

CHAPTER III
TAXES ON MOTOR VEHICLES AND STAMP DUTY AND
REGISTRATION FEES

3.1 Results of audit

Test check of records relating to taxes on motor vehicles and stamp duty and registration fees conducted during the year 2004-05 revealed short/non levy of duty, loss of revenue *etc.*, amounting to Rs 65.73 crore in 844 cases as detailed below:

Sl. No.	Category	No. of cases	Amount (in crore of rupees)
A.	TAXES ON MOTOR VEHICLES		
1.	Non /short levy of tax due to incorrect application of rates	418	0.84
2.	Miscellaneous	3	0.99
3.	Review on "Assessment and collection of taxes and other receipts in the Motor Vehicles Department"	1	21.62
	Total:	422	23.45
B.	STAMP DUTY AND REGISTRATION FEES		
1.	Non levy of stamp duty on instruments executed by co-operative societies	89	4.36
2.	Incorrect grant of exemption of stamp duty and registration fees	60	1.20
3.	Short levy due to misclassification of documents	106	3.56
4.	Short levy due to undervaluation of property	109	0.84
5.	Other irregularities	58	32.32
	Total:	422	42.28
	Grand Total:	844	65.73

During the year 2004-05, the Department accepted and recovered underassessment, non/short levy *etc.*, amounting to Rs 0.87 crore in 768 cases, of which Rs 0.10 crore in 129 cases had been pointed out during 2004-05 and the rest in earlier years.

One review on "Assessment and collection of taxes and other receipts in the Motor Vehicles Department" involving Rs 21.62 crore and few illustrative cases involving Rs 4.25 crore are given in the following paragraphs:

SECTION A TAXES ON MOTOR VEHICLES

3.2 Review on "Assessment and collection of taxes and other receipts in the Motor Vehicles Department"

3.2.1 Highlights

Arrears of Bombay Motor Vehicles Tax, goods tax and passengers tax pending collection as on 31 March 2004 amounted to Rs 198.38 crore.

(Paragraph 3.2.8)

Arrears of Rs 55.33 crore were not processed for recovery as arrears of land revenue.

(Paragraph 3.2.9)

Non/short levy of tax in respect of 1,809 vehicles amounted to Rs 2.82 crore.

(Paragraph 3.2.10)

Four fleet owners had not remitted to Government, passengers tax of Rs 40.77 crore collected from the public during the period between 1980-81 and 2003-04.

(Paragraph 3.2.13)

3.2.2 Recommendations

Government may consider the following suggestions for improvement of collection of tax and enforcement of the provisions of the Act.

- prescribe a time limit after which arrears be recovered as arrears of land revenue,
- prescribe deterrent fines for violation of the provisions of law at the rates prescribed in the Motor Vehicles Act, 1988,
- enforce more efficiently road inspections for detection of defaulters,
- review the need for a provision to levy interest in lieu of discretionary levy of penalty in the Bombay Motor Vehicles (Taxation of Passengers Act), 1958.

3.2.3 Introduction

Motor vehicles taxes are levied and collected in the State under the provisions of the Bombay Motor Vehicles Tax Act (BMVT Act), 1958, the Bombay Motor Vehicles (BMV) (Taxation of Passengers), Act, 1958 and the Rules made thereunder. Besides, fees for licence, registration, fitness certificate, permit, appeal and amounts for compounding of offences are levied and

collected under the provisions of the Motor Vehicles Act (MV Act), 1988 and the Rules made thereunder by the Central Government and the State Government.

Under the BMVT Act and the Rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that the tax leviable shall be paid in advance by the registered owner of the vehicle. The vehicles are classified into transport¹ and non-transport. With effect from 1 December 1997, one time tax (OTT) is leviable in respect of two, three and four wheeler vehicles as a percentage of cost at the time of registration of the vehicle and in respect of Light Motor Vehicles (LMVs) and other transport vehicles the registered owner was given the option to pay annual tax or OTT equivalent to seven times the annual rate of tax. Payment of OTT was made compulsory for LMVs (RLW² upto 7,500 kg) from 30 May 2001. Interest at the rate of two *per cent* of the amount of tax for each month is payable in case of default in payment of tax dues.

The Regional Transport Officers (RTOs) and Dy. Regional Transport Officers (Dy. RTOs) are responsible for registration of vehicles falling within their jurisdiction. Registration Register (RR) and Cash Balance Review Register (CBR) are maintained in each office. RR indicates all the details of vehicles and vehicle owners i.e. name and address. In the CBR one leaf is kept for each vehicle wherein details of the tax assessed, the amount of tax paid from time to time, period of non use accepted, exemption granted if any, etc., are noted. Separate registers are maintained for each category of vehicles namely transport and non transport. In respect of two, three and four wheeler vehicles registered in the name of a company, OTT is three times of that payable by individuals. In respect of vehicles used for carriage of passengers, motor vehicles tax is payable quarterly or annually on the basis of seating capacity of the vehicle.

