

## CHAPTER 5 : Other Tax Receipts

### 5.1 Results of audit

Test check of records of departmental offices conducted during 2001-2002 revealed short realisation or loss of revenue amounting to Rs 190.18 crore in 26813 cases as listed below :

Sr. No.	Nature of receipt	No. of cases	Amount (Rupees in crore)
1.	Electricity Duty (including review)	176	39.92
2.	Education Cess and Employment Guarantee Cess	242	108.52
3.	Entertainments Duty (including exemption)	962	5.78
4.	Profession Tax	22306	1.86
5.	Residential Premises Tax	3007	2.30
6.	Repair Cess	120	31.80
<b>Total</b>		<b>26813</b>	<b>190.18</b>

During the course of the year 2001-2002, the concerned departments accepted and recovered under-assessments *etc.*, in 4020 cases involving Rs 27.25 crore of which 135 cases involving Rs 23.44 crore had been pointed out during 2001-2002 and the rest in earlier years.

A few illustrative cases having financial effect of Rs 143.90 crore and a review on 'Levy and collection of Electricity Duty' involving financial effect of Rs 9.47crore are given in the following paragraphs :

**SECTION A**  
**TAXES AND DUTIES ON ELECTRICITY**

**5.2 Review on levy and collection of electricity duty and fees**

**5.2.1 Introduction**

The levy and collection of duty and fees by the State Government on the electrical energy consumed is governed by the Bombay Electricity Duty Act, 1958, the Maharashtra Tax on sale of Electricity Act, 1963 the Bombay Lifts Act, 1939 and the rules made thereunder. Under the Bombay Electricity Duty Act, 1958 every licensee shall collect the electricity duty on the units of energy sold for consumption from the consumers through the electric power supply bills and pay it to the State Government by the prescribed dates. Further, every person other than a licensee who consumes energy generated by him is also liable to pay electricity duty. Tax on sale of electricity is paid on every unit of energy sold by a generating licensee (bulk licensee upto 30 September 2000) in respect of all his sales.

Fees for testing and inspection of installations connected to the supply system of the supplier are levied under the Indian Electricity Act, 1910 and the Indian Electricity Rules, 1956 at the prescribed rates and credited to the State Government.

In Maharashtra, a major portion of the electricity duty was levied, collected and paid to the State Government by the licensees viz. the Maharashtra State Electricity Board (M.S.E.B.), the Bombay Suburban Electric Supply Ltd. (B.S.E.S.), the Bombay Electric Supply and Transport undertaking (B.E.S.T.) and the Tata Electric Companies.

**5.2.2 Organisational set up**

The Chief Engineer (Electrical) Mumbai under the administrative control of the Industries, Energy and Labour Department administers the provisions of the Acts and Rules. For the purpose of administration of the Acts, the State is divided into four regions viz., Mumbai, Pune, Aurangabad and Nagpur each headed by a Superintending Engineer. There are 13 Electrical Inspectors in the State in addition to an Inspector of lifts at Mumbai.

**5.2.3 Scope of Audit**

With a view to ascertaining the effectiveness and efficiency of the system of levy and collection of electricity duty with reference to the provisions of the Act and Rules and adequacy and effectiveness of inspection of installations and realisation of fees as prescribed in the Indian Electricity Rules, 1956 a review was undertaken during the period from November 2001 to March 2002. Records relating to the period from 1996-97 to 2000-01 in the offices of

the Chief Engineer (Electrical), Mumbai, Inspector of Lifts, Mumbai and eight Electrical Inspectors<sup>18</sup>(out of 13) were test checked.

#### 5.2.4 Highlights

- **Due to incorrect application of rate there was short recovery of duty of Rs 4.44 crore.**

(Paragraph 5.2.8)

- **Electricity duty amounting to Rs 1.57 crore was not recovered on energy consumed by an unit.**

(Paragraph 5.2.9)

- **Non-inspection of lifts and electrical installations not only jeopardised public safety but also resulted in non-realisation of inspection fees of at least Rs 2.98 crore.**

(Paragraph 5.2.12)

#### 5.2.5 Trend of Revenue

The Budget estimates and actuals of taxes and duties on electricity during the last five years ending March 2001 were as under :

(Rupees in crore)				
Year	Budget Estimates	Electricity Duty collected	Variation increase(+) decrease(-)	Percentage of variation
1996-97	382.00	403.31	(+) 21.31	6
1997-98	483.90	535.64	(+) 51.74	11
1998-99	579.08	711.23	(+) 132.15	23
1999-00	700.00	377.71	(-) 322.29	(-)46
2000-01	881.50	933.59	(+) 52.09	6

The increase in revenue during the year 1997-98 was due to revision in the rates of duty and in 1998-99 was owing to increase in consumption of electricity due to normal growth. The shortfall in revenue during the year 1999-2000 was due to non-remittance of duty by M.S.E.B.

