

CHAPTER VII
Other Tax Receipts

7.1 Results of audit

Test check of records of concerned departmental offices, conducted in audit during the year 2002-2003, disclosed short realisation or losses of revenue amounting to Rs.103.25 crore in 316 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
Stamps and Registration Fees			
1	Non-levy/short levy of stamp duty and registration fees	49	0.86
2	Incorrect grant of exemption/concession	6	3.54
3	Other irregularities	22	3.71
	Total	77	8.11
Entry Tax			
1	Non-levy/short levy of tax	143	2.07
2	Incorrect grant of exemption	4	0.07
3	Non-levy of penalty	33	0.89
4	Other irregularities	11	0.16
	Total	191	3.19
Entertainments Tax, Luxury Tax and Professions Tax			
1	Non-levy/short levy of tax	38	0.21
2	Non-levy of penalty	6	0.01
	Total	44	0.22
Taxes and Duties on Electricity			
1	Short levy of electricity tax	2	0.62
2	Other irregularities	1	0.01
	Total	3	0.63
Other Taxes and Duties on Commodities and Services			
1	Non-remittances of cesses	1	91.10
	Total	1	91.10
	Grand Total	316	103.25

During the course of the year 2002-2003, the Departments accepted under-assessments of tax amounting to Rs.1.47 crore involved in 119 cases which had been pointed out in audit in earlier years and recovered Rs.1.46 crore involved in 95 of them.

A few illustrative cases involving Rs.95.24 crore are given in the following Paragraphs. Of this, Rs.29.74 lakh had been recovered.

Stamps and Registration Fees

7.2 Short levy due to incorrect exemption/concession

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

In the Sub-Registry, K.R.Puram (Bangalore-Urban district), two documents relating to sale of buildings by ITPL were registered during 2001-2002 after levying stamp duty and additional duty of Rs.2.76 crore and registration fees of Rs.220 only. Audit scrutiny revealed that these documents related to first sale of buildings constructed by ITPL and hence the concession of Rs.1.72 crore in respect of stamp duty and exemption of Rs.0.86 crore in respect of registration fees allowed was incorrect. This resulted in short levy of Government revenue by Rs.2.58 crore.

On this being pointed out, the Sub-Registrar stated in December 2002 that transfer of land by the 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. The reply is not tenable, as transfer of property to ITPL by KIADB was in the form of land and the properties transferred by ITPL were in the form of buildings constructed by ITPL and therefore, they could not be regarded as transfer for the second time.

The matter was reported to the Inspector General of Registration and Commissioner of Stamps in January 2003 and to Government in May 2003; their replies have not been received (January 2004).

7.3 Short levy due to incorrect determination of market value

Under the Karnataka Stamp Act 1957, 'market value' in relation to any property, which is the subject matter of an instrument, means the price which

such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument, whichever is higher. Under the Act *ibid*, if the Registering Officer has reason to believe, having regard to the estimated market values published under the Act or otherwise, that the market value of the property has not been truly set forth, he may refer the matter to the District Registrar for determination of the market value of such property.

In Belgaum district, while deciding during June to September 2000, 67 under-valuation cases referred by Sub-Registrars, the District Registrar had determined the market value not as on the dates of execution of conveyances but as on the dates of agreements of sale made between May 1979 and July 1992. As a result, as against the aggregate market value of Rs.2.36 crore estimated by the Sub-Registrars at the time of referring the cases for determination of proper market value, the aggregate market value determined amounted to only Rs.0.75 crore, the reduction being Rs.1.61 crore. The incorrect adoption of the date for determination of market value had resulted in short levy of Rs.23.70 lakh.

On these cases being pointed out, the Inspector General of Registration and Commissioner of Stamps stated in May 2003 that determination of market value in the cases was made by the District Registrar in accordance with instructions issued by the Department in December 1998 according to which the market value was fixed as on the date of agreement of sale. The reply is not tenable as stamp duty was leviable on the market value on the date of execution and not on the date of agreement of sale as per the Act. This was also clarified by Government in their instructions issued in August 2000. Thus, instructions of 1998 were not in consonance with the provisions of the Act and resulted in a loss of Rs.23.70 lakh to Government.

