

## CHAPTER V : OTHER TAX RECEIPTS

### 5.1 Results of audit

Test check of records of departmental offices conducted during 2004-05 revealed short realisation or loss of revenue amounting to Rs 566.51 crore in 6,394 cases as detailed below:

Sl. No.	Nature of receipt	No. of cases	Amount (in crore of rupees)
1.	State Excise	649	1.95
2.	Entertainments Duty	1,132	1.29
3.	State education cess and employment guarantee cess	392	29.77
4.	Tax on buildings (with larger residential premises)	651	3.81
5.	Repairs and reconstruction cess	50	0.44
6.	Profession tax	3,303	0.78
7.	Electricity duty	217	528.47
	<b>Total</b>	<b>6,394</b>	<b>566.51</b>

During the course of the year 2004-05, the departments concerned accepted and recovered underassessment *etc.*, in 3,291 cases involving Rs 12.68 crore, of which 475 cases involving Rs 7.80 crore related to 2004-05 and the rest to earlier years.

A few illustrative cases involving Rs 105.20 crore highlighting important observations are given in the following paragraphs:

## **SECTION A STATE EXCISE**

### **5.2 Short recovery of licence fees in respect of FL III licences**

Under the provisions of the Bombay Foreign Liquor Rules, 1953, the Commissioner of State Excise notified in January 2002 the revised rates of fees for grant/renewal of licence in Form FL III for sale of imported foreign liquor (potable) and Indian made foreign liquor (potable) at hotels for the year 2002-03. Government pending final decision on implementation of the revised rates, directed in September 2002 recovery of licence fee at 110 *per cent* of the rates for 2001-02 for renewal of licences for the year 2002-03. The revised rates were applicable for renewal of licences for the year 2003-04 as well, for which licensees were required to pay 25 *per cent* of the revised rates pending final decision. The Commissioner of State Excise notified on 30 May 2003, as per directives of Government on 29 May 2003, that the differential licence fees as per revised rates for the year 2002-03 and 2003-04 be paid before 1 July 2003. For default in payment of differential dues, interest was leviable as per rules.

During test check of records in five offices<sup>1</sup>, it was noticed that in respect of 234 FL III licence holders, Rs 3.72 crore was recoverable against which only Rs 2.67 crore was recovered in respect of licences renewed for the years 2002-03 and 2003-04. This resulted in short recovery of Rs 1.05 crore. The short recovery was due to failure to review the licence register maintained in the State Excise Department.

After this was pointed out between July 2003 and February 2004, the Department recovered Rs 47.95 lakh alongwith interest of Rs 5.77 lakh in 172 cases between July 2003 and December 2004. Report on recovery of the balance amount has not been received (December 2005).

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

## **SECTION B ENTERTAINMENTS DUTY**

### **5.3 Non/short recovery of entertainments duty from cable operators**

Under the Bombay Entertainments Duty (ED Act) Act, 1923 with effect from 1 May 1998, entertainments duty (ED) is payable by cable operators at the flat rate of Rs 15 or Rs 10 or Rs 5 (increased to Rs 30 or Rs 20 or Rs 10 with effect from 1 April 2000) per television set per month depending on whether the area is a municipal corporation, A and B class municipality or other area.

<sup>1</sup> Superintendent of State Excise: Jalgaon, Kolhapur, Mumbai, Parbhani and Solapur.

Test check of records in 26 offices<sup>2</sup> in 10 districts<sup>3</sup> revealed that in respect of 342 cable operators, ED amounting to Rs 49.25 lakh was neither paid by the operators nor any demands were raised for various periods between April 1999 and March 2003. Further, in respect of 61 cable operators, ED of Rs 14.20 lakh was recovered short for the periods between April 2001 and March 2004. The underassessment was due to failure to review the register containing data of connections serviced by each cable operator, ED recoverable and payments made thereagainst.

After this was pointed out between June 2001 and August 2004, the Resident Dy. Collectors/tahsildars recovered between July 2001 and July 2005, ED of Rs 27.17 lakh from 228 cable operators. Report on recovery of the balance amount has not been received (December 2005).

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

#### **5.4 Non recovery of entertainments duty from proprietors of dance bars**

Under the provisions of the ED Act, ED is payable in advance by the tenth day of every calendar month by the proprietor of every dance bar in respect of every dance performance at the rate of Rs 10,000 per month within the limits of municipal corporation of Brihan Mumbai and Rs 5,000 per month outside the limits of municipal corporation of Brihan Mumbai. A register is being maintained in each office to note the ED recoverable from the proprietors of dance bars and payment made thereagainst.

