

CHAPTER VI
OTHER TAX RECEIPTS

6.1. Results of Audit

Test check of the records of the Offices of the Power and Registration Departments conducted in audit during the year 2002-03 revealed underassessments, incorrect exemption, etc., amounting to Rs 297.20 crore in 108 cases which may broadly be categorised as under.

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
TAXES AND DUTIES ON ELECTRICITY			
1	Review : Electricity duty, surcharge and fees	1	296.91
STAMPS AND REGISTRATION FEES			
1	Incorrect exemption	61	0.13
2	Undervaluation of documents	17	0.11
3	Other lapses	29	0.05
	Total	108	297.20

During 2002-03, the Departments accepted underassessments, etc., of Rs 5.38 lakh involved in 52 cases of which 27 cases involving Rs 4.21 lakh were pointed out during 2002-03 and rest in earlier years. During the year the Departments recovered Rs 0.94 lakh in 20 cases pointed out during earlier years. One case involving Rs 4.15 lakh and the results of a review, 'Electricity duty, surcharge and fees' involving Rs 296.91 crore are given in the following paragraphs.

TAXES AND DUTIES ON ELECTRICITY

6.2. Review : Electricity duty, surcharge and fees

Highlights

- Arrears of electricity duty, surcharge and fees due to Government as at the end of 31 March 2002 aggregated Rs 1001.65 crore.
(Paragraph 6.2.6)
- Duty and surcharge collected from consumers and retained by KSEB as at the end of 31 March 2002 was understated by Rs 19.81 crore.
(Paragraph 6.2.9)

- **Duty and surcharge collected from consumers and retained by KSEB without any authority as at the end of 31 March 2002 amounted to Rs 442.51 crore.**
(Paragraph 6.2.10)
- **Interest of Rs 198.47 crore, due from KSEB on duty was not worked out and demanded.**
(Paragraph 6.2.11)
- **Duty and surcharge of Rs 77.21 crore due from various consumers payable to Government was not demanded.**
(Paragraph 6.2.12)
- **Duty and interest of Rs 1.35 crore due from Thrissur Municipal Corporation was not demanded and realised.**
(Paragraph 6.2.13)
- **The short fall by 46 per cent of statutory inspection of electrical equipments by the CEI resulted in loss of Rs 11.55 lakh.**
(Paragraph 6.2.17)

Introduction

6.2.1. Levy of duty on the sale and consumption of electrical energy is governed by the Kerala Electricity Duty Act, 1963, and the Rules made thereunder. Every licensee shall pay electricity duty at the rate of six paise per unit of energy sold at a price of more than twelve paise per unit which shall not be passed on to the consumers. Duty is also chargeable on consumers, rate being 10 paise per unit for those taking supply of energy of 11KV and above, 1.2 paise per unit for those generating energy for their own consumption and at the rate of 10 *per cent* of the price indicated in the invoice for others. When electricity is supplied to High Tension (HT)/Extra High Tension (EHT) consumers, surcharge at the rate of 2.5 paise per unit is chargeable under the Kerala Electricity Surcharge (Levy and Collection) Act, 1989 and Rules made thereunder. The licensees shall collect duty and surcharge chargeable on consumers and remit it to Government. The Act provides for levy of interest in case the licensee fails to remit in time the duty and surcharge. Fee is also realised at prescribed rates by the Chief Electrical Inspector (CEI) for inspection and testing of installations connected to supply systems as specified in the Indian Electricity Rules, 1956.

Under the Act, a licensee means Kerala State Electricity Board (KSEB) or any person licensed under the Indian Electricity Act, 1910 to supply energy. In addition to KSEB, there were five[^] other licensees in the State.

Scope of Audit

6.2.2. Mention was made in the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Kerala, for the year

[^] Thrissur Municipal Corporation, Tata Tea Ltd.- Munnar, Cochin Shipyard, Cochin Port Trust and Techno Park – Thiruvananthapuram.

ended 31 March 1997, of issues regarding levy and collection of electricity duty and surcharge. The Committee on Public Accounts (2001) in its 121st Report presented in the Kerala Legislative Assembly on 2 March 2001 recommended that instructions be issued to KSEB and the CEI to maintain correct and complete accounts of arrears and that Government consider providing enough budgetary support to KSEB against conversion of dues as loans.