#### 5.2.6 Arrears

Arrears on account of uncollected electricity duty and inspection fees at the end of March 2001 amounted to Rs 10.53 crore and Rs 8.32 crore respectively. The yearwise break up was as follows:-

<sup>18</sup> Aurangabad, Kolhapur, Nagpur, Nashik, Pune, Sangli, Thane I & II

(Rupees in crore)		
Year	Electricity Duty	Inspection fees
Upto 1996-97	5.96	0.22
1997-1998	--	0.17
1998-1999	--	0.48
1999-2000	--	1.59
2000-2001	4.57	5.86
<b>Total</b>	<b>10.53</b>	<b>8.32</b>

The arrears of Rs 5.96 crore for the years upto 1996-97 related to sugar factories, textile mills and other industrial units and of Rs 4.57 crore for the year 2000-2001 was due from the units having captive power plants.

#### 5.2.7 Undue delay in recovery of arrears of electricity duty

Under the provisions of the Bombay Electricity Duty Act, 1958 duty alongwith any interest payable for delayed payment is recoverable either through a Civil Court or as arrears of Land Revenue.

The category wise break up of the arrears of duty amounting to Rs 5.96 crore for the period upto 1996-97 and the stages of action as furnished by the department are detailed in the following table:

Period	Category	No. of cases	Amount involved (Rupees in crore)	Remarks
1986 to 1994	Sugar factories	23	2.62	Revenue recovery certificates were issued in 9 cases (between June 1992 and March 1996) but no recovery was effected (September 2002). Further in one case stay against issue of RRC was granted by Government (January 1996). In the remaining 13 cases Government had not taken action to recover the arrears either through Civil Courts or as arrears of land revenue.
1957 to 2000	Textile mills	18	2.96	Two mills in arrears of Rs 0.77 crore had gone into liquidation. Of this, in one case claim for Rs 1.92 lakh was lodged (April 1996) with official liquidator and the other unit was asked to wind up by BIFR (December 1995). In 12 cases demand notices for Rs 1.14 crore were issued between April 2000 and August 2001. Rs 1.05 crore was in arrears in the remaining 4 cases.
1977 to 1997	Others	5	0.38	Includes Rs 24.79 lakh due from one unit for the period from 1992 to 1997 which was not pursued for recovery. In the remaining four cases the arrears of Rs 12.85 lakh related to the periods between 1977 and 1986.

### **5.2.8 Short recovery of electricity duty**

Under the provisions of the Bombay Electricity Duty Act, 1958 there shall be levied and paid to the State Government on the energy consumed, a duty at the rate specified in the schedule to the Act.

Government vide notification dated 1 October 1996 prescribed electricity duty at the rate of 30 paise per unit in respect of energy generated by a person other than a licensee and supplied to other persons for consumption.

In Thane, in respect of 3398.58 lakh units of energy sold during the period from January 1998 to March 2001 by an unit, duty of Rs 5.76 crore was paid as against Rs 10.20 crore payable at the rate of 30 paise per unit. This resulted in short recovery of duty of Rs 4.44 crore.

On being pointed out (January 2002) the department raised (July 2002) demand for Rs 4.44 crore. Report on recovery has not been received (December 2002).

### **5.2.9 Non-recovery of electricity duty on self consumption**

As per Government Notification dated 4 April 2001, electricity duty at the rate of 15 paise per unit is payable with effect from 1 April 2000 on the consumption of energy generated in a generating station, by a person carrying on an industry and consumed by himself for such industry.

M/s. Dabhol Power Company had consumed 1046.64 lakh units of electricity generated during the period from 1 April 2000 to 31 March 2001 for themselves. As the company was not a licensee it was not eligible for exemption. However, duty amounting to Rs 1.57 crore on units consumed by them was not levied and recovered.

### **5.2.10 Incorrect exemption**

(A) Government vide notification dated 1 April 2000 exempted with effect from the billing month of April 2000 payment of electricity duty on the consumption of energy generated through non-conventional sources by a person carrying on an industry in the co-operative sector and consumed by himself for such industry in the State of Maharashtra. Energy sold to a third party was not exempt from duty.

In Nashik, test check of records revealed that energy generated by a Public Limited Company using Low Sulphur Heavy Stock (LSHS) as fuel in a thermal generating station was incorrectly exempted from duty. This resulted in non-levy of electricity duty amounting to Rs 18.48 lakh for the period from April 2000 to March 2001.