3.2.4 Organisational set-up

The Secretary (Transport) is the administrative authority at the Government level. The Transport Commissioner, Maharashtra State, Mumbai is the head of the Motor Vehicles Department and is assisted by an Additional Commissioner, a Joint Commissioner and seven Deputy Commissioners of Transport at Mumbai. For administration and enforcement of the provisions of the Acts, the State is divided into 13 regions³ each under the charge of a

¹ Transport vehicle means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle. All vehicles not covered under the transport category are non transport vehicles.

² RLW: Registered Laden Weight

³ Amravati, Aurangabad, Dhule, Kolhapur, Mumbai (C), Mumbai (E), Mumbai (W), Nagpur, Nagpur (Rural), Nanded, Nashik, Pune and Thane.

RTO. Thirty two sub-offices⁴ under the charge of Dy. RTO are also functioning in the State. Besides, there are 22 border check posts⁵.

3.2.5 Audit Objectives

A test check of records was conducted to ascertain:

- the correctness of levy and collection of taxes, fees and interest under Acts and Rules administered by the Motor Vehicles Department;
- whether arrears of revenue are pursued and recovered according to the provisions of law,
- whether internal control mechanism was in existence in the Department and its adequacy and effectiveness.

3.2.6 Scope of Audit

A test check of records was conducted between August 2004 and March 2005 with a view to examine the correctness of assessments and collection of taxes and other revenue, in the office of the Transport Commissioner, Mumbai, 11 Regional Transport offices⁶, 14 Deputy Regional Transport offices⁷ and five border check posts⁸ for the years from 1999-2000 to 2003-04. The selection of the units was done keeping in view the revenue collection and geographical location of the units so as to cover all regions in the State. The results of test check are detailed in the following paragraphs.

3.2.7 Trend of Revenue

The budget estimates, actuals and percentage increase/decrease of revenue for the years 1999-2000 to 2003-04 were as under:

(Amount in crore of rupees)

Year Head of account	Budget estimates	Actuals	Variation increase (+) decrease (-)	Percentage of variation
1.	2.	3.	4.	5.
1999-2000				
Taxes on vehicles	587.00	708.03	(+) 121.30	(+) 21
Taxes on goods and passengers	398.20	331.94	(-) 66.26	(-) 17
2000-2001				
Taxes on vehicles	715.00	785.84	(+) 70.84	(+) 10
Taxes on goods and passengers	396.00	100.23	(-) 295.77	(-) 75
2001-2002				
Taxes on vehicles	920.00	947.79	(+) 27.79	(+) 3

⁴ Ahmednagar, Akhuj, Akola, Ambejogai, Baramati, Beed, Bhandara, Buldhana, Chandrapur, Gadchiroli, Gondia, Hingoli, Jalgaon, Jalna, Kalyan, Latur, Malegaon, Nandurbar, Osmanabad, Parbhani, Pen, Pimpri-Chinchwad, Ratnagiri, Sangli, Satara, Shirampur, Sindhudurg, Solapur, Vashi, Wardha, Washim and Yavatmal.

⁵ Achad, Billoli, Borgaon, Chandgad, Chorwad, Deglur, Deori, Dharni, Gawali, Hadakhed, Insuli, Kagal, Kharapi, Mandrup, Manegaon, Moravade, Navapur, Omerga, Pimpalkutti, Purnad, Rajura and Warud.

⁶ Aurangabad, Amravati, Dhule, Kolhapur, Mumbai (C), Mumbai (E), Mumbai (W), Nagpur (U), Nashik, Pune and Thane.

⁷ Ahmednagar, Akola, Buldhana, Chandrapur, Gadchiroli, Gondia, Kalyan, Parbhani, Pen, Pimpri-Chinchwad, Sangli, Satara, Wardha and Yavatmal.

⁸ Achad, Borgaon, Chandgad, Hadakhed and Kagal.

Taxes on goods and passengers	1198.01	1027.39	(-) 170.62	(-) 14
2002-2003				
Taxes on vehicles	1025.00	941.23	(-) 83.77	(-) 8
Taxes on goods and passengers	578.80	245.03	(-) 333.77	(-) 58
2003-2004				
Taxes on vehicles	1140.00	1205.97	(+) 65.97	(+) 6
Taxes on goods and passengers	659.90	231.91	(-) 427.99	(-) 65

The increase in budget estimates and actuals of taxes on goods and passengers during 2001-02 was due to provision for book adjustment of passengers tax due from Maharashtra State Road Transport Corporation (MSRTC) against dues payable by Government to them.

The decrease in passengers tax collection was due to non remittance of passengers tax to Government by different municipal transport authorities and drop in the number of passengers travelling in MSRTC buses.

3.2.8 Arrears of revenue

Arrears of revenue pending collection as on 31 March 2004 in respect of various taxes as furnished by the Department were as follows:

(Amount in crore of rupees)

Year	BMV Tax	Goods Tax ⁹	Passengers Tax	Total
Upto 1999-2000	81.52	1.12	9.86	92.50
2000-2001	10.14	Nil	5.53	15.67
2001-2002	19.39	Nil	7.90	27.29
2002-2003	20.42	Nil	8.65	29.07
2003-2004	25.02	Nil	8.83	33.85
Total	156.49	1.12	40.77	198.38

The stages at which the dues were pending collection were not made available by the Department. The reasons for the accumulation of arrears were stated to be continuance of assessment and levy of taxes in respect of vehicles which are scrapped, under non use/repairs or having migrated without communication from the registered owners. The reply of the Department was not tenable as the Department had not taken action to identify/verify the correctness of arrears in such cases.

