

CHAPTER-VI: OTHER TAX RECEIPTS

6.1 Results of audit

Test check of records of concerned departmental offices, conducted in audit during the year 2003-2004, disclosed short realisation or losses of revenue amounting to Rs.65.64 crore in 277 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
Taxes on Agricultural Income			
1	Non-levy/short levy of tax	12	1.50
2	Non-levy of penalty	7	0.12
	Total	19	1.62
Stamps and Registration Fees			
1	Non-levy/short-levy of stamp duty and registration fees	64	2.72
2	Incorrect grant of exemption/concession	1	0.04
3	Other irregularities	16	1.80
	Total	81	4.56
Entry Tax			
1	Non-levy/short levy of tax	118	1.56
2	Non-forfeiture of tax collected in excess	2	0.03
3	Non-levy of penalty	34	0.34
4	Other irregularities	4	0.04
	Total	158	1.97
Entertainment Tax, Luxury Tax , Professions Tax and Betting Tax			
1	Non-levy/short levy of tax	12	2.06
2	Non-levy of penalty	3	0.08
	Total	15	2.14
Taxes and Duties on Electricity			
1	Short levy of electricity tax	2	0.47
2	Other irregularities	1	7.02
	Total	3	7.49
Other Taxes and Duties on Commodities and Services			
1	Non-remittances of cesses	1	47.86
	Total	1	47.86
	Grand Total	277	65.64

During the course of the year 2003-2004, the departments accepted under-assessments of tax amounting to Rs.3.64 crore involved in 274 cases

which had been pointed out in audit in earlier years and recovered Rs.1.53 crore involved in 185 of them.

A few illustrative cases (including certain cases noticed in earlier years which could not be included in previous Reports) involving Rs.49.62 crore are given in the following paragraphs. Of this, Rs.30.76 lakh had been recovered.

Taxes on Agricultural Income

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

According to the Karnataka Agricultural Income-tax (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.

It was noticed between November and December 2003 in Chickmagalur and Hassan districts that in seven assessments of six assessees for the years 1998-99 to 2001-2002 finalised between October 1999 and May 2002, the assessing officers allowed deduction of inadmissible expenditure of Rs.1.12 crore and excluded chargeable income of Rs.21.79 lakh as detailed below while arriving at the taxable agricultural income. The short computation of income resulted in short levy of tax of Rs.64.12 lakh.

(Rupees in lakh)				
Sl. No.	Name of the assessee/ Period (Date) of assessment	Nature of irregularity	Short computation of income	Short levy of tax
Deputy Commissioner of Agricultural Income-tax, Hassan				
1	M/s Lingapur Estate Limited (Private Limited Company)/ <u>2000-2001</u> (30.05.2002)	For the assessment year 2001-2002, against the income of Rs.6.36 lakh, Rs.7.56 lakh was set off as carry forward losses resulting in loss of Rs.1.20 lakh for assessment year 2001-2002. It was noticed in audit from the records of assessment year 2000-2001 that there were no losses to be adjusted in subsequent years. This has resulted in short computation of Rs.6.36 lakh.	6.36	2.58

(Rupees in lakh)				
Sl. No.	Name of the assessee/ Period (Date) of assessment	Nature of irregularity	Short computation of income	Short levy of tax
		(iii) Depreciation for AY 1999-2000 was incorrectly allowed on the Written Down Value of assets which had been computed excluding the additional depreciation claimed during the AY 1998-99. This resulted in excess allowance of depreciation of Rs.7.79 lakh.		
Deputy Commissioner of Agricultural Income-tax, Chickmagalur				
5	M/s St.Marys Kalamane Estate (Firm)/ <u>2001-2002</u> (20.01.2002)	Out of the total income of Rs.136.58 lakh, Rs.19.37 lakh related to income from Areca (non-plantation crop). Expenditure of Rs.121.54 lakh claimed by the assessee was allowed without disallowing proportionate expenditure of Rs.17.24 lakh for earning non-plantation crop income. As a net loss of Rs.0.15 lakh had been assessed for the year, the disallowance resulted in short computation of income of Rs.17.09 lakh.	17.09	6.84
6	B.A.Saldana and others (M/s Deepak Estate) (Firm)/ <u>1998-99</u> (01.02.2002)	As against expenditure of Rs.40.94 lakh claimed by the assessee as per the Profit and Loss account towards expenditure, the assessing authority had adopted Rs.44.16 lakh in the assessment order.	3.22	1.29
Total			133.51	64.12

After these cases were pointed out, Government reported in August 2004 creation of additional demand and recovery of Rs.1.29 lakh in one case. In respect of four cases involving Rs.61.37 lakh notices have been issued and final reply in respect of one case has not been received (January 2005).

Stamps and Registration Fees

6.3 Short levy due to under-valuation

Under the Karnataka Stamp Act, 1957, if the registering officer while registering any instrument has reason to believe that the market value of the properties has not been truly set forth, he shall compute the estimated market value and upon payment of duty on such market value, register the document.

Further, under the provisions of the Act, Government constituted Committees for estimation of market value in any area for each taluk.

