

Chapter 6 Other Tax Receipts

6.1 Results of audit

Test check of records of concerned departmental offices, conducted in audit during the year 2001-2002, disclosed short realisation or losses of revenue amounting to Rs.54.83 crore in 257 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
A. Stamps and Registration Fees			
1	Non-levy/short levy of stamp duty and registration fees	34	1.86
2	Incorrect grant of exemption/concession	07	0.16
3	Other irregularities	07	0.89
	Total	48	2.91
B. Taxes on Motor Vehicles			
1	Non-levy/short-levy of tax	48	47.58
2	Non-levy/non-collection of fees/penalty	07	0.67
3	Other irregularities	03	0.01
	Total	58	48.26
C. Entry Tax			
1	Non-levy/short levy of tax	93	2.62
2	Non-levy/short levy of tax due to incorrect exemption	04	0.06
3	Non-levy of penalty	21	0.26

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
4	Other irregularities	09	0.12
	Total	127	3.06
D. Entertainments Tax, Professions Tax, Luxury Tax and Betting Tax			
1	Non-levy/short levy of tax	21	0.36
2	Other irregularities	01	0.02
	Total	22	0.38
E. Taxes and Duties on Electricity			
1	Non-levy/short levy of tax	02	0.22
	Total	02	0.22
	Grand total	257	54.83

During the course of the year 2001-2002, the Departments accepted under-assessments of tax amounting to Rs.1.18 crore involved in 132 cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases (including certain cases noticed in earlier years which could not be included in previous Reports) involving Rs.3.58 crore (Stamps and Registration Fees including observations on 'One-time Settlement Scheme for Under-valuation cases': Rs.1.44 crore, and Entry Tax: Rs.2.14 crore) are detailed in the following paragraphs. Of this, Rs.1.36 crore had been recovered.

A. Stamps and Registration Fees

6.2 One-time Settlement Scheme for Under-valuation cases

Under the Karnataka Stamp Act 1957 (the Act), duty on instruments of 'conveyance' is levied at the prescribed *ad valorem* rates on the 'market value' of the property. Under the Karnataka Stamp (Constitution of Committee for Estimation of Property) Rules 1992, the market values of properties for different areas are published for guidance. Till August 1999, the registering officer was required to register any instrument found undervalued and send it to the District Registrar for Under-valuation of Stamps (DUS) for determination of the market value. However, from August 1999, the registering officer is required to keep pending the process of registration and refer the case to the DUS, if the duty on the basis of valuation with reference to the notified market value is not paid. The Act empowers the State Government to reduce, remit or compound the duties with which an instrument is chargeable.

Considering the large number of under-valuation cases pending for adjudication, pursuant to the announcement made in the Budget Speech for 1999-2000, a One-time Settlement Scheme was introduced in April 1999 "so that the pending cases are disposed off and Government gets the revenue due", offering a remission of 30 per cent of the difference of duty (on value set forth in the instrument and the market value determined under the Act) if offered for settlement within three months. This was made applicable only to instruments presented for registration on or before 16 March 1999. Though the announcement also mentioned that the concession would not be extended, the Scheme was either extended or reintroduced (with reduction of concession to 20 per cent for the period July-September 2000) for duration of three months each on four occasions during 1999-2000, 2000-2001 and 2001-2002 with cut-off date as 16 August 1999 (Date of issue of notification amending the provisions of the Act to keep the process of registration pending if payment of stamp duty was less than that due with reference to the notified market values). Similar scheme for reduction of registration fees leviable under the Registration Act 1908 was also brought into effect simultaneously.

A review of the Scheme conducted during July 2001 - May 2002 revealed the following points.

(i) According to the Department (May 2002), no goals in terms of money value likely to be realised were fixed at the time of introduction of the Scheme. The Department had also not analysed the extent of under-valuation in the cases pending for adjudication under the Act. In view of this, the logic

for offering the Scheme and the rationale for fixing concession of reduction in duty at 30 per cent were not ascertainable. However, application of uniform rate of concession resulted in extending greater benefit to cases of higher under-valuation than of lower under-valuation, as illustrated below:

Sl. No.	Sub-Registry/ Date of Registration	Value set forth in instrument Rs.	Market value Rs.	Extent of under- valuation (Percentage) Rs.	Date of settlement	Rate of concession (Percentage)	Concession in value allowed Rs.
1	Kengeri 07.12.1997	288000	600000	312000 (108)	29.06.2001	30	93600
2	Kengeri 10.12.1996	47060	600000	552940 (1175)	14.07.1999	30	165882
3	Yelahanka 15.06.1998	340000	3015000	2675000 (787)	29.09.2000	20	535000
4	Rajajinagar 16.04.1998	2325000	3142213	817213 (35)	29.09.2000	20	163443

(ii) According to the provisions of the Karnataka Stamp (Prevention of Under-valuation of Instruments) Rules 1977, on receipt of a reference of a case from a registering officer, the DUS was required to issue a notice in the prescribed form to the parties involved calling for representation to show that the market value of the property had been truly and correctly set forth in the instrument. If no representations were received within 21 days from the date of service of such notice, the matter could be disposed of on the basis of facts available.