During the ARC meeting the Government representative stated that the arrears which were not recoverable would be identified and details would be furnished. The details have not been received (December 2005).

3.2.9 Lack of monitoring and internal control

- **Recovery of tax dues as arrears of land revenue.**

The BMVT Act provides for seizure and detention of a motor vehicle in case of non payment of tax as well as action for recovery of dues as arrears of land revenue. In such cases the Department issues demand notices to the registered owner of the motor vehicle stating that in the event of non payment of tax

⁹ Goods tax was repealed from 1 April 1980; however the accounting head has not been changed.

within 10 days of receipt of the notice, recovery would be effected as per provisions of the Maharashtra Land Revenue Code (MLR Code), 1966.

The Transport Commissioner's office stated in August 2005 that Planning, Monitoring and Review (PM&R) meetings were held wherein targets for recovery of arrears prescribed were reviewed.

In accordance with Revenue and Forests Department's resolution dated 17 January 1991, the Collectors of the districts notified between January 1993 and November 2000 that the RTOs and Dy. RTOs shall exercise the powers under the MLR Code, for purpose of recovery of motor vehicles tax dues.

RTO Aurangabad and RTO Thane were notified for exercise of powers under the MLR Code in July 1993 and July 1996. However, RTO Aurangabad and RTO Thane stated in March 2005 and April 2005 respectively that no order of delegation of powers had been issued by the respective Collectors. It was noticed on perusal of records that RTO Aurangabad was referring the cases to the Revenue Department for recovery of dues. RTO Thane did not furnish the details of cases to audit in which RRCs were issued. When targets for recovery of arrears as stated were being reviewed, it was not clear how the offices were ignorant of the delegation of powers under MLR Code.

No effective system exists in the Transport Commissioner's office to evaluate action taken by subordinate offices for reduction of arrears. This indicated that powers delegated to the department were not being exercised efficiently.

Analysis of data collected from 20 offices¹⁰ revealed that arrears of tax aggregating Rs 70.78 crore in respect of 4,64,958 cases were pending collection as of 31 March 2004, for recovery as arrears of land revenue. However only 57,214 cases involving tax of Rs 15.45 crore were processed under MLR Code for revenue recovery, out of which only Rs 1.73 crore was recovered in 2,001 cases. The remaining 4,07,744 cases involving Rs 55.33 crore were not processed for recovery under MLR Code as shown in Annexure II. The agewise analysis was not made available.

It was noticed that demand notices were issued in many cases involving arrears for more than one year but no action was initiated under MLR Code. No specified system or time limit was prescribed for initiating action under MLR Code.

In reply to audit observations, the Department indicated that owners and vehicles were not traceable and shortage of staff was the reason for not taking recourse to RRC procedure for recovery of dues.

- Further, as per information furnished by 18 offices, only 7,530 motor vehicles had been seized between April 1999 and March 2004 for default in payment of tax dues. Of this 1,488 vehicles were auctioned to recover Rs 2.76 crore. No action was taken to realise the dues either from the owners or by sale or by auction of the remaining 6,042 vehicles as detailed in Annexure III.

¹⁰ Ahmednagar, Akola, Amravati, Aurangabad, Buldana, Chandrapur, Gadchiroli, Gondia, Kalyan, Kolhapur, Mumbai (W), Nagpur, Nashik, Parbhani, Pen, Sangli, Satara, Shrirampur, Wardha and Yavatmal.

- ***Non recovery of composite tax***

As per the provisions of the Central Motor Vehicles Rules, 1989 the intending national permit holder is required to pay to the home State, prescribed authorisation fee alongwith the bank draft in respect of composite tax payable to the States in which the permission for operation is granted.

In order to keep watch over the demand, recovery and computation of arrears and for execution of follow up action for realisation of composite tax due from other States, the Department was required to maintain the details of all the permits issued from time to time by other States.

Scrutiny of records in the office of the Transport Commissioner, Mumbai revealed that the intimation regarding National Permits issued by other States for operating vehicles in Maharashtra State was neither given by those States nor was it called for by the State Transport Authority (STA). Also, the letters forwarding demand drafts received from other States did not indicate the period of authorisation. In the absence of this basic information, composite tax due from other States could not be determined.

As per Government of Maharashtra Notification dated 30 January 2001, composite tax of Rs 5,000 was recoverable in one installment in advance from National Permit holders of other States operating in Maharashtra.

Test check of records relating to composite tax in the office of the Transport Commissioner revealed that as against composite tax of Rs 39 lakh recoverable, tax of Rs 19.77 lakh was recovered. Composite tax in the form of demand drafts ranging between Rs 1,500 to Rs 3,000 was being accepted by the Department from Punjab State which was in contravention of the Government instruction of 30 January 2001. This resulted in short realisation of tax of Rs 19.23 lakh as detailed in the following table:

(Amount in lakh of rupees)

Year	Cases	Composite Tax		Short realisation of Composite Tax
		Recoverable	Recovered	
2001-2002	221	11.05	5.90	5.15
2002-2003	271	13.55	6.67	6.88
2003-2004	288	14.40	7.20	7.20
Total	780	39.00	19.77	19.23

After this was pointed out the Transport Commissioner stated that the matter was under correspondence with STA Punjab without any fruitful result.