On being pointed out in audit (December 2001) the Electrical Inspector stated that the unit was using LSHS a non-conventional source of energy. The reply of the department is not tenable as LSHS is a conventional source and the

exemption was admissible only to a co-operative, generating energy through non-conventional source of energy.

(B) Energy consumed by the Government of Maharashtra is exempt from duty. However, the exemption is not available for the energy consumed for residential purpose.

In Kolhapur Division scrutiny of records revealed that duty was either not levied or short remitted on the energy consumed from April 1996 to March 2001 for residential purpose in Government residential colonies as detailed in the following table :

**(Rupees in lakh)**

Sr. No.	Name of office	Duty		
		Payable	Paid	Short levied/ remitted
1.	Dudhganga R and B Sub-Division, Dudhganga	1.53	Nil	1.53
2	Tillari Project, Tillari Nagar, Chandgad	9.70	Nil	9.70
3	Dy. Engineer, Power and Colony Supply Sub Division- I, Allore, Dist Ratnagiri	49.26	47.51	1.75
		<b>60.49</b>	<b>47.51</b>	<b>12.98</b>

On this being pointed out in audit (February 2002) the Electrical Inspector stated that the records will be verified and necessary action taken.

#### **5.2.11 Short levy of electricity duty**

According to Government notification dated 1 May 1998 consumption charges on which electricity duty is leviable includes energy charges, demand charges and fuel cost adjustment charges.

A scrutiny of. returns submitted by the Executive Engineer, Agriculture Construction Division, Aarey Milk Colony, Mumbai revealed that electricity duty was levied only on the energy charges, excluding demand charges and fuel cost adjustment charges levied and demanded by the Bombay Suburban Electricity Supply Ltd. This resulted in short levy of electricity duty amounting to Rs 16.52 lakh for the period from May 1998 to March 2001.

On this being pointed out in audit (March 2001) the department raised demand for Rs 16.52 lakh. Report of recovery has not been received (December 2002).

### 5.2.12 Non-Inspection

#### (A) Lifts

As per the Bombay Lifts Act, 1939 every lift shall be inspected at least once in six months by an officer authorized in this behalf by the State Government and an annual fee at such rate as may be prescribed shall be charged for such inspection.

It was noticed that as against 133641 lifts required to be inspected during the years from 1996-97 to 2000-01, only 85302 lifts were inspected leaving a shortfall of 48339 lifts involving minimum inspection fees of Rs 1.36 crore (approximately) worked out at the minimum rate of Rs 200 for the year 1996-97 and Rs 300 per lift thereafter as detailed in the following table :

	1996-97	1997-98	1998-99	1999-00	2000-01	Total
No. of lifts to be inspected	22087	24404	26619	28919	31612	133641
No. of lifts actually inspected	13173	16097	16449	20086	19497	85302
No. of lifts not inspected	8914	8307	10170	8833	12115	48339
No. of lifts inspected 2 <sup>nd</sup> time	Nil	Nil	Nil	Nil	Nil	Nil
Percentage of lifts not inspected	40.35	34.04	38.21	30.54	38.32	36.17
Percentage of lifts not inspected for 2 <sup>nd</sup> time	100	100	100	100	100	100

From the above table it is seen that the percentage of lifts not inspected varied between 31 and 40 *per cent.* During these years none of the lifts were inspected for a second time. Failure to inspect installations not only jeopardised public safety but also resulted in non-realisation of inspection fees of Rs 1.36 crore.

#### (B) Electrical Installations

As per Rule 46 of 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 at an interval not exceeding 5 years either by an inspector or by the supplier as may be directed by the State Government.

A scrutiny of records in 7 divisions revealed that out of 27.28 lakh electrical installations required to be inspected, only 19.20 lakh inspections were carried

out by the department during the period from 1996-97 to 2000-01 leaving a shortfall of 8.08 lakh installations as detailed in the following table :