Audit scrutiny of 5,628 out of 16,494 cases disposed of by five District Registrars (one in Bangalore (Rural) district and four in Bangalore (Urban) district) revealed that in 867 cases even adjudication notices had not been issued. Moreover, in 297 cases where final orders had been passed after determination of market value, the amounts due had not been realised and even those cases were finally settled under the Scheme. In respect of the remaining 4,464 cases in which adjudication notices had been issued, no further action had been taken. Therefore, in 79 per cent of the cases, Departmental inaction lead to delay in finalisation of cases. Had the Department taken prompt action as provided under the Rules for finalisation of the cases soon after issue of notices, the accumulation of cases and locking up of revenue involved were avoidable. Therefore, introduction of the Scheme and forgoing of revenue of Rs.29.80 crore were not justified.

The points mentioned above were reported to Government (June 2002); their reply has not been received (December 2002).

6.3 Short levy due to incorrect classification

Under the Karnataka Stamp Act 1957 (the Stamp Act), the stamp duty leviable on a 'Conveyance' was at a maximum rate of 10 per cent of the market value of the property. Under the Act *ibid*, on a 'Release' deed between family members, the maximum rate of duty was at 5 per cent of the market value of the property. The registration fee leviable was at a maximum rate of 2 per cent in the case of Conveyance and a fixed amount of Rs.500 in the case of Release.

In the Sub-Registry, Basavanagudi (Bangalore (Urban) district), an instrument titled 'Release-cum-Settlement' executed during November 2000 was registered after levying stamp duty of Rs. 3.94 lakh and registration fee of Rs.500 treating the instrument as a 'Release'. According to the recitals of the document, a self-acquired immovable property was disposed of by a father in favour of one (B) of the three sons (A, B and C) for a consideration of Rs.75 lakh payable by 'B' to his father. The father had reserved his right to disburse the amount of Rs.75 lakh among himself and A and C during his lifetime or by way of a 'Will'.

As there was a transfer of property for consideration, it was classifiable only as a 'Conveyance' on which stamp duty of Rs.9.38 lakh and registration fees of Rs.1.50 lakh were leviable. The incorrect classification resulted in short levy of stamp duty of Rs.5.44 lakh and registration fees of Rs.1.49 lakh.

The case was pointed out to the Sub-Registrar (April 2001), reported to the Inspector General of Registration and Commissioner of Stamps (IGR) (May 2001) and to Government (March 2002); their replies have not been received (December 2002).

6.4 Short levy due to incorrect exemption/concession

By an order issued in June 1999, Government exempted 50 per cent of stamp duty and the entire registration fees leviable on instruments pertaining to sale of buildings constructed by the Information Technology Park Limited (ITPL), when transferred for the second time.

In the Sub-Registry, K.R. Puram (Bangalore (Urban) district), 14 instruments relating to sale of building by ITPL in favour of entrepreneurs for a total consideration of Rs.23 crore were registered during 2000-2001 after levying stamp duty of Rs.1.42 crore and registration fee of Rs.2560 only. Audit scrutiny revealed (October 2001) that these documents related to first sale of buildings constructed and sold by ITPL and hence the exemption/concession were not admissible. Therefore, the stamp duty and registration fees leviable were Rs.2.34 crore and Rs.0.46 crore respectively. The incorrect exemption/concession resulted in short levy of Rs.1.38 crore (stamp duty : Rs.0.92 crore , registration fee : Rs.0.46 crore).

On being pointed out, the Department stated (September 2002) that transfer of land by Karnataka Industrial Areas Development Board (KIADB) to ITPL was the first transfer and subsequent sale by ITPL was the second transfer and hence exemption granted was in order. This reply is untenable as the property transferred to ITPL was only in the form of land. It was the property transferred by ITPL which was in the form of constructed area, and therefore it could not be regarded as transfer for the second time.