3.2.10 Non/ short levy of tax

Test check of records in 25 offices¹¹ between 1999-2000 and 2003-04 revealed that in respect of 1,809 vehicles, tax was either not recovered or recovered short for periods between March 1999 and June 2004 resulting in underassessment of Rs 2.82 crore. The short/non recovery of tax was mainly due to incorrect application of rate and failure to review the records.

After this was pointed out, the Department recovered between May 2002 and March 2005, Rs 0.27 crore in 254 cases. Report on recovery in the remaining cases has not been received (December 2005).

3.2.11 Non submission of monthly returns to State Transport Authority by owners of tourist buses

The MV Act provides for levy of fine extending to Rs 100 for first offence and upto Rs 300 for second or subsequent offence where no penalty is provided for contravention of the provisions of the Act or Rules.

The power to grant permits to tourist buses which were previously delegated to the RTOs was withdrawn from April 2002. Permits in respect of tourist buses (except tourist taxi cabs) are being issued by STA, Mumbai. Four hundred and eighty five permits were issued and 400 were renewed during the years 2002-03 and 2003-04 by the STA.

The tourist permit granted to a tourist vehicle by the STA, Mumbai, provide for submission of a quarterly return by a permit holder to the STA in the prescribed form giving details of trips made during each month, duration of journey, route of journey, distance travelled, number of passengers, fare charges, starting point and the point of destination etc.

During test check of records it was revealed that neither transport permit holders submitted the return nor was it called for by the Department. In the absence of this return, it could not be ascertained in audit how the department verified the fulfillment of the conditions prescribed. No action was taken to cancel/suspend the permit.

After this was pointed out, the Department stated in June 2005 that no renewal of permit or authorisation will be effected unless the defaulting permit holder paid the compounding fee of Rs 100. Report on recovery has not been received (December 2005).

3.2.12 Reduction of fine for overloading resulting in forgoing of revenue

As per Section 194 of the MV Act, for the offence of overloading of a vehicle, minimum fine of Rs 2,000 and an additional fine of Rs 1,000 per tonne of excess load was leviable w.e.f. November 1994.

Government of Maharashtra notified on 24 June 1996 a minimum fine of Rs 2,000 and additional fine of Rs 500 per tonne as compounding fee for overloading. The rates were reduced to Rs 100 per tonne from Rs 2,000 for overloading upto two tonnes and an additional Rs 150 per tonne for excess

¹¹ RTOs: Aurangabad, Dhule, Kolhapur, Mumbai (C), Mumbai (E), Mumbai (W), Nanded, Nashik, Pune and Thane.
Dy. RTOs: Ahmednagar, Beed, Jalgaon, Jalna, Kalyan, Latur, Nandurbar, Osmanabad, Pen, Pimpri-Chinchwad, Parbhani, Ratnagiri, Sangli, Satara and Solapur.

thereof vide notification dated 9 August 2001. Reasons for reduction of the compounding fee were neither furnished by Government nor was relevant file made available to audit.

Test check of records in 14 RTOs/Dy. RTOs¹² revealed that reduction in the rates of fine/compounding fee resulted in Government forgoing revenue of Rs 49.85 lakh for the month of March 2004 alone. It was also noticed that there was an increase in the cases of overloading registered in the State as detailed below:

Year	Whole of Maharashtra¹³
1999-2000	7,865
2000-2001	11,749
2001-2002	20,918
2002-2003	76,323
2003-2004	2,29,355

Despite Government of India's instructions (March 2003) for strict adherence of the provisions in the MV Act to curb the tendency of overloading, State Government had not revised the rates to bring it at par with those notified in the MV Act.

At the minimum fine of Rs 2,000 and Rs 1,000 per tonne for excess load as per the MV Act, the revenue forgone during the two years 2002-03 and 2003-04 would amount to Rs 85.59 crore in respect of 3,05,678 cases registered in the State.

During the ARC meeting, the Principal Secretary agreed to propose to Government revision of fine to bring it at par with those notified in the MV Act and rates as applicable in other States.

3.2.13 Incorrect retention of Government money

As per Section 4 read with Section 5 of the BMV (Taxation of Passengers), Act, every stage carriage operator is required to file a monthly return in the prescribed form and pay passengers tax and surcharge to the tax officer on or before the prescribed date, failing which the tax officer at his discretion can levy penalty not exceeding 25 per cent of the tax due in addition to the tax leviable.

Scrutiny of records in the office of the Transport Commissioner, Mumbai revealed that passengers tax and surcharge of Rs 40.77 crore collected by the fleet owners in the bus fares during various periods upto 31 March 2004 was not credited to Government account as detailed in the following table:

¹² Ahmednagar, Aurangabad, Dhule, Kalyan, Kolhapur, Mumbai (C), Mumbai (E), Mumbai (W), Nashik, Parbhani, Pen, Sangli, Satara and Thane.