Name of the division	1996-97	1997-98	1998-99	1999-2000	2000-2001	Grand Total	
	<u>Due Done</u>	<u>Due Done</u>	<u>Due Done</u>	<u>Due Done</u>	<u>Due Done</u>	<u>Due Done</u>	Balance
Nashik	<u>105137</u> 67585	<u>105117</u> 61499	<u>105118</u> 68056	<u>105280</u> 66085	<u>105484</u> 62688	<u>526136</u> 325913	200223
Nagpur	<u>60425</u> 21786	<u>60166</u> 13832	<u>63470</u> 26598	<u>63521</u> 24390	<u>63209</u> 24432	<u>310791</u> 111038	199753
Mumbai (Santacruz)	<u>141399</u> 93413	<u>141400</u> 95093	<u>141400</u> 100288	<u>141411</u> 87621	<u>141385</u> 82909	<u>706995</u> 459324	247671
Thane II	<u>54544</u> 53190	<u>56958</u> 52501	<u>58844</u> 58844	<u>57541</u> 57541	<u>58774</u> 51807	<u>286661</u> 273883	12778
Kolhapur	<u>50473</u> 41291	<u>50536</u> 35978	<u>51440</u> 34406	<u>51581</u> 32710	<u>51617</u> 29951	<u>255647</u> 174336	81311
Sangli	<u>56144</u> 43483	<u>53177</u> 41921	<u>56265</u> 54330	<u>56323</u> 55665	<u>56474</u> 55053	<u>278383</u> 250452	27931
Pune	<u>68833</u> 59542	<u>66737</u> 59112	<u>74161</u> 66921	<u>73886</u> 66644	<u>80114</u> 72786	<u>363731</u> 325005	38726
<b>Total</b>	<u>536955</u> <u>380290</u>	<u>534091</u> <u>359936</u>	<u>550698</u> <u>409443</u>	<u>549543</u> <u>390656</u>	<u>557057</u> <u>379626</u>	<u>2728344</u> <u>1919951</u>	<b>160746</b>

Failure to inspect installations not only jeopardised public safety but also resulted in non-realisation of inspection fees of Rs 1.62 crore worked out at the lowest rate of Rs 20 applicable to low voltage installations.

**5.2.13 (i) Non-payment of duty for sale of electricity generated by wind mills**

As per Rule 4 (3) (iii) of the Bombay Electricity Duty Rules, 1962 information regarding units generated and consumed during a quarter is required to be submitted on or before 15<sup>th</sup> of the following month in Form 'B' to the Electrical Inspector by a person generating electricity.

In Satara, it was observed that 19 units generating electricity by windmill which were given permission to sell energy to third parties had neither furnished the returns in Form B nor paid the duty for the periods between March 2000 and March 2001. The duty not levied and demanded could not be worked out by audit in the absence of details of energy sold.



**(ii) Non-inspection of accounts of licensees and non-licensees**

One of the important functions of an Electrical Inspector is to inspect the accounts of all the licensees and non-licensees in the State who are liable to pay electricity duty and to verify and ensure that electricity duty as shown in the quarterly return as levied, collected and remitted to the State is correct. The State Government has prescribed norms for conducting inspection of the accounts.

The details of the total number of returns due for inspection as per norms, total number of returns actually inspected and shortfall during the years from 1996-97 to 2000-2001 were as follows:

Year	Total No. of returns to be inspected		Total No. of returns actually inspected		Shortfall Returns (%)	
	C	B	C	B	C	B
1996-97	3297	15090	2167	8316	1130 (34)	6774 (45)
1997-98	3347	15448	2063	7567	1284 (38)	7881 (51)
1998-99	2934	17546	2173	7895	761 (26)	9651 (55)
1999-2000	3178	18166	2013	9113	1165 (37)	9053 (50)
2000-01	3009	20830	1631	8208	1378 (46)	12622 (61)

C- Returns from Bulk Consumers and Licensees

B- Returns from non-licensees

**Source : Performance Budget of Industries, Energy and Labour Department (Energy)**

The table indicates that there was shortfall in the number of inspections carried out leading to a possibility of defects and omissions relating to levy and collection of duty remaining undetected. Further, the percentage of shortfall has increased from 34 *per cent* in 1996-97 to 46 *per cent* in 2000-2001 and from 45 *per cent* to 61 *per cent* during the same period in respect of 'C' and 'B' licensees respectively.

The above points were reported to Government in June 2002, their reply has not been received (December 2002).

**SECTION B**  
**THE MAHARASHTRA EDUCATION CESS AND**  
**EMPLOYMENT GUARANTEE CESS**

**5.3 Arrears and non-remittance of education and employment guarantee cess**

**5.3.1 Introduction**

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 State Education Cess (SEC) is leviable on lands and buildings in a municipal area. The schedule to the Act prescribes that the rates of education cess on properties used for non-residential purposes will be double the rates prescribed for residential purposes. With effect from 1 April 1975 Employment Guarantee Cess (EGC) is also leviable on lands and buildings used for non-residential purposes and is leviable on the annual letting value of the properties. The cesses are collected by the municipal corporations/municipalities on behalf of the State Government and credited to the Consolidated Fund of the State.