The matter was referred to Government (April 2002); their reply has not been received (December 2002).

B. Entry Tax

6.5 Non-levy /short levy of entry tax

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

In five districts, 16 assessing authorities did not levy the tax due on entry of goods into local areas or levied it short in 25 assessments (concluded between June 1995 and March 2001). The non-levy/short levy of tax amounted to Rs.1.81 crore, as detailed below:

(Rupees in lakh)

Sl. No.	District (Number of cases)	Assessment year (Date of assessment)	Turnover involved	Tax levied short/ not levied
1	Bangalore (Rural) (6)	1992-93, 1995-96, 1997-98 to 1999-2000 (between April 1999 and March 2001)	5373.17	106.81
2	Bangalore (Urban) (15)	1992-93, 1993-94, 1995-96 to 1999-2000 (between June 1995 and March 2001)	3527.43	61.90
3	Bidar (1)	1997-98 (February 1999)	47.95	0.96
4	Dharwad (2)	1997-98 and 1998-99 (May 2000)	362.78	9.75
5	Raichur (1)	1998-99 (June 2000)	71.05	1.42
	Total (25)		9382.38	180.84

On these cases being pointed out (between December 1996 and November 2001), the Department created (between September 2001 and September 2002) additional demand of Rs.1.33 crore in 17 cases and recovered Rs.1.27 crore in 13 of them. In respect of the remaining cases, final replies have not been received (December 2002).

The cases were referred to Government (May 2002); their reply has not been received (December 2002).

6.6 Incorrect refund of entry tax collected in excess

Under the Karnataka Tax on Entry of Goods Act 1979, a registered dealer is prohibited from collecting any amount by way of tax or purporting to be by way of tax beyond his liability under the Act. On contravention thereof, the dealer is required to pay the excess tax to the assessing authority within 20 days after the close of the month in which it was collected. In case of default, the assessing authority is required to forfeit the tax collected in excess

and recover the same from the dealer. The assessing authority is also empowered to levy penalty not exceeding one-and-a-half-times the amount of tax so collected.

In Bangalore (Urban) district, in respect of three assessments of three dealers for the year 1998-99 finalised (between April 2000 and March 2001) by two assessing authorities, as against tax of Rs.34.87 lakh collected by the dealers as entry tax and paid to Government, the liability was determined as Rs.25.98 lakh only. The excess collected tax of Rs.8.89 lakh was not forfeited to Government. Instead, the amounts were refunded to the dealers, which was not permissible. Besides, penalty amounting to Rs.13.34 lakh was also leviable for which action had not been initiated.

On these cases being pointed out (April/September 2001), the Department forfeited (September 2002) excess collection of tax of Rs.6.77 lakh in two cases. Reports of recovery in these cases and action taken in respect of the other case have not been received (December 2002).

The cases were referred to Government (April 2002); their replies have not been received (December 2002).

6.7 Non-levy of penalty

(a) Under the Karnataka Tax on Entry of Goods Act 1979, every dealer is required to pay the full amount of tax payable on the basis of the 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 penalty at two per cent of the tax payable for every month or part thereof during which such default is continued.

In Bangalore (Rural) district, though nine dealers had delayed the payment of monthly taxes amounting to Rs.12.41 lakh by 10 to 32 months during the years 1997-98 to 1999-2000, the Deputy Commissioner of Commercial Taxes (Assessments)-IV, Bangalore (Rural) had not levied the penalty of Rs.5.01 lakh.

On these cases being pointed out (June 2001), the Department recovered (September 2002) Rs.4.10 lakh from eight dealers. Final report on action taken in respect of the remaining case has not been received (December 2002).

The cases were referred to Government (May 2002); their reply has not been received (December 2002).

(b) Under the Karnataka Tax on Entry of Goods Act 1979, 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 in making payments, the assessee is liable to pay penalty at two per cent of the amount of tax payable for every month during which such default is continued.

In Bangalore (Rural) district, though four dealers had delayed the payment of the sums specified in the demand notices served between February and August 2000 by 19 days to 10 months beyond 21 days of their service, the Deputy Commissioner of Commercial Taxes (Assessments)-II, Bangalore (Rural) had not levied the penalty of Rs.5.84 lakh.

On these cases being pointed out (November 2001), the Department created (September 2002) additional demand of Rs.5.13 lakh in the case of three dealers and recovered Rs.4.79 lakh from two of them. Report of recovery in the other case and final reply in respect of the remaining case have not been received (December 2002).

The cases were referred to Government (May 2002); their reply has not been received (December 2002).

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