¹³ Source: Motor Transport Statistics of Maharashtra, 2003-04

(Amount in crore of rupees)

Sl. No.	Name of the fleet owner	Period	Amount not remitted		Total
			Passengers tax	Surcharge	
1.	BEST	2001-2002	Nil	1.66	1.66
		2002-2003	Nil	1.18	1.18
		2003-2004	Nil	0.65	0.65
		Total	Nil	3.49	3.49
2.	Kolhapur Municipal Transport	Upto 1996-97	0.73	0.52	1.25
		2000-2001	0.19	0.23	0.42
		2001-2002	0.40	0.45	0.85
		2002-2003	0.50	0.47	0.97
		2003-2004	0.50	0.44	0.94
		Total	2.32	2.11	4.43
3.	Pune Municipal Transport	Upto 1998-99	2.57	2.40	4.97
		1999-2000	2.62	1.02	3.64
		2000-2001	3.09	2.02	5.11
		2001-2002	3.17	2.04	5.21
		2002-2003	3.50	2.34	5.84
		2003-2004	3.95	2.49	6.44
Total	18.90	12.31	31.21		
4.	Pimpri-Chinchwad Municipal Transport	2001-2002	Nil	0.18	0.18
		2002-2003	0.35	0.31	0.66
		2003-2004	0.51	0.29	0.80
		Total	0.86	0.78	1.64
Grand Total			22.08	18.69	40.77

Despite tax being collected from the passengers and the operators being defaulters, Government has not made any provision for levy of interest in the Act. The need for a provision to levy interest in addition to the discretionary provision for levy of penalty needs to be examined.

Reasons adduced by the municipal authorities to the Department for non remittance of passengers tax were lower collection than anticipated, price hike in diesel, oil, lubricants, unauthorised carriage of passengers in non transport vehicles, etc., leading to financial crunch. The reply is not tenable as the tax was already recovered from the public in the fare and has been unauthorisedly retained by the fleet owners.

During the ARC meeting, the Principal Secretary accepted the audit observation and stated that proposal for levying interest in lieu of discretionary penalty would be proposed for consideration of Government. Report on action taken has not been received (December 2005).

3.2.14 Non inspection of transport vehicles

Under the provisions of the MV Act and the Rules made thereunder, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness. A fitness certificate granted under the Act in respect of a newly registered transport vehicle is valid for two years and is required to be renewed every year thereafter on payment of prescribed fee applicable to the

category of the vehicle. Departmental instructions provide that the number of vehicles due for inspection every month be worked out and notices issued for physical production of the vehicles.

As per information made available by 25 offices, the total number of inspections actually conducted were far less than the number of inspections required to be conducted during the years from 1999-2000 to 2003-04 as shown in Annexure IV.

After this was pointed out, the Department stated that the inspections could not be conducted due to non production of motor vehicles for renewal of fitness as the vehicles were either under repairs or tax was in arrears or were sold or had migrated out of the State/region or were under non use. The Department, however, did not have any record to substantiate the reasons advanced.

The reply of the Department was not tenable as the information relating to non inspection of vehicles was furnished by the Department itself and the number of vehicles under repairs or non use or those migrated was not available with it. In the absence of this vital information, audit was unable to ascertain the efficacy of monitoring inspection of motor vehicles by the Department.

Further, the Department was of the opinion that obtaining fitness certificate was the responsibility of the vehicle owner. There is no provision in the MV Act for issue of notice for renewal of fitness. Government may consider incorporation of appropriate provision in this regard in the Maharashtra Motor Vehicles Rules, 1989.

Non inspection of motor vehicles in the offices had not only resulted in vehicles plying without valid fitness certificate jeopardising public safety but also non recovery of Rs 16.65 crore on account of inspection fees calculated at the minimum rate of Rs 50 per inspection for the period upto 31 March 2001 and Rs 200 thereafter.

During discussion in the ARC meeting Government accepted to propose for a provision in the Act/Rules for issuance of notices to registered owners for production of vehicles for renewal of fitness.

3.2.15 Non prescribing of fees for temporary registration.

The MV Act prohibits plying of any vehicle in a public place without temporary/ permanent registration.

Scrutiny of records in 25 offices¹⁴ revealed that 6,30,280 vehicles were temporarily registered during the years from 1999-2000 to 2003-04 by the registering authorities or motor vehicle manufacturers (being prescribed authority) in the course of dispatch of vehicles to various regions/States. Unlike the Bengal Motor Vehicles Rules, 1989, the Maharashtra Motor Vehicles Rules, 1989 does not prescribe a fee for temporary registration though there is a provision in the MV Act (Section 211) to levy fee for rendering of services. Even at the minimum rate of Rs 100 per vehicle,

¹⁴ RTOs: Amravati, Aurangabad, Dhule, Kolhapur, Mumbai (C), Mumbai (E), Mumbai (W), Nagpur, Nashik, Pune and Thane.