Test check of records in three offices<sup>4</sup> revealed that in respect of 24 dance bars, ED amounting to Rs 11.40 lakh was neither paid by the proprietors nor demanded by the entertainments duty branch in the tahsils for various periods between April 2001 and March 2003.

After this was pointed out, the tahsildars recovered ED of Rs 5.02 lakh from the proprietors of 15 dance bars between September 2002 and March 2005. 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).

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<sup>2</sup> Tahsildar: Ambernath, Andheri Zone I, II, III & IV, Borivali Zone VII, Kalyan, Kurla Zone VIII & IX

Dy. Collector: Mumbai Zone III & VII

Resident Dy. Collector: Ahmednagar, Akola, Gadchiroli, Jalna, Nashik, Pune Zone A, B, DI/II, F, F1, G, H, J, K, Yavatmal

<sup>3</sup> Ahmednagar, Akola, Gadchiroli, Jalna, Mumbai City and Suburb, Nashik, Pune, Thane and Yavatmal.

<sup>4</sup> Tahsildar Kurla Zone VIII, X and Tahsildar Ulhasnagar

**SECTION C**  
**STATE EDUCATION CESS AND EMPLOYMENT**  
**GUARANTEE CESS**

**5.5 Short/non remittance of cess**

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 and the Rules made thereunder, cess and penalty recovered by the municipal corporations (MCs) are required to be credited to Government account before the expiry of the following week. If any MC defaults in the payment to the State Government of any sum under the Act, the State Government may after holding such enquiry, fix a period for the payment of such sum. The Act also empowers Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of Government shall be sufficient to discharge such bank/treasury from all liabilities to the MC.

It was noticed that three MCs<sup>5</sup>, collected but did not remit revenue amounting to Rs 27.76 crore relating to State education cess (SEC) of Rs 10.31 crore and employment guarantee cess (EGC) of Rs 17.45 crore, during 2002-03 and 2003-04. The State Government had not directed the banks to pay the sums due from the MCs to them. There exists no internal control at apex level in Revenue and Forests Department as there is no provision in the Act/Rules for furnishing of details of cess collected and remitted to Government account.

After this was pointed out between July 2004 and December 2004, the Pune MC credited Rs 2.17 crore relating to the year 2002-03 in January 2005 and Rs 5 crore relating to the year 2003-04 in February 2005 to Government account. The Nagpur MC stated that it had requested the Government for adjustment of dues against the grant payable to it. The Brihan Mumbai MC stated in December 2004 that orders for adjustment of the amount against the grant due to it were awaited. Further report has not been received (December 2005)

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

**SECTION D**  
**TAX ON BUILDINGS**  
**(with larger residential premises)**

**5.6 Non levy of tax**

Under the provisions of the Maharashtra Tax on Buildings (with larger residential premises) (Re-enacted) Act, 1979 (MTOB Act), tax is leviable (with effect from 1 April 1974) on all buildings in Brihan Mumbai MC area

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<sup>5</sup> Brihan Mumbai (three units Mumbai city, Eastern Suburb (Chembur) and Western Suburb (Bandra)), Nagpur and Pune Municipal Corporations

containing residential premises with floor area exceeding 125 square metres and whose rateable value exceeds Rs 1500. In other corporation areas, tax is leviable in respect of residential premises with floor area exceeding 150 square metres and whose rateable value exceeds Rs 1500. The rate of tax is 10 *per cent* of the rateable value of the residential premises and tax is collected in the same manner in which property tax is collected by the MCs. The MC is required to furnish within three months from the date of expiry of every year to the State Government a return showing the aggregate amount of tax assessed by the assessing authority in respect of that year and the aggregate amount of tax and penalty collected in that year.

It was noticed from assessment records in C ward of Brihan Mumbai MC and in Sangli-Miraj-Kupwad MC that tax amounting to Rs 33.57 lakh in respect of 1,007 properties for the years between 1999-2000 and 2003-04 was not levied and demanded resulting in non-recovery of tax. This indicated absence of monitoring at Mantralaya level.

After this was pointed out between January 2002 and May 2004, the Brihan Mumbai MC raised demand in June 2002 for the year 2000-01 and recovered Rs 0.53 lakh in 52 cases. Report on recovery of the balance amount of Rs 33.04 lakh had not been received (December 2005).