During audit of four Sub-Registries, it was noticed that incorrect estimation of market value had resulted in short levy of stamp duty of Rs.20.01 lakh and registration fee of Rs.3.21 lakh. Details are given below:

Office/ Number of Documents/ Year of Registration of document	Market value adopted/ To be adopted	(Rupees in lakh)					
		Stamp duty			Registration fee		
		To be levied	Levied	Short levy	To be levied	Levied	Short levy
SRO, Kengeri/ (276)/ 2000-2001 and 2001-2002	595.75/ 713.91	89.64	74.91	14.73	14.28	11.93	2.35
The specific rates as per the guideline notified under the Act were not adopted in estimating market value of the House Building Co-operative Society (HBCS) sites. This resulted in short computation of market value by Rs.1.18 crore leading to short levy of stamp duty and registration fee. After this was pointed out in audit in December 2002/ November 2003, Government reported in September 2004 acceptance of audit observation and directed District Registrar to initiate action to issue notices.							
SRO, Bangalore (South), Chintamani and Karkala/ (17)/ 1998-99 to 2002-2003	83.00/ 126.00	15.88	10.60	5.28	2.52	1.66	0.86
As against the estimated market value of Rs.1.26 crore in accordance with the guideline values notified under the Act, the estimated market value on which stamp duty and registration fee levied was taken as Rs.0.83 crore. Thus, incorrect adoption of estimated market value resulted in short levy of stamp duty of Rs.5.28 lakh and registration fee of Rs.0.86 lakh. After this was pointed out in audit between December 2002 and October 2003, Government reported in September 2004, acceptance of audit observations and directed to initiate action for determination of market value of the property and recovery of deficit duty in respect of Chintamani, to issue notices in respect of Bangalore (South) and orders passed for recovery of deficit amount of Rs.2.20 lakh from the concerned Sub-Registrar in respect of Karkala.							
Total				20.01			3.21

6.4 Short levy on Powers of Attorney

Under the Karnataka Stamp Act, 1957, as amended from April 1999, 'Power of Attorney' given to a promoter or developer for construction on or development of or sale or transfer of any immovable property attracts stamp duty at four *per cent* of the market value of the property. Registration fees leviable on 'Powers of Attorney' given to a person other than father, mother, wife or husband, sons, daughters in relation to the executant authorising such persons to sell immovable property, is at two *per cent* on the market value of the property.

In four Sub-Registries, 35 documents titled as 'Power of Attorney' were registered between 1999 and 2003. These documents were liable to stamp duty of Rs.10.19 lakh and registration fee of Rs.8.29 lakh on the market value of Rs.4.97 crore against which stamp duty of Rs.5.30 lakh and registration fee of Rs.2.44 lakh was levied, resulting in short levy of Rs.10.74 lakh (stamp duty : Rs.4.89 lakh and registration fee : Rs.5.85 lakh) as detailed below:

Office	Number of documents (Year of Registration)	Market value	(Rupees in lakh)					
			Stamp duty			Registration Fee		
			Leviable	Levied	Short levy	Leviable	Levied	Short levy
SRO, Anekal (Bangalore District)	17 (2001-2003)	173.33	6.93	3.67	3.26	3.46	2.43	1.03
SRO, Yelahanka (Bangalore District)	1 (2002-2003)	8.00	0.32	0.16	0.16	-	-	-
SRO, Mulki (Dakshina Kannada District)	12 (1999-2001)	73.62	2.94	1.47	1.47	-	-	-
In respect of Sl. Nos. (1) to (3), Power of Attorney empowered the Attorneys to construct, develop and sell or transfer the scheduled properties and hence were liable to duty at four <i>per cent</i> instead of two <i>per cent</i> levied.								
SRO, Nanjangud (Mysore District)	5 (2002-2003)	241.69	-	-	-	4.83	0.01	4.82
Power of Attorneys were in favour of 'Brothers' and hence were liable for registration fees at two <i>per cent</i> of the market value.								
Total	35	496.64	10.19	5.30	4.89	8.29	2.44	5.85

After this was pointed out in audit between January 2003 and January 2004, Government reported in September 2004 acceptance of audit observation in respect of three³¹ Sub-Registries and recovery of Rs.1.47 lakh in SRO, Mulki and Rs.0.01 lakh in one case in SRO, Nanjangud. Action had been initiated to recover the balance of Rs.4.81 lakh from the concerned Sub-Registrar in respect of Nanjangud. Report of recovery in respect of Yelahanka has not been received. Final reply in respect of SRO, Anekal has not been received (January 2005).