Dy. RTOs: Ahmednagar, Akola, Buldana, Chandrapur, Gadchiroli, Gondia, Kalyan, Parbhani, Pimpri-Chinchwad, Sangli, Satara, Shrirampur, Wardha and Yavatmal.

Government could have collected revenue of Rs 6.30 crore in respect of temporary registrations made during five years in the 25 offices test checked.

During discussion in the ARC meeting, the Principal Secretary to the Government stated that the legislation in other States would be examined and action taken within three months.

3.2.16 Non levy of compounding fee at higher rate for second or subsequent offence in respect of emission of excess smoke.

In terms of Section 190(2) of the MV Act, any person who drives in any public place, a motor vehicle which violates the standard prescribed in relation to road safety in respect of emission of smoke, is punishable for the first offence with a fine of Rs 1,000 and for any second or subsequent offence with a fine of Rs 2,000. However Government of Maharashtra vide notification dated 24 June 1996, fixed the rate of compounding fee of Rs 500 each from registered owner and driver for first and subsequent offence in case of a vehicle challaned for the offence of emitting excess smoke.

Scrutiny of records of prosecution wing in RTO Pune for the period 1999-2000 to 2003-04 revealed that 1,940 vehicles were challaned for second offence, 439 vehicles for third offence and 168 vehicles for fourth and subsequent offences. As higher fine is not provided for subsequent offence in the State, RTO Pune continued to recover the compounding fee at the same rate of Rs 500 each from registered owner and driver. The requisite data in respect of other offices was not made available as data of prosecution wing (excluding RTO Kolhapur) has not been computerised. Thus, apart from the revenue loss of Rs 33.86 lakh in respect of cases of offence registered by RTO, Pune, there was an increase in the number of offences as seen from the following statistical data published by the Transport Commissioner, Maharashtra State, Mumbai¹⁵.

Year	MVs checked by PUC squad (whole of Maharashtra)	MVs detected by PUC* squad	Percentage of violation
1999-2000	6,04,880	70,489	11.65
2000-2001	5,72,978	98,067	17.12
2001-2002	5,87,346	1,02,879	17.52
2002-2003	6,48,885	1,10,953	17.10
2003-2004	5,14,017	1,01,416	19.73

*PUC means pollution under control

The Principal Secretary during the ARC meeting accepted to submit a proposal for consideration of Government for levying fees at the rates prescribed in the MV Act.

3.2.17 Non compounding and non launching of prosecution under on road enforcement function

On road enforcement is an important function of the Motor Vehicles Department. The MVT Act prescribes the procedure for compounding of offences. The rate of compounding amount prescribed for each type of

¹⁵ Source: Motor Transport Statistics of Maharashtra, 2003-04

offence is notified by Government from time to time. The Transport Commissioner issued on 26 April 2002, instructions to all field offices for systematisation of enforcement work and quick disposal of the pending checking reports.

In 26 offices, out of 27 offices test checked the number of offences detected and pending during the years from 1999-2000 to 2003-04 varied between 23,369 to 39,414 as detailed in Annexure V.

The total pendency of cases as on 31 March 2004 was 1,50,101. Even at the minimum rate of Rs 100 for compounding of an offence the revenue that could have been realised would amount to Rs 1.50 crore. The Department stated that prosecution could not be launched due to inadequate staff and department's inability to ensure physical presence of the accused in the absence of powers to arrest.

3.2.18 Delay in implementation of Government of India orders

Government of India by notification dated 28 March 2001 enhanced the registration fees, fees for certificate of fitness, fees for driving licence etc. with effect from 1 April 2001. Similarly, the fee for international driving permit was enhanced from 10 October 2003. Transport Commissioner, Maharashtra, however, notified the enhanced rates on 10 April 2001 (effective from 11 April 2001) and 22 October 2003 respectively.

Delay in notifying the enhanced rates by the Transport Commissioner resulted in loss of revenue of Rs 46.49 lakh in 77,128 cases during the period from 1 April 2001 to 10 April 2001 and 10 October 2003 to 21 October 2003 in respect of fees recovered in the 25 offices¹⁶.

After this was pointed out, the Transport Commissioner stated that notification of 28 March 2001 was received on 10 April 2001 and that of 10 September 2003 on 18 October 2003.

3.2.19 Irregular grant of certificate of fitness

Under the provisions of the MV Act and the Central Motor Vehicles Rules, 1989, no vehicle is deemed to be validly registered unless a certificate of fitness is granted by the Motor Vehicles Department. An application of fitness is to be accompanied by a tax clearance certificate from the RTO/Dy. RTO having jurisdiction.

During audit of records in the RTO Pune and RTO Pimpri-Chinchwad, it was noticed that certificates of fitness were issued to the buses owned by Pune Municipal Transport and Pimpri-Chinchwad Municipal Transport, even though passengers tax amounting to Rs 26.25 crore and Rs 1.63 crore respectively for periods between 1999-2000 and 2003-2004 was not paid.

After this was pointed out, the Department stated that stop operation notices were issued, but being a public transport system they could not be stopped

¹⁶ RTOs: Amravati, Aurangabad, Dhule, Kolhapur, Mumbai (C), Mumbai (E), Mumbai (W), Nagpur, Nashik, Pune and Thane.