The matter was reported to Government in May 2003; their reply has not been received (January 2004).

7.4 Short levy on lease-cum-sale agreements

Under the Karnataka Stamp Act 1957, duty on lease-cum-sale agreements executed by the Karnataka Industrial Areas Development Board in respect of industrial sheds and plots is leviable as for a conveyance. The market value for the purpose would be equal to the security deposit and the average annual rent reserved. Similar provisions exist for charging registration fees.

In two[¶] Sub-Registries, the market value in respect of three lease-cum-sale deeds registered during 1998-99 to 2000-2001 was Rs.1.36 crore. Against

[¶] Mysore and Ranebennur

stamp duty and registration fees of Rs.13.54 lakh leviable, only Rs.5.67 lakh was levied. This resulted in short realisation of Government revenue of Rs.7.87 lakh.

On this being pointed out, the Department accepted in August 2003 the audit observation in one case and issued notice for recovery of Rs.3.05 lakh. Report of recovery in this case and report of action taken in respect of the other two cases have not been received (January 2004).

The cases were referred to Government in June 2003; their reply has not been received (January 2004).

7.5 Short levy on lease deeds

Under the Karnataka Stamp Act 1957, duty on lease deeds for periods exceeding five years is leviable as for a deed of conveyance. The consideration on which the duty is leviable is to be computed in multiples of the average annual rent depending on the period of lease in addition to the premium or money advanced. Similar provisions exist for charging registration fees.

In the Sub-registry, Sandur, the consideration for levy of stamp duty and registration fees was incorrectly computed in respect of two lease deeds registered during May 1999 resulting in short levy of Rs.7.02 lakh.

These cases were pointed out between July and August 2002 to the Sub-Registrar and the Inspector General of Registration and Commissioner of Stamps and reported to Government in June 2003; their replies have not been received (January 2004).

7.6 Incorrect refund of stamp duty and non-levy of interest

Under the Karnataka Stamp Act 1957, a person aggrieved by the order of a Deputy Commissioner determining the market value is entitled to prefer an appeal to the Divisional Commissioner of the Revenue Division by deposit of 50 per cent of the difference in duty payable as determined by the Deputy Commissioner which would be refunded after the disposal of the appeal, if the stamp duty paid is found to be sufficient. Deficient duty as determined by the

Appellate Authority bears interest at 12 per cent per annum from the date of execution of the document.

In the District Registry, Bangalore (Urban), in respect of two appeals involving sale deeds executed in November 1998 wherein Rs.7.43 lakh had been deposited in December 2000, the Deputy Commissioner on remand of the cases had ordered in December 2001 refund of Rs.1.98 lakh, the balance amount of Rs.5.45 lakh being adjusted towards deficit stamp duty and registration fees. However, the entire amount of deposit of Rs.7.43 lakh had been refunded resulting in excess refund of Rs.5.45 lakh. Further, interest of Rs.1.19 lakh on differential stamp duty from November 1998 to December 2000 had not been demanded.

On these cases being pointed out, the Inspector General of Registration and Commissioner of Stamps reported in August 2003 recovery of the excess refunded amount of Rs.5.45 lakh. He also added that the District Registrar had been instructed to issue final orders for recovery of interest of Rs.1.19 lakh as arrears of land revenue. Further report has not been received (January 2004).

The matter was referred to Government in May 2003; their reply has not been received (January 2004).

Entry Tax

7.7 Non-levy /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.

In six[~] districts, while finalising between March 2001 and May 2002, 19 assessments of 14 dealers for the years 1996-97 to 2000-2001, entry tax of Rs.16.61 lakh due on machinery and their parts, light diesel oil, lubricants, diesel captive generation sets and raw materials used in the manufacture of other products was either not levied or levied short on the turnover of

[~] Bagalkot, Bangalore (Rural), Bangalore (Urban), Belgaum, Dakshina Kannada, Mysore

Rs.12.07 crore by 10 Assessing Authorities due to incorrect exemptions allowed, application of incorrect rate of tax, etc.