Organisational set up

6.2.3. CEI is the head of office for the implementation of the provisions of the Act/Rules. He is assisted by an Additional Chief Electrical Inspector, a Deputy Chief Electrical Inspector, two Electrical Inspectors, five Deputy Electrical Inspectors and six Assistant Electrical Inspectors on technical matters in headquarters office. There are 15 Electrical Inspectors out of which 14 are in charge of District Offices and one in charge of the Meter Testing and Standards Laboratory. Four Regional Testing Laboratories also function in four District Offices¹.

Audit objectives

6.2.4. Detailed analysis of the records in the Office of the CEI Thiruvananthapuram and seven[^] out of 14 District Offices and the Meter Testing and Standards Laboratory, Thiruvananthapuram for the period from 1997-98 to 2001-02 was conducted during October 2002 to February 2003 to:

- ◆ ascertain the extent of compliance to the provision of relevant Act/Rules
- ◆ seek assurance that internal control system was sufficient to ensure compliance with the provisions in the Act/Rules.

Trend of Revenue

6.2.5. The budget estimates and the actual receipts under the head of account “0043 Taxes and Duties on Electricity” during the period 1997-98 to 2001-2002 were as under.

(Rupees in crore)				
Year	Budget estimates	Actual receipts	Variation (+) increase (-) decrease	Percentage of increase/ decrease
1997-98	108.34	168.56	(+) 60.22	(+) 56
1998-99	114.84	39.06	(-) 75.78	(-) 66
1999-00	146.72	3.33	(-) 143.39	(-) 98
2000-01	80.21	14.92	(-) 65.29	(-) 81
2001-02	2.00	5.18	(+) 3.18	(+) 159

¹ Ernakulam, Kozhikode, Thiruvananthapuram and Thrissur.

[^] Alappuzha, Ernakulam, Kannur, Kollam, Kottayam, Kozhikode and Thiruvananthapuram

The CEI stated that the increase in the year 1997-98 was due to remittance of arrears of duty and surcharge of Rs 132.88 crore by KSEB and the decreases in the years 1998-99 to 2000-01 were due to non-remittance of duty and surcharge by KSEB.

Regarding low budget estimates for the years 2000-01 and 2001-02, the CEI stated that he proposed Rs 128.26 crore and Rs 145.97 crore for the years 2000-01 and 2001-02 and the Government reduced the estimates to Rs 80.21 crore and Rs 2 crore respectively without specifying reason for the curtailment. On bringing this to notice, Government stated in June 2003 that the receipts of duty from KSEB corresponded to the loan assistance to KSEB and hence the lower estimates.

The reply is not convincing for the following reasons:

Providing a nominal amount in the budget estimate for the reason that a lesser amount had been fixed for loan assistance to KSEB is against the budgeting principles. Electricity duty assessable each year is to be reflected in the budget estimate and amount, if any, adjusted through loans should be properly accounted for. Government failed to assess the duty payable by KSEB as a licensee and the duty and surcharge payable to Government by KSEB on realisation from consumers and failed to make the estimates after proper analysis with reference to figures of the previous year.

Arrears of Electricity Duty, Surcharge and Fees

6.2.6. As per the information furnished by the CEI, arrears of duty, surcharge and fees pending remittance to Government by licensees and other parties at the end of the year from 1997-98 to 2001-02 were as under:

(Rupees in crore)

Sl No	Year	Opening balance	Addition	Total	Clearance	Closing Balance
1.	Up to 1997-98	233.27	211.36	444.63	168.56	276.07
2.	1998-99	276.07	130.50	406.57	39.06	367.51
3.	1999-00	367.51	188.77	556.28	3.33	552.95
4.	2000-01	552.95	230.22	783.17	14.92	768.25
5.	2001-02	768.25	238.58	1006.83	5.18	1001.65

6.2.7. Following were the licensees and parties from whom the arrears were due:

(Rupees in crore)

Sl. No.	Name of licensee/ parties	Nature of arrears	Amount
1	Kerala State Electricity Board	i) Duty payable on sale of energy by KSEB	357.25
		ii) Duty and surcharge collected from consumers and payable by KSEB	422.70
		iii) Interest for the non-payment of duty and surcharge collected from consumers	216.54
		iv) Inspection fee	4.16
		Total	1000.65
2	Trichur Municipal Corporation	Duty	0.13
3	Ex Licensees	Duty	0.09
4	Private Parties/Firms/PSUs	Inspection fees	0.78
Grand Total			1001.65

Major portion of the arrears was due from KSEB and the same related to the period from 1990-91 onwards.