Dy.RTOs: Ahmednagar, Akola, Buldhana, Chandrapur, Gadchiroli, Gondia, Kalyan, Parbhani, Pimpri-Chinchwad, Sangli, Satara, Shrirampur, Wardha and Yavatmal.

from operation. The reply was not tenable as the rules do not provide for renewal when tax is in arrears.

3.2.20 Acknowledgement

The audit findings as a result of test check of records were reported to Government/ Department in June 2005 with a specific request to attend the meeting of the Audit Review Committee (ARC) for State Revenue Receipts. The meeting of the ARC was held on 31 August 2005 and their view point has been duly incorporated in the review.

3.2.21 Conclusion

The review revealed that the Department had not taken adequate action to recover the dues under the BMV Act, as arrears of land revenue and the fines prescribed by the State Government for overloading and emission of excess smoke were lower than that prescribed in the MV Act. The Department also does not have data of vehicles plying on roads without fitness certificate.

3.3 Fraudulent registration of motor vehicles in Transport Offices

Under Motor Vehicles Act, 1988, a motor vehicle registered in any State shall not require to be registered again elsewhere in India except in the case of motor vehicle kept in another State for a period exceeding 12 months and a certificate/mark of registration issued under this Act in respect of such vehicle shall be effective throughout India.

Analysis of computerised database of registration of vehicles maintained online on Transport Office On Line System (TOOLS) at six regional transport offices (RTOs) revealed that out of 15,43,730 registration records, engine and chassis numbers were duplicate in 704 cases as detailed under:

RTO Code	Name of RTO	Total number of vehicles registered as on date of audit	No. of cases with duplicate engine and chassis number	No. of cases verified from records
31	Nagpur	51,993	32	6
20	Aurangabad	2,06,832	10	4
09	Kolhapur	2,35,118	118	24
12	Pune	5,84,608	448	4
04	Thane	3,94,280	62	30
27	Amravati	70,899	34	30
Total		15,43,730	704	98

Manual verification of related records in respect of 98 cases (*i.e.* 49 vehicles) revealed that vehicles with the same engine and chassis number were

registered twice and assigned two registration marks by RTOs. There were 17 pairs of registration of vehicles with identical owners and 32 pairs with different owners.

Lacunae/discrepancies in vehicle registration system in RTOs existed in the form of absence of input controls and validations. As the system did not restrict acceptance of identical engine/chassis number and subsequent generation of registration marks (numbers), fraudulent registration went unchecked.

In reply, the RTOs assured to verify the matter in detail under intimation to audit.

The matter was brought to the notice of Government; their reply has not been received (December 2005).

3.4 Non recovery on account of inspection fees

Under the provisions of the Motor Vehicle Act, 1988 and Rules made thereunder, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness. A fitness certificate granted under the Act in respect of a newly registered transport vehicle is valid for two years and is required to be renewed every year thereafter on payment of the prescribed fee applicable to the category of the vehicle. Departmental instructions provide that the number of vehicles due for inspection be worked out every month and notices issued for physical production of the vehicles.

Analysis of computerised database of fitness of vehicle at five RTOs revealed that the system was not designed to automatically generate notices for production of vehicles for inspection after expiry of certificate of fitness. 61,436 transport vehicles were not inspected by the RTOs for grant or renewal of fitness certificate as detailed below:

(Amount in lakh of rupees)					
Sl. No.	Name of RTO office	Office code	No. of transport vehicles not inspected	No. of occasions of non renewal of fitness	Inspection fees not recovered
1.	Nagpur	31	4,696	11,000	5.50
2.	Aurangabad	20	4,864	9,731	4.87
3.	Kolhapur	09	8,594	26,111	13.06
4.	Pune	12	8,486	51,281	25.64
5.	Thane	04	34,796	91,660	45.83
Total			61,436	1,89,783	94.90

Non inspection of motor vehicles by RTOs not only resulted in the vehicles plying without valid fitness certificates but also loss of revenue of Rs 94.90

lakh on account of inspection fees calculated at the lowest rate of Rs 50 per inspection per vehicle.

After this was pointed out, the Department stated that the matter would be examined in detail and result intimated to audit.

The matter was brought to the notice of Government; their reply has not been received (December 2005).

SECTION B

STAMP DUTY AND REGISTRATION FEES

3.5 Short levy of stamp duty on mortgage deed

As per the Bombay Stamp Act, 1958 (ACT), stamp duty on mortgage deed, where possession of the property is not given by the mortgagor, is levied at the rate of one *per cent* of amount secured subject to a minimum of Rs 100 and maximum of Rs 10 lakh.

3.5.1 In sub registry-III Nagpur, a document was executed in August 2002 for securing a loan of Rs 7 crore. Since the document was a mortgage deed, stamp duty of Rs 7 lakh was to be levied as against which only Rs 1.74 lakh was levied. This resulted in short levy of stamp duty of Rs 5.26 lakh.

After this was pointed out in April 2003, the Inspector General of Registration (IGR), Pune accepted the audit observation in May 2004. Report on recovery has not been received (December 2005).

The matter was reported to Government in April 2005; their reply has not been received (December 2005).