**5.3.2 Budget estimates and actuals**

The budget estimates and actual receipts of education cess during the years from 1996-97 to 2000-2001 were as under :

(Rupees in crore)				
Year	Budget estimates	Actual receipts	Difference (+) Increase (-) Decrease	Percentage of variation col (4) to col. (2)
1	2	3	4	5
1996-97	75.52	96.36	(+) 20.84	(+) 28
1997-98	79.08	94.99	(+) 15.91	(+) 20
1998-99	106.24	103.07	(-) 3.17	(-) 3
1999-2000	111.49	136.90	(+) 25.41	(+) 23
2000-2001	114.84	103.14	(-) 11.70	(-) 10

The above table indicates mismatch between Budget estimation and actual receipts. The Finance Department stated (May 2002) that the reasons for the variations in the Budget estimates and actuals were due to the revenue being dependent on land revenue collection, collection of the cesses by local bodies and also un-certainty of collections. The arrears of cesses pending collection and the non-remittance of the collected revenue to Government Account by some of the Municipal Corporations detailed in the following paragraphs are indicative of the budget estimates not reflecting the potential revenue which was due to Government.

### 5.3.3 Arrears of revenue

(i) As per information furnished (between January 2002 and March 2002) by eleven out of fifteen municipal corporations, revenue aggregating to Rs 205.45 crore (State Education Cess Rs 172.31 crore and Employment Guarantee Cess Rs 33.14 crore) relating to the periods between 1962-63 and 2000-2001 were pending recovery as on 31 March 2001 from the property owners as detailed in the following table :

(Rupees in crore)

Sr. No.	Name of the Municipal Corporation	Amount of arrears		
		SEC	EGC	Total
1	Brihan Mumbai	82.01	16.51	98.52
2	Kalyan-Dombivali	5.52	0.53	6.05
3	Ulhasnagar	7.05	1.93	8.98
4	Thane	2.98	0.38	3.36
5	Navi Mumbai	46.55	8.91	55.46
6	Nanded Waghala	1.15	0.18	1.33
7	Pimpri-Chinchwad	14.48	3.06	17.54
8	Sangli-Miraj-Kupwad	1.30	0.22	1.52
9	Kolhapur	2.11	0.29	2.40
10	Nagpur	6.70	0.80	7.50
11	Solapur	2.46	0.33	2.79
<b>Total</b>		<b>172.31</b>	<b>33.14</b>	<b>205.45</b>

(ii) The various stages at which arrears were outstanding as furnished by seven municipal corporations out of the eleven corporations are detailed in the following table :

(Rupees in crore)

Sr. No.	Name of the Municipal Corporation	Court cases	Complaint against rateable value	RRC cases	Bills issued at the fag end of year	Non-availability of payees	Action to be taken for recovery	Other reasons	Total
1	Brihan Mumbai	19.03	30.05	10.30	6.19	--	--	32.95	98.52
2	Kalyan-Dombivali	1.48	--	0.07	--	1.09	3.41	--	6.05
3	Ulhasnagar	0.88	--	--	--	--	--	8.10	8.98
4	Navi Mumbai	4.80	--	--	--	6.39	41.25	3.02	55.46
5	Nanded Waghala	0.83	--	--	--	--	--	0.50	1.33
6	Sangli, Miraj and Kupwad	0.05	--	--	--	0.02	0.02	1.43	1.52
7	Kolhapur	0.70	--	--	--	0.02	--	1.68	2.40
8	Pimpri-Chinchwad	3.94	--	--	--	0.84	9.92	2.84	17.54
<b>Total</b>		<b>31.71</b>	<b>30.05</b>	<b>10.37</b>	<b>6.19</b>	<b>8.36</b>	<b>54.60</b>	<b>50.52</b>	<b>191.80</b>

The Municipal Corporations of Thane, Pune, Nagpur and Solapur did not furnish reasons for the arrears (December 2002).

In none of the corporations records detailing the age wise arrears and details of action taken for recovery were made available for perusal by audit. Consequently, the adequacy or otherwise of the follow up action taken could not be commented by audit.

(iii) Except for Brihan Mumbai and Navi Mumbai Municipal Corporations none of the other corporations furnished details of the yearwise break up of the arrears. The information in respect of these two corporations was as follows :

**(a) Yearwise break up**

**(Rupees in crore)**

Year	Mumbai		Navi Mumbai	
	SEC	EGC	SEC	EGC
Upto 1995-96	13.54	3.60	6.23	1.29
1996-97	2.39	0.43	6.30	1.11
1997-98	4.68	0.59	7.43	1.32
1998-99	6.60	1.08	7.13	1.36
1999-2000	11.50	2.06	8.93	1.75
2000-2001	43.30	8.75	10.53	2.08
	<b>82.01</b>	<b>16.51</b>	<b>46.55</b>	<b>8.91</b>