6.2.8. The age-wise pendency of arrears was as under:

(Rupees in crore)

Sl. No.	Period of pendency	Amount
1.	More than 10 years	17.53
2.	Between 5 and 10 years	215.74
3.	Between 2 and 5 years	534.98
4.	Between 1 and 2 years	233.40
Total		1001.65

Understatement of arrears

6.2.9. As per the statement maintained by the CEI, the arrears on account of duty and surcharge collected from consumers by KSEB as at the end of March 2002 amounted to Rs 422.70 crore (Sl. No. 1 (ii)). However, it was seen in audit that the same correctly worked out to Rs 442.51 crore resulting in understatement of arrears of Rs 19.81 crore.

6.2.10. Further, out of duty and surcharge collected from consumers KSEB retained Rs 442.51 crore as at the end of March 2002 without authority/sanction from Government.

Failure of the Department to assess and demand duty/surcharge and interest from licensees

KSEB

Non-levy of interest

6.2.11. Under the Act/Rules, every licensee shall pay electricity duty in respect of every month before the expiry of the following month. In case of default interest at the rate of 18 *per cent* per annum is chargeable for delay.

Test check of the records of the CEI revealed that as of 31 March 2002, KSEB defaulted on payment of duty amounting to Rs 357.25 crore, out of which Rs 268.46 crore pertained to the period 1997-98 to 2001-02, on sale of energy payable by it as a licensee. The CEI failed to assess and demand interest of Rs 198.47 crore due up to 31 March 2002.

Non-recovery of duty and surcharge

6.2.12. As per rules, the Inspecting Officer may require a licensee to produce books and records in the licensee's possession and control, for assessing the amount of duty payable by it under the Act. Amount payable with interest shall be recoverable through a Civil Court or as arrears of land revenue.

- Test check of the DCB Register of the CEI revealed that KSEB failed to realise duty of Rs 68.92 crore from consumers taking supply of energy of 11KV and above, Rs 11.75 lakh from consumers generating electricity for their own consumption and surcharge of Rs 8.14 crore from high tension /extra high tension consumers as of 31 March 2002. No action was taken by the CEI to raise the demand or to recover the amount.

- Indsil Electros melt Ltd., Coimbatore, generating electricity in Kuthungal Hydel Scheme in Idukki District consumed 455.46 lakh units of energy generated by it. However, duty at the rate of 1.2 paise per unit amounting to Rs 3.12 lakh was not demanded from the company either by the CEI or by KSEB.

On bringing this to the notice of KSEB and the CEI, KSEB stated in July 2003 that the duty would be charged in the invoice for July 2003.

Other Licensees

The provisions in the Act/Rules for levy and collection of duty and interest are applicable to Thrissur Municipal Corporation (TMC), Cochin Port Trust (CPT) and Tata Tea Ltd., as licensees under the Act. Test check of the DCB Register of the CEI revealed non/short demand of duty and interest as under:

6.2.13. Thrissur Municipal Corporation (TMC)

- As per the Inspection Report of the CEI, the licensee did not remit duty of Rs.1.19 crore on energy consumed by it from 1985-86 to 1998-99, out of which Rs 34.59 lakh related to the years 1997-98 and 1998-99. Interest of Rs 97.95 lakh due from 1 April 1997 to 31 March 2002 was not worked out and demanded by the CEI.

- TMC failed to remit Rs 24 lakh collected from consumers during the period from 1995-96 to 1998-99 out of which Rs 19.88 lakh related to the years 1997-98 and 1998-99. The CEI failed to demand the same from the

licensee. Besides, interest due on this amount from 1 April 1997 to 31 March 2002 amounted to Rs 17.63 lakh.

- TMC paid Rs 3.84 crore, on ad hoc basis, towards duty payable for the years 1999-2000 to 2001-2002. The CEI did not assess the duty realisable during the period from TMC and demand the balance, if any, due from it as TMC had not been submitting the return.

6.2.14. Cochin Port Trust (CPT)

- CPT short remitted duty of Rs.1.10 lakh payable on energy consumed by consumers under it during the years 1999-2000 and 2000-2001. The amount of Rs 1.34 lakh including interest as at the end of March 2002 has not been demanded.
- CPT did not remit duty payable on energy consumed by itself during the period December 2001 to March 2002. This resulted in short demand of Rs 1.87 lakh including interest.
- There was delay ranging from two months to two years in remitting duty by CPT on self-consumed energy during the years 1997-98 to 2001-02. The CEI did not levy the interest of Rs 5.83 lakh for belated payment.