3.5.2 In sub registry Nandurbar, a document was registered in November 2002 as deed of modification and transfer of second further charge for securing an additional loan of Rs 14.05 crore. Since the document was a mortgage deed, stamp duty of Rs 10 lakh by considering entire amount of loan including further charge was required to be levied. However only Rs 2.27 lakh was levied against stamp duty of Rs 10 lakh. This resulted in short levy of stamp duty of Rs 7.73 lakh.

After this was pointed out in June 2003, the IGR, Pune accepted the audit observation and directed the authorities concerned to effect the recovery in August 2004. Report on recovery has not been received (December 2005).

The matter was reported to Government in April 2005; their reply has not been received (December 2005).

3.6 Short levy of stamp duty due to under valuation of property

As per the Act, stamp duty and registration fee on conveyance deed is leviable on the true market value of the property at the rates applicable to the area in which the property is situated. These rates are prescribed in the ready

reckoner. It is an annual statement of rates of property prescribed by Government.

In sub registry-II, Amravati and Andheri (at Bandra), Mumbai 12 instruments of conveyance deed were registered between 2000 and 2002 and stamp duty and registration fee of Rs 13.75 lakh was charged on the consideration of Rs 1.42 crore set forth in the instruments instead of Rs 25.16 lakh leviable on the true market value of Rs 2.60 crore determined with reference to the rates prescribed in the ready reckoner. This resulted in short levy of stamp duty and registration fee of Rs 11.41 lakh.

After this was pointed out between February 2002 and July 2003 the Department accepted the short levy and stated in October 2004 that Rs 0.03 lakh had been recovered. Report on recovery of the balance amount has not been received (December 2005).

The matter was reported to Government in April 2005; their reply has not been received (December 2005).

3.7 Short realisation of stamp duty on lease deed

As per the Act, stamp duty on lease deed for the lease period exceeding 29 years is levied at the rate¹⁷ prescribed in the Schedule I to the Act.

In sub registry Borivali-I, Mumbai, a lease deed was executed in October 2002 for a period of 30 years for a consideration of Rs 1.91 crore. Stamp duty of Rs 19.06 lakh was to be levied, against which only Rs 1.91 lakh was levied. This resulted in short levy of stamp duty of Rs 17.15 lakh.

After this was pointed out in May 2003, the IGR, Pune accepted the audit observation in October 2004 and stated that the concerned authority had been directed to recover the amount short levied. Report on recovery has not been received (December 2005).

The matter was reported to Government in April 2005; their reply has not been received (December 2005).

3.8 Short levy of stamp duty due to incorrect determination of market value

As per the Act, stamp duty and registration fee on conveyance deed is leviable on the true market value of the property at the rates applicable to the area in which the property is situated. Further, Section 32-A of the Act specifies that if the registering officer while registering any instrument, had reason to believe that the market value of the property had not been truly set forth, he may, before registering such instrument, refer it to the Collector for determination of the true market value of the property. Provided further, that, whenever a certificate about market value of property has been issued under the provisions of the Income Tax Act, then value stated in such certificate

¹⁷ 10 per cent on 10 times of the amount of average annual rent and premium as per Article 36(a)(iv),(c) and 25 of the Act.

shall be the true value of the property. However, this provision to charge stamp duty based on value certified under the Income Tax Act was withdrawn in December 2001.

In sub-registry-II (City), Mumbai in respect of an instrument of conveyance deed registered in June 2002, stamp duty and registration fee of Rs 0.70 crore was charged on the consideration of Rs 7.01 crore as certified by the income tax authority. Since the provision to charge stamp duty on the value certified by the income tax authority was withdrawn in December 2001, stamp duty of Rs 1.25 crore was leviable on the true market value of the property of Rs 12.51 crore calculated as per the ready reckoner. Thus, undervaluation of the property resulted in short levy of stamp duty of Rs 0.55 crore.

After this was pointed out in July 2003, the IGR accepted the audit observation and instructed the Deputy IGR to take action under the Act. Further reply has not been received (December 2005).

The matter was reported to Government in May 2005; their reply has not been received (December 2005).

3.9 Incorrect determination of stamp duty on lease deed

Under the Act, the stamp duty on lease deed depending on the lease period is to be levied based on the total consideration which includes lease rent, advance, premium and other charges paid by the lessee; such as Government revenue, cesses, municipal rates or taxes, which are by law recoverable from the lessor.

In sub-registry-I Andheri (at Bandra), Mumbai, a lease deed was executed in January 2003 for a period of 80 years for a premium of Rs 112.34 crore. While arriving at the total consideration, ground rent payable by the lessee was omitted. Thus, stamp duty of Rs 14.37 crore was leviable on total consideration of Rs 143.73 crore including ground rent. Instead, only Rs 12.03 crore was levied on consideration of Rs 120.30 crore. This resulted in short levy of stamp duty of Rs 2.34 crore.

After this was pointed out in December 2004, the IGR Pune accepted in April 2005 the audit contention and instructed the sub-registrar to take necessary action. Report on recovery has not been received (December 2005).

The matter was reported to Government in May 2005; their reply has not been received (December 2005).