**(b) Agewise break up**

**(Rupees in crore)**

	Mumbai		Navi Mumbai	
	SEC	EGC	SEC	EGC
More than 20 years	1.83	1.18	--	--
Between 15 and 20 years.	1.78	0.25	--	--
Between 10 and 15 years.	3.36	0.74	--	--
Between 5 and 10 years.	6.57	1.43	6.23	1.29
Between 3 and 5 years.	7.07	1.02	13.73	2.43
Between 1 and 3 years.	61.40	11.89	26.59	5.19
	<b>82.01</b>	<b>16.51</b>	<b>46.55</b>	<b>8.91</b>

**5.3.4 Non-remittance of revenue**

As per the provisions of the Act, the cesses and the penalties recovered by the municipal corporations are required to be credited to Government before the

expiry of the following week. If any municipal corporation makes default 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 the Government to direct the bank or treasury in which the earnings of the municipal corporation are deposited to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of the Government shall be sufficient discharge to such bank/treasury from all liabilities to the municipal corporation.

It was noticed in audit (between July 2001 and March 2002) that seven municipal corporations had not remitted revenue amounting to Rs 104.92 crore relating to State Education Cess (Rs 92.79 crore) and Employment Guarantee Cess (Rs 12.13 crore) collected between the years 1997-98 and 2000-2001 as indicated in the following table :

(Rupees in crore)

Sr. No.	Name of the Municipal Corporation	1997-98		1998-99		1999-2000		2000-2001		Total	
		SEC	EGC	SEC	EGC	SEC	EGC	SEC	EGC	SEC	EGC
1	Brihan Mumbai	0.10	0.01	0.21	0.04	0.29	0.05	61.29	9.31	61.89*	9.41
2	Navi Mumbai	--	--	--	--	0.57	0.11	4.11	0.69	4.68	0.80
3	Nagpur	--	--	--	--	--	--	4.83	0.62	4.83	0.62
4	Nanded Waghala	--	--	--	--	--	--	0.03	0.01	0.03	0.01
5	Pimpri-Chinchwad	--	--	--	--	5.13	--	7.80	0.03	12.93	0.03
6	Pune	--	--	--	--	--	--	7.14	1.08	7.14	1.08
7	Solapur	--	--	--	--	--	--	1.29	0.18	1.29	0.18
<b>Total</b>		<b>0.10</b>	<b>0.01</b>	<b>0.21</b>	<b>0.04</b>	<b>5.99</b>	<b>0.16</b>	<b>86.49</b>	<b>11.92</b>	<b>92.79</b>	<b>12.13</b>

\* Includes penalty of Rs 0.03 crore.

On being pointed out (between July 2001 and March 2002) in audit, the Nagpur Municipal Corporation remitted Rs 2.70 crore (SEC Rs 2.08 crore and EGC Rs 0.62 crore) out of Rs 5.45 crore in August 2001 and October 2001, the Pune Municipal Corporation remitted Rs 7.44 crore (SEC Rs 6.49 crore and EGC Rs 0.95 crore) out of Rs 8.22 crore in March 2002 and the Pimpri-Chinchwad Municipal Corporation remitted Rs 12.76 crore towards SEC out of the dues of Rs 12.96 crore. The Mumbai Municipal Corporation stated that the amounts had not been remitted, as its dues from Government were not received. The remaining three corporations stated that the amounts would be credited to Government Account.

The matter was reported to Government in June 2002; their reply has not been received (December 2002).

#### 5.4 Incorrect grant of exemption

Under the provisions of the Maharashtra Education and Employment Guarantee Cess Act, 1962 land and buildings belonging to the State Government and local bodies and not used for public purposes for profit are

exempted from payment of State Education Cess and Employment Guarantee Cess.

During test check of records of Nagpur Municipal Corporation it was noticed (August 1997 and July 1998), that an auditorium belonging to the State Government and used for commercial purposes was erroneously exempted from payment of Cess resulting in non-levy of State Education Cess and Employment Guarantee Cess amounting to Rs 6.19 lakh for the periods from 1987-88 to 1997-98.

On this being pointed out in audit (July 1998), the department recovered (between July 1999 and November 1999) Rs 4.29 lakh. Report on recovery of the balance amount has not been received (December 2002).

The matter was reported to Government in March 2002; their reply has not been received (December 2002).

**SECTION C**  
**ENTERTAINMENTS DUTY**

**5.5 Non-realisation of entertainments duty and surcharge from cable/dish antenna operators**

Under the Bombay Entertainments Duty Act, 1923 cable and dish antenna operators were required to pay (upto 30 April 1998) entertainments duty at the rate of 25 *per cent* of the total amount received by them by way of contribution or subscription or installation and connection charges *etc.*, for the exhibition of films, moving pictures *etc.*, by means of any type of antenna or cable T.V. In addition, surcharge of 10 *per cent* on the total collection was also payable. With effect from 1 May 1998, surcharge has been abolished and entertainments duty is payable at the flat rate of Rs 15, Rs 10 or Rs 5 per television set depending on whether the area is a municipal corporation, A and B class municipality or other area.