On these cases being pointed out, Government reported revision of assessments in 12 cases creating additional demand of Rs.11.19 lakh and recovery of Rs.6.51 lakh in six of them. In respect of the other cases, final replies have not been received (January 2004).

7.8 Non-levy of interest

Under the KTEG 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 was liable to pay, interest at prescribed rates.

In three districts, though 19 dealers had delayed the payment of the sums specified in the demand notices beyond 21 days of their service, eight Assessing Authorities had not levied the interest of Rs.87.08 lakh due, as detailed below:

(Rupees in lakh)

Sl. No.	District	Period (Date of service of demand notice)	Number of assessees	Delay in payment of tax	Interest due
1	Bangalore (Rural)	1992-93 to 1997-98 (between February 2000 and January 2002)	5	18 days to 12 months	10.07
2	Bangalore (Urban)	1988-89 to 1998-99 (between June 1999 and September 2001)	13	1 to 33 months	72.07
3	Belgaum	1998-99 (November 2000)	1	11 months	4.94
		Total	19		87.08

On these cases being pointed out, Government reported creation of additional demand of Rs.17.51 lakh against 14 dealers and recovery of Rs.13.25 lakh in nine of them. In respect of the remaining cases, final replies have not been received (January 2004).

Taxes and Duties on Electricity

7.9 Non-levy of interest

Under the Karnataka Electricity (Taxation on Consumption) Act 1959, every non-licensee[#] is liable to pay electricity tax at rates notified by Government for different classes of consumers in respect of energy consumed by him or supplied to others. The amount of electricity tax due in respect of every calendar month is to be credited by him into a Government Treasury within a period of 30 days from the end of that month. In case of default, he is liable to pay interest at 24 per cent per annum on the amount of tax due.

It was noticed from the records of the Chief Electrical Inspector (CEI), Bangalore in July 2001 that eight non-licensees had delayed payment of tax of Rs.1.98 crore relating to 2000-2001 by 9 to 121 days. Besides, two non-licensees had not credited tax of Rs. 11 lakh relating to July 2000 to March 2001 even as of June 2001. Though interest of Rs.6.27 lakh was leviable for non-payment/delayed payment of tax, it was not levied by the CEI.

On these cases being pointed out, Government reported in November 2003 recovery of tax of Rs.1.80 lakh from one non-licensee and Rs.4.53 lakh towards interest from five non-licensees. Final replies in respect of other cases has not been received (January 2004).

Other Taxes and Duties on Commodities and Services

7.10 Non-remittance of cesses

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

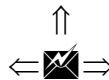
[#] a person - not being a licensee like the State Electricity Board - who generates energy for his own consumption or supply to any other person free of charge

cent of the cesses collected towards collection charges, the balance amount is required to be paid by them into the Government account.

A test check of records of the Bangalore Mahanagara Palike, the Bangalore Development Authority and eight[∇] City/Town Municipal Councils in Bangalore Urban Agglomeration revealed that out of Rs.104.96 crore collected by them on account of education and health cesses during the years 1997-98 to 2001-2002, Rs.94.46 crore were required to be deposited into the Government account. However, only two[“] local bodies remitted Rs.3.36 crore against Rs.5.47 crore due from them. The others did not remit the amount into Government account. Thus, Rs.91.10 crore was being kept out of the Consolidated Fund of the State.

The Bangalore Mahanagara Palike stated that it was running a number of schools and colleges for which only salary expenses were being received from the Department of Public Instructions and that their maintenance out of its own funds had become a heavy burden. It also stated that it was running a number of hospitals and dispensaries for which it was not receiving any grant from Government. The other bodies have not furnished reasons for non-remittance (January 2004). The replies are not tenable as non-remittance of the cesses was contrary to the statutory provisions.

The cases were referred to Government in the concerned Departments in June 2003. Government (Education Department) reported (November 2003) that the authorities in the concerned local bodies had been reminded to remit the education cess and submit a report to Government; reply in respect of health cess has not been received (January 2004).



[∇] CMCs - Bommanahalli, Byatarayanapura, Dasarahalli, Krishnarajapura, Mahadevapura, Rajarajeswarinagar, Yelahanka and TMC-Kengeri

[“] CMC, Bommanahalli and Bangalore Development Authority