6.2.15. M/s Tata Tea Ltd.

Mention was made in Paragraph 8.1.of the Report of the Comptroller and Auditor General of India for the period ended 31 March 1997, (Revenue Receipts), Government of Kerala, regarding the irregular concession availed of by M/s Tata Tea Ltd. (a licensee) under the Act, by not remitting duty payable on energy consumed in its packing unit located at Mattupatty from August 1992 onwards and cutting, turning and curing unit from April 1993 onwards. The Committee on Public Accounts (2001) in its 121st Report opined that the Department was bound to collect Rs 4.53 lakh towards the duty and interest. However, the licensee has not remitted the amount (October 2003).

The licensee continued to avail of the irregular concession during the years 1996-97 and 1997-98 also and the duty and interest of Rs 4.27 lakh due up to 31 March 2002 was not worked out and demanded by the CEI.

Short demand of surcharge from Southern Railway

6.2.16. Southern Railway is a HT/EHT consumer of energy in the State of Kerala. As per the information collected from KSEB by Audit, surcharge realisable from Southern Railway during the period 1997-98 to 2001-2002 worked out to Rs 36.71 lakh against Rs 34.56 lakh demanded and realised (between April 1997 and March 2002) by KSEB. This resulted in short demand of Rs 2.15 lakh.

- Divisional Offices in Southern Railway in Kerala are in possession of residential complexes and staff quarters and have let out railway premises for commercial purposes. As per the information gathered by Audit, electricity charges were being collected by railways from the occupants in railway residential complexes and staff quarters, etc. However, no demand of duty was raised against railways on account of this as of March 2002.

Failure to conduct statutory inspections

6.2.17. Under the Indian Electricity Rules, 1956, where an installation is connected to the supply system of the supplier, every such installation shall be periodically inspected and tested by the CEI at intervals not exceeding five years. The Government had fixed in December 1984 the periodicity of inspections of all medium volt equipments as once in two years charging fees of Rs 10, Rs 20 and Rs 50 per equipments up to 5 Kilo Volt Ampere (KVA), between 5 and 50 KVA and above 50 KVA respectively.

As per the information collected by Audit from seven[♦] out of 14 District Offices, out of 1,90,906 inspections due during the years 1997-98 to 2001-02, 87,650 inspections were not conducted by the Department resulting in loss of revenue of Rs 11.55 lakh as per details given below:

Year	Category of installation	Number of inspections due	Number of inspection conducted	Shortfall of inspection (Number)	Rate for inspection (Rs/inspection)	Amount (Rs in lakh)
1997-98	Upto and inclusive of 5 KVA	49,839	27,212	22,627	10	2.26
	6 KVA to 50 KVA	23,010	12,308	10,702	20	2.14
	Above 50 KVA	251	192	59	50	0.03
1998-99	Upto and inclusive of 5 KVA	51,549	23,444	28,105	10	2.81
	6 KVA to 50 KVA	22,884	10,041	12,843	20	2.57
	Above 50 KVA	294	218	76	50	0.04
1999-2000	Upto and inclusive of 5 KVA	3,122	2,424	698	10	0.07
	6 KVA to 50 KVA	777	610	167	20	0.03
	Above 50 KVA	--	--	--	50	--
2000-01	Upto and inclusive of 5 KVA	11,696	9,981	1,715	10	0.17
	6 KVA to 50 KVA	4,605	4,039	566	20	0.11
	Above 50 KVA	282	268	14	50	0.01
2001-02	Upto and inclusive of 5 KVA	15,638	8,364	7,274	10	0.73
	6 KVA to 50 KVA	6,612	3,867	2,745	20	0.55
	Above 50 KVA	347	288	59	50	0.03
		1,90,906	1,03,256	87,650		11.55

Short fall in conducting inspections of the accounts of the licensees

6.2.18. Under the Act/Rules, the CEI may inspect the accounts of all the licensees including KSEB to verify and ensure that electricity duty and surcharge levied, collected and remitted to Government are in accordance with the provisions of the Act/Rules. Pendency in such inspections as at the end of 31 March 2002 was as under.