A test check of records in 14 offices<sup>19</sup> revealed that in respect of 233 cable and dish antenna operators, entertainments duty amounting to Rs 19.51 lakh was neither paid by the operators nor were any demands raised by the department for various periods between August 1996 and March 2000.

On this being pointed out in audit (September 1998 and March 2001), the department recovered (between April 1999 and October 2001), entertainments duty of Rs 15.20 lakh from 200 cable/dish antenna operators. Report on recovery of the balance has not been received (December 2002).

The matter was reported to Government in April and May 2002; their reply has not been received (December 2002).

**5.6 Incorrect exemption to films**

Under the provisions of the Bombay Entertainments Duty Act, 1923 Government may by general or special order, exempt any entertainment or class of entertainments from liability to pay entertainments duty. The rules

<sup>19</sup> Resident Deputy Collector, Amravati, Nagpur and Thane  
Taluka Magistrate Andheri (Zone I and IfI), Borivali (Zone V, VI, VII, VII-A),  
Mulund Zone X), Ulhasnagar and Vasai  
Entertainment Duty Officer, Pune (Zone C and F-I)

framed under the Act require that exemption be granted to films which have been awarded the Presidents Gold Medal or on the recommendations made by an Advisory Committee appointed by the State Government, provided, it considers that the film fulfills criteria of educational, cultural or social purpose of a high order.

The producer of a film, which is granted exemption from payment of entertainments duty, is required to give an undertaking that he would pay an amount equivalent to the amount of entertainments duty leviable on the exhibition of such film to the person or persons as most responsible for the educational, cultural or social contribution of such film as nominated by the Advisory Committee.

The producer is also required to submit a weekly return to the District Collectors specifying particulars of payments made to the nominated person(s) with a copy thereof to Government. Further, any exemption from liability to pay entertainments duty granted for exhibition of any such film should be withdrawn, if the producer fails to comply with the undertaking.

Mention was made in paragraphs 5.2.9 and 5.2 of the Report of the Comptroller and Auditor General of India for the years ended 31 March 1998 and 31 March 1999 of the loss of revenue of Rs 34.42 crore during the period from 1992-1993 to 1998-99 due to 64 films being exhibited as tax free despite non-fulfilment of the prescribed conditions.

In reply to the audit observation the Cultural Affairs Department stated (November 1998) that the provisions in the rule were outdated and defective and that action would be taken to amend the rule in consultation with the Revenue and Forests Department. However, Government had not amended the rules (April 2002).

A scrutiny of the records of the Cultural Affairs and Revenue and Forests Departments granting exemption from entertainments duty during the years from 1999-2000 to 2001-2002 to 8 films revealed that

- i) In none of the cases the committee had nominated any person or persons responsible to assess the educational, cultural or social value of the film, and
- ii) Weekly returns as prescribed were not submitted by the producer to the District Collectors with copy thereof to the Government.

As the essential conditions subject to which exemption from payment of entertainments duty were granted were not fulfilled, the exemption orders declaring the films as tax free were required to be withdrawn under the rules. However, such action was not taken by the Government. The consequent revenue forgone on account of exemption from entertainments duty granted to



8 films\* in 6 divisions (35 districts) as furnished by the Collectors of the districts amounted to Rs 4.57 crore as detailed in the following table:

**(Rupees in lakh)**

Sr. No.	Division	Entertainment Duty forgone			Total
		1999-2000	2000-01	2001-02	
1.	Nagpur	33.64	27.07	1.91	62.62
2.	Pune	36.91	40.65	18.09	95.65
3.	Nashik	11.25	23.95	5.29	40.49
4.	Konkan	85.70	97.72	28.53	211.95
5.	Aurangabad	11.84	Awaited	Awaited	11.84
6.	Amravati	8.03	21.07	5.13	34.23
<b>TOTAL:</b>		<b>186.37</b>	<b>210.46</b>	<b>58.95</b>	<b>456.78</b>

On being pointed out in audit Government stated (May 2002), that the Advisory Committee had not nominated any person responsible for the educational, cultural or social value of the film and no producer had given an undertaking as required under the rule. However report of remedial measures taken had not been received from Government (December 2002).

The matter was reported to Government in June 2002; their reply has not been received (December 2002).

