003.

Test check of the records of the Chief Electrical Inspector, Bangalore (CEI) revealed that one non-licensee had supplied 2,76,34,249 units of energy between April 2005 and January 2007 to three units for a consideration of Rs. 7.18 crore. Electricity tax of Rs. 13.81 lakh was remitted at the pre-revised rate of five paise per unit instead of Rs. 35.90 lakh at five *per cent* of electricity charges. The CEI had not raised demand for the short remittance of electricity tax. The short levy amounted to Rs. 22.11 lakh.

²⁶ Bangalore (Rural), Bangalore (Urban), Bellary, Dharwad.

After the case was pointed in December 2007, the CEI reported (June 2008) that the non-licensee had been directed to remit the deficit amount. A report on recovery has not been received (November 2008).

The case was reported to the Government in May 2008; their reply has not been received (November 2008).