[♦] Alappuzha, Ernakulam, Kannur, Kollam, Kottayam, Kozhikode and Thiruvananthapuram

Sl No	Name of licensee	Inspection pending
1.	Tata Tea Limited, Munnar	1998-99 to 2001-02
2.	Cochin Port Trust	
3.	Thrissur, Municipality	1999-2000 to 2001-02
4.	Cochin Shipyard	2000-01 & 2001-02
5.	Technopark, Thiruvananthapuram	
6	KSEB i) 6 Billing Supervision units ii) HT Billing unit	1994-95 to 2001-02 1995-96 to 2001-02

Short fall in inspection of accounts showed that the correctness of duty and surcharge assessed and remitted by the licensees, was not ensured by the CEI.

Non-reconciliation of receipts with treasury accounts

6.2.19. As per the provisions in the Kerala Financial Code Volume 1, every controlling officer is required to conduct reconciliation of departmental remittances with treasury accounts to ensure that the amounts remitted in treasury have been accounted for under the proper head of accounts.

Reconciliation of receipts in the Office of the CEI was not conducted by the CEI with the treasury figures during the period covered by the review. However, reconciliation certificates up to 31 March 2001 had been forwarded in December 2002 to the Government.

Non-filing of returns by licensees

6.2.20. The Act provides for filing of returns by the licensees in the office of the CEI monthly/annually on the dates prescribed in the Rules. It was, however, noticed that KSEB had not been submitting the prescribed returns despite specific directions in June 2000 from Government; instead, it had been furnishing the DCB statement every month and the CEI calculated the duty payable by KSEB on the basis of such DCB statements.

Thrissur Municipal Corporation was also not filing the returns and the duty was being paid by it on *ad hoc* basis.

Internal control

6.2.21. Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. They also help in prevention of loss of revenue and in the creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of duties. Internal audit is expected to provide an assurance regarding the adequacy and effectiveness of internal controls.

In the Electrical Inspectorate, the internal control mechanism should normally ensure that monthly returns are filed by the licensees regularly and within the

time, duty and surcharge on electrical energy is correctly worked out, demanded and realised from the licensees together with interest if any due and statutory inspection of electrical installations is carried out regularly and timely. The Department had not constituted an Internal Audit Wing (IAW). Hence, there existed no arrangement to systematically provide assurance on the adequacy and effectiveness of internal controls. However, the CEI stated that he conducted (between April and November 2002) inspection of six District Offices covering the periods from 1999-2000 to 2001- 2002.

Recommendations

6.2.22. Government may consider the following actions in public interest:

- May examine adoption of a scientific approach in preparing the budget estimates.
- Reiterate the necessity of filing of monthly returns by KSEB and other licensees in general on a regular basis to enable the CEI to prepare DCB statements on the basis of such returns.
- The CEI may be directed to ensure the correctness of the sums due from the licensees.
- CEI should be instructed to conduct statutory inspection of electrical installations periodically
- Introduce internal audit to provide assurance on the adequacy and effectiveness of internal controls.

The above points were communicated to the Department and the Government in February 2003. Reply from them has not been received (October 2003).

STAMPS AND REGISTRATION FEE

6.3. Incorrect remission of stamp duty

Under the Kerala Stamp Act, 1959, Government by a notification issued in July 1965 exempted mortgage deeds executed (solely or jointly with spouse/family members) by officers of Government of Kerala or Central Government as security for repayment of house construction advance, from payment of stamp duty.

In 19 Sub Registry Offices*, no stamp duty was levied on 8 lease deeds executed (between November 2000 and March 2001) on behalf of Bharath Sanchar Nigam Limited (BSNL) and 29 mortgage deeds executed (between December 2000 and July 2001) by officers of BSNL as security for repayment of house construction advance, though BSNL constituted with effect from 1 October 2000 was an autonomous body and not a Central Government Department. These omissions resulted in non-levy of stamp duty of Rs 4.15 lakh.

This was pointed out to the Department between May 2001 and January 2003 and reported to Government in February 2003. The Department and Government stated that the exemption granted was in order as the documents were executed by or on behalf of or in favour of the President of India. The reply is not tenable as the deeds were executed by BSNL/their employees and the exemption was not allowable as BSNL is a statutory Corporation. Further report has not been received (October 2003).

* Sub Registry offices : Amaravila, Balaramapuram, Chittoor, Feroke, Kannur, Karakulam, Kattapana, Kazhakkuttam, Keerikkad, Kodencherry, Kuttiadi, Manjeri, Neeleswar, Nilambur, Olavakode, Peermade, Poonjar, Thenhipalam and Thrissur