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\* Sarfarosh, Dr. Ambedkar, Sarbans Dani Guru Govind Singh, Pukar, Nidan, Fiza, Mission Kashmir, Veer Savarkar.

**SECTION D  
REPAIR CESS**

**5.7 Short levy of repair cess**

Under the provisions of the Maharashtra Housing and Area Development Act, 1976 a 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.

In Mumbai, it was noticed (October 2000) in 'A' and 'F (South)' wards, that in respect of 30 properties repairs were completed between April 1999 and February 2000. However, due to application of incorrect slab rates an amount of Rs 23.32 lakh was levied short for the year 1999.2000.

On this being pointed out in audit the demands were revised (January 2001) in respect of 3 properties in F South Ward. Report of recovery and action taken in the remaining cases has not been received (December 2002).

The matter was reported to Government in April 2002; their reply has not been received (December 2002).

**5.8 Non-remittance of repair cess**

Under the provisions of the Maharashtra Housing and Area Development Act, 1976 (effective from 5 December 1977) repair cess recovered by the Mumbai Municipal Corporation on behalf of the State Government is required to be credited to the consolidated fund of the State within 15 days from the date of recovery, after deducting there from 5 *per cent* of the amount of cess recovered towards cost of collection. The Act empowers the Government to direct the bank or treasury in which the earnings of the municipal corporation are deposited to pay such sums 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 municipal corporation.

It was noticed in audit (November 2001), that the Mumbai Municipal Corporation had not remitted repair cess of Rs 31.78 crore collected during the period from August 2000 to March 2001 to Government Account.

On this being pointed out (November 2001), the Mumbai Municipal Corporation stated (January 2002), that the amount was not remitted owing to non-receipt of dues from Government. However, the reply of the Government has not been received (December 2002)

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**SECTION E**  
**TAX ON BUILDINGS**  
**(With Larger Residential Premises)**

**5.9 Non-levy of tax**

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re-enacted) Act, 1979 tax is leviable (with effect from 1 April 1974) on all buildings in corporation area containing residential premises with floor area exceeding 125 square metres and whose rateable value exceeds one thousand five hundred rupees. The rate of tax is ten *per cent* of the rateable value of the residential premises.

It was noticed in audit (between September 1999 and November 2000), that in twelve municipal wards of Mumbai, tax amounting to Rs 13.01 lakh in respect of 1028 properties for the year 1998-99 and Rs 76.71 lakh in respect of 2586 properties for the year 1999-2000 was not demanded by the Brihan Mumbai Municipal Corporation resulting in non-recovery of tax of Rs 89.72 lakh.

Further, in respect of two properties situated in another ward, though the rateable value was revised from April 1997 onwards the tax was not enhanced resulting in short levy of tax amounting to Rs 2.02 lakh for the years 1997-98 and 1998-99.

On this being pointed out (between September 1999 and November 2000), the department raised demands for the entire amount and recovered Rs 47.81 lakh in 1694 cases. Report on recovery of the balance amount of Rs 43.93 lakh has not been received (December 2002).

**5.10 Non-remittance of tax**

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re-enacted) Act, 1979 tax recovered by a municipal corporation 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. Further, the Act provides that if any municipal corporation defaults in payment to the State Government of any sum due in respect of tax, the State Government may if necessary, 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 municipal corporation 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 municipal corporation.

In two offices<sup>20</sup> of Mumbai Municipal Corporation, it was noticed (May 2001 and November 2001), that Government revenue amounting to Rs 1.17 crore collected on account of tax on buildings (with larger residential premises) during the periods falling between April 2000 and March 2001 was not credited to Government Account. No action was taken by the State Government as per provisions in the Act.

On this being pointed out (May 2001 and November 2001) in audit, the municipal corporation stated (November 2001 and January 2002) that the amount was not remitted owing to non-receipt of its dues from the Government.

The matter was reported to Government in April 2002; their reply has not been received (December 2002).

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<sup>20</sup> Mumbai (City) and Mumbai (Eastern Suburbs)

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**SECTION F**  
**PROFESSION TAX**

**5.11 Non-realisation of 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.

A test check of records in the offices of the Profession Tax Officers at Akola, Buldhana, Dhule, Jalna, Kalyan and Latur revealed (between February 1999 and November 2000), that profession tax amounting to Rs 5.37 lakh in respect of 249 persons enrolled under various entries covered under the schedule to the Act for the periods between 1996-1997 and 1999-2000 was neither paid by them nor demanded by the department.

On this being pointed out (between February 1999 and November 2000), the department recovered Rs 2.01 lakh in 100 cases (between May 1999 and August 2002). Report of recovery of the balance amount has not been received. (December 2002).

The matter was reported to Government in April 2002; their reply has not been received (December 2002).