

**CHAPTER III : STATE EXCISE,
TAXES ON MOTOR VEHICLES AND
STAMP DUTY & REGISTRATION FEES**

3.1 Results of audit

Test check of records relating to state excise, taxes on motor vehicles and stamp duty and registration fees conducted during the year 2002-03 revealed short levy, loss revenue *etc.*, amounting to Rs 27.56 crore in 2,474 cases as detailed below:

Sr. No.	Category	No. of cases	Amount (In lakh of rupees)
A – STATE EXCISE			
1.	Non-levy/short levy of excise duty	15	0.83
2.	Short recovery of licence /privilege fees/escort charges/interest	197	33.67
3.	Short/non-recovery of supervision charges/bonus	14	1.08
4.	Miscellaneous	104	10.11
Total		330	45.69
B – TAXES ON MOTOR VEHICLES			
5.	Non-levy/short levy of tax	1,691	268.68
6.	Miscellaneous	27	21.30
Total		1,718	289.98
C – STAMPS AND REGISTRATION FEES			
7.	Non-levy of stamp duty on instruments executed by co-operative societies	19	74.72
8.	Incorrect grant of exemption of stamp duty and registration fees	81	252.00
9.	Short levy due to misclassification of documents	127	1,270.61
10.	Short levy due to under valuation of property	196	815.12
11.	Other irregularities	3	8.35
Total		426	2,420.80
Grand Total		2,474	2,756.47

During the year 2002-2003, the Department accepted and recovered under-assessments *etc.*, in 1,290 cases amounting to Rs 289.89 lakh, of which 445 cases involving Rs 36.44 lakh had been pointed out during 2002-03 and the rest in earlier years.

A few illustrative cases noticed during 2002-2003 and in earlier years involving financial effect of Rs 1.57 crore are given in the following paragraph:

A – STATE EXCISE

3.2 Non-recovery of interest

Under the provisions of the Bombay Prohibition Act, 1949 if the amount of duties, taxes and fines are not paid within the due date or the prescribed period, simple interest at the rate of 2 *per cent* per month is chargeable on the amount from the date it becomes due.

A test check of records in 6 offices¹ between August 2000 and September 2002 revealed that in respect of 24 licences, interest on delayed payment of licence fees amounting to Rs 5.37 lakh for various periods falling between May 1998 and September 2001 was neither paid by the licensees nor demanded by the department because of non-observance of the provisions of the Act.

On this being pointed out (between August 2000 and September 2002), the department recovered Rs 5.00 lakh in 24 cases between February 2001 and March 2003. Report on recovery of the balance amount has not been received (September 2003).

The matter was reported to Government in May 2003; Government confirmed the recovery (September 2003).

B - TAXES ON MOTOR VEHICLES

3.3 Short/non-recovery of motor vehicles tax

Under the Bombay Motor Vehicles Tax Act, 1958 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 tax leviable shall be paid in advance by the registered owner of the vehicle. With effect from 1 October 1996, one time tax (OTT) at the prescribed rate is leviable in respect of four wheeler vehicles. Payment of one time tax was made compulsory for light motor vehicles registered on or after 1 May 2000 and extended from 1 June 2001 to existing light motor vehicles paying tax at the annual rate. Interest at the rate of 2 *per cent* of the amount of tax for each month or part thereof is payable in each case of default in payment of tax.

¹ Commissioner of State Excise, Maharashtra State, Mumbai and Superintendent of State Excise, Alibag, Mumbai (City), Mumbai (Suburbs), Parbhani, Pune

During the course of test check of records in seventeen offices, it was noticed that in respect of 574 vehicles registered in those offices, tax amounting to Rs 65.06 lakh was either not paid or paid short by the vehicle owners for various periods falling between 1996-97 2001-02. Also, no demand notices were issued by the Department because of inadequate review of records.

On this being pointed out, the department intimated recovery amounting to Rs 32.71 lakh in respect of 270 vehicles. Report of recovery in respect of the remaining vehicles has not been received (December 2003).

The matter was reported to Government in May 2003; their reply has not been received (December 2003).

C - STAMPS AND REGISTRATION FEES

3.4 Short levy of stamp duty on lease deed

Stamp duty on lease deeds depending upon the lease period is levied at the rate prescribed in Schedule I to the Bombay Stamp Act, 1958.