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

## **5.7 Non remittance of tax**

Under the provisions of the MTOB Act, tax recovered by a MC on behalf of the State Government shall be credited to the Consolidated Fund of the State within 30 days from the date of its recovery. If any MC defaults in payment to the State Government of any sum under the Act, the State Government may after holding such enquiry, fix a period for payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of Government shall be sufficient discharge to such bank/treasury from all liabilities to the MC.

It was noticed in audit that three MCs<sup>6</sup> had not remitted revenue amounting to Rs 3.72 crore collected on account of tax on buildings (with larger residential premises) during the year 2003-04. In none of the cases, the bank/treasury was directed to pay the sum to the State Government. Further, the non remittance of tax by the MCs was not monitored by the Urban Development Department.

After this was pointed out, the Pune MC and Solapur MC stated in September 2004 and July 2004 respectively that the amount would be credited to Government account. The Mumbai MC stated in November 2004 that orders for adjustment of the amount against its dues from the Government were awaited. Further report has not been received (December 2005).

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<sup>6</sup> Mumbai (3 units), Pune and Solapur

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

## **SECTION E REPAIR CESS**

### **5.8 Short levy of repair cess**

Under the provisions of the Maharashtra Housing and Area Development (MHAD) Act, 1976, repairs and reconstruction cess is leviable at slab rates as a percentage of the rateable value of the buildings in the city of Mumbai as prescribed in the second schedule to the Act. The cess is levied and recovered by the Brihan Mumbai MC and remitted into Government account within 15 days from the date of recovery. The cess was leviable at enhanced rates depending upon the slab of expenditure incurred by the Board on structural repairs upto a maximum of Rs 750 upto April 1998. The maximum permissible limit towards cost of repairs to be borne by the Board was enhanced from Rs 750 to Rs 1,000 per square metre with effect from May 1998 but the rate of cess leviable thereon was not prescribed.

In Mumbai, it was noticed in the assessments of 110 properties, in F (South), G (North) and B wards that the buildings were repaired between May 2000 and March 2003 by incurring expenditure between Rs 500 to Rs 1,000 per square metre. Despite the rates of cess for repairs of expenditure upto Rs 750 per square metre being prescribed, cess was levied at the rate applicable to the lower slab of Rs 300 to Rs 500 per square metre. This resulted in short levy of cess of a minimum of Rs 37.23 lakh for the periods between 2000-01 and 2002-03 at the rates applicable for the permissible expenditure limit upto Rs 750 per square metre.

After this was pointed out between February 2003 and March 2004, the F (South) ward recovered Rs 5.78 lakh in respect of 25 properties between August 2004 and August 2005. Action taken by the other two offices and report on recovery in the remaining cases has not been received (December 2005).

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

## **SECTION F PROFESSION TAX**

### **5.9 Non recovery of profession tax**

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975 and the Rules made thereunder, every person liable to pay profession tax is required to obtain certificate of enrolment from the Profession Tax Officer and pay tax annually at the rates prescribed in the schedule to the Act.

Test check of records in 15 profession tax offices<sup>7</sup> revealed that profession tax amounting to Rs 14.17 lakh in respect of 546 persons enrolled under the schedule to the Act for various periods between 2000-01 and 2002-03 was neither paid by them nor demanded by the Department.

After this was pointed out between May 2002 and January 2004, the Department recovered Rs 2.01 lakh in 108 cases between June 2003 and November 2004. Report of recovery of the balance amount has not been received (December 2005).

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

## **SECTION G ELECTRICITY DUTY**

### **5.10 Non levy of interest**

Under the provisions of the Bombay Electricity Duty Act, 1958, every licensee who supplies electricity to consumers is required to collect duty from the consumers together with his own charges and pay it to the State Government by the prescribed date. For failure to pay the duty collected by the prescribed date, interest at the rate of 18 *per cent* per annum for the first three months and at 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

Maharashtra State Electricity Board (MSEB) collected electricity duty aggregating Rs 662.95 crore during the period from March 2004 to January 2005 from consumers but did not remit the amount to Government account. Government by notification dated 14 March 2005 adjusted electricity duty amounting to Rs 448.40 crore due from MSEB against the subsidy payable by it to the Board. Report on recovery of the balance amount of Rs 214.55 crore has not been received. Further, interest amounting to Rs 71.08 crore was not levied and demanded by the Department.

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

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<sup>7</sup> PTO: Amravati, Barshi, Bhiwandi, Chandrapur, Gondia, Jalna, Kalyan, Khamgaon, Mumbai (3), Ratnagiri, Sangli, Sindhudurg and Wardha.