³¹ Mulki, Nanjangud, Yelahanka

Entry Tax

6.5 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 five districts, tax on entry of goods into local areas had either not been levied or levied short by 13 Assessing Authorities in 26 assessments concluded between July 2001 and March 2003, resulting in non-levy/ short levy of tax of Rs.51.30 lakh, as detailed below:

(Rupees in lakh)					
Sl. No.	District (Number of cases)	Assessment year (Date of assessment)	Turnover involved	Tax leviable/ levied	Tax levied short/ not levied
1	Bangalore (Urban) (20)	1998-99 to 2001-2002 (between July 2001 and March 2003)	3,059.84	44.86/ 5.41	39.45
2	Bellary (1)	1999-2000 (March 2003)	194.68	3.97/ Nil	3.97
3	Chitradurga (1)	2001-2002 (January 2003)	195.95	1.96/ Nil	1.96
4	Davangere (2)	1998-99 and 2000-2001 (between May and November 2002)	306.97	5.84/ 2.68	3.16
5	Udupi (2)	1998-99 and 1999-2000 (between March and May 2002)	235.35	2.76/ Nil	2.76
Total (26)			3,992.79		51.30

After these cases were pointed out between May 2003 and March 2004, Government reported during August 2004 revision of assessments and creation of additional demand of Rs.25.90 lakh in 20 cases and recovery of Rs.15.87 lakh in 15 of them. In respect of the remaining cases, final replies have not been received (January 2005).

6.6 Non-levy of interest

6.6.1 Under the KTEG Act, 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 a interest at two *per cent* of the tax payable for every month or part thereof during which such default is continued.

In three districts, though seven dealers delayed the payment of monthly taxes amounting to Rs. 42.11 lakh by one to 40 months for the years 1997-98 to 2001-2002, finalised between April 2001 and March 2003, interest of Rs.14.48 lakh was not levied or levied short by five Assessing Authorities, as detailed below:

(Rupees in lakh)

Sl. No.	District (Number of assessees)	Period of assessment/ Date of assessment	Delay in payment of tax (months)	Interest due
1	Bangalore (Urban) (5)	1998-99 to 2001-2002/ between June 2001 and March 2003	10 to 34	7.51
2	Dakshina Kannada (1)	1997-98 and 1998-99/ April 2001	18 to 40	1.79
3	Uttara Kannada (1)	2000-2001/ July 2002	1 to 16	5.18
	Total (7)		1 to 40	14.48

After these cases were pointed out between April 2002 and November 2003, Government reported during August 2004 recovery of Rs.8.89 lakh from four dealers. Final replies in respect of other cases have not been received (January 2005).

6.6.2 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 in making payments, the assessee is liable to pay interest at prescribed rates.

In three districts, though 11 dealers had delayed the payment of the sums specified in the demand notices beyond 21 days of their service, six Assessing

Authorities had not levied the interest of Rs. 11.97 lakh due, as detailed below:

(Rupees in lakh)					
Sl. No.	District (No. of cases)	Period (Date of service of demand notice)	Number of assessees	Delay in payment of tax	Interest due
1	Bangalore (Rural) (5)	1994-95 to 1998-99 (July 2000 to April 2002)	3	2 to 9 months	2.72
2	Bangalore (Urban) (9)	1990-91 and 1997-98 to 2000-2001 (November 1999 to January 2002)	7	1 to 39 months	7.64
3	Shimoga (2)	1998-99 and 1999-2000 (December 2001 and June 2002)	1	5 months	1.61
	Total (16)		11	1 to 39 months	11.97

After these cases were pointed out between August 2002 and September 2003, Government reported during August 2004, recovery of Rs.3.23 lakh from three dealers. Final replies in respect of the other cases have not been received (January 2005).

Other Taxes and Duties on Commodities and Services

6.7 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 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 conducted in audit to verify the extent of compliance with the statutory provisions with reference to the information furnished by five[♦] City/Municipal Corporations and 204 City/Town Municipal Councils/Taluk Panchayats/Notified Areas, revealed (March 2004) that out of the total collections of Rs.40.74 crore made by them towards education and health cesses during the years 1998-99 to 2002-2003, the remittances due to Government (after deducting collection charges) worked out to Rs.36.66 crore. Against this, the actual remittances made by them amounted to Rs.10.04 crore only. Besides, Rs.21.24 crore on account of health cess and education cess was due to be remitted by them as on 31 March 1998. Thus, Rs.47.86 crore was kept out of the Consolidated Fund of the State.

This indicates lack of internal control to ensure remittance of Government dues in time. It is recommended that an effective control mechanism be developed for co-ordination among the Education, Health and Family Welfare and Urban Development Departments to ensure timely remittance of Government revenue into Government account.

Government (Education Department) reported in September 2004 that it is considering amending provisions of the Karnataka Compulsory Primary Education Act, 1961 to ensure recovery of pending education cess from the local bodies. Government (Health and Family Welfare Department) reported in September 2004 that correspondence had been initiated with Urban Development Department and Finance Department for instituting effective control mechanism to ensure timely remittance of cesses by the local authorities. Government (Urban Development Department) reported in September 2004 that all the local bodies had been directed to remit the cesses due and to clear the backlog it had been decided to make upfront deduction from the State Finance Commission grants which devolve to the local bodies. Also, a committee is being constituted with representatives of the Health and Family Welfare, Education and Finance Departments to ensure co-ordination and timely payment of cesses being collected.



[♦] Belgaum, Gulbarga, Hubli-Dharwad Municipal Corporation, Mangalore, Mysore.