In Sub-Registry Mumbai ('S' series) two lease deeds were executed in April 1998 and October 1998 for a period of fifteen and ten years respectively for a consideration of Rs 1.73 crore. The stamp duty of Rs 17.34 lakh was to be levied, against which only Rs 11.80 lakh was levied. This resulted in short levy of stamp duty of Rs 5.54 lakh.

On this being pointed out, the Inspector General of Registration accepted the audit observation in September 2002 and January 2003 and recovered Rs 0.55 lakh. Report on recovery of the balance amount has not been received (December 2003).

The matter was reported to the Government in May 2003 their reply has not been received (December 2003).

3.5 Short levy of stamp duty due to misclassification of documents

Under the Bombay Stamp Act, 1958 when possession of the property is not given or agreed to be given, stamp duty is chargeable under Article 40 (b) of Schedule-I to the Act. However, on agreements relating to deposit of title deed, stamp duty shall be levied in accordance with Article 6 of the Act. Stamp duty under Article 40 (b) is more than that under Article 6.

In five sub-registries, 35 instruments relating to mortgaging of properties for securing loans amounting to Rs 30.85 crore without giving possession of the properties, were misclassified as agreements relating to deposit of title deeds and stamp duty was levied at lower rates. This resulted in short levy of stamp duty amounting to Rs 14.83 lakh as detailed below:

(Amount in lakh of rupees)

Sr. No.	Name of the sub-Registry	Year of registration	No. of documents	Stamp duty leviable	Stamp duty levied	Short levy
1	SR V Aurangabad	2001	21	7.79	2.66	5.13
2	SR Daund	2001	1	2.00	0.50	1.50
3	SR V Haveli,Pune	1998	5	2.66	0.19	2.47
4	SR I Borivali	2000	1	2.00	0.50	1.50
5	SR Akola ²	2001	7	5.90	1.67	4.23
Total			35	20.35	5.52	14.83

On this being pointed out, the Inspector General of Registration accepted the short levy and directed the Sub-Registrars to initiate action for recovery. Report on recovery has not been received (December 2003).

The matter was reported to Government in May 2003 their reply has not been received (December 2003).

3.6 Short levy of stamp duty due to incorrect-classification of document

According to the provisions of the Bombay Stamp Act, 1958 an instrument by which the co-owners divide or agree to divide their property, is treated as partition and stamp duty is to be charged under Article 46 of Schedule I to the Act *ibid*. Any non-testamentary disposition of movable or immovable property for the purpose of distributing property of the settler among his family or those for whom he desires to provide is called settlement and stamp duty is leviable under Article 55(ii) of the Act. Further, a penalty at the rate of 2 *per cent* per month on the deficit amount of stamp duty is also leviable.

In Sub Registry (Haveli-I) Pune, it was noticed that a document was registered in May 2001 without mentioning the value of the property. The true market value of the property based on ready reckoner worked out to Rs 1.95 crore. The Registering Authority while registering the document treated it as partition deed instead of settlement deed as evident from the recital, and levied stamp duty of Rs 2.07 lakh instead of Rs 19.50 lakh. This resulted in short levy of stamp duty of Rs 17.43 lakh and penalty of Rs 8.71 lakh.

On this being pointed out, the Inspector General of Registration accepted the short levy of Rs 12.59 lakh based on value of the property worked out as Rs 1.47 crore. The reply is not tenable as the short levy had to be worked out

² Figures include registration fee also.

considering the true market value of property as Rs 1.95 crore based on the ready reckoner and penalty was leviable as per the Act.

The matter was reported to Government in July 2003; their reply has not been received (December 2003).

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

As per the Bombay Stamp Act, 1958 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. Besides, a penalty at the rate of 2 *per cent* per month or part thereof on the deficit amount of stamp duty is also payable.

In Sub-Registry, Haveli-I, Pune in respect of thirteen instruments of conveyance registered in 2001, stamp duty and registration fee of Rs 15.51 lakh was charged on the consideration of Rs 1.41 crore set forth in the instruments. The true market value of the property amounted to Rs 4.18 crore on which stamp duty and registration fee of Rs 44.33 lakh was payable. Thus, under valuation of the property resulted in short levy of stamp duty and registration fee of Rs 28.82 lakh and penalty of Rs 11.63 lakh.

On this being pointed out, the Inspector General of Registration accepted short levy of stamp duty and registration fee. However, penalty was not levied. Report on action taken for recovery has not been received (December 2003).

The matter was referred to the Government in July 2003; their reply has not been received (December 2003).