

CHAPTER IV : LAND REVENUE

4.1 Results of Audit

Test check of records of land revenue conducted during the year 2002-2003 revealed under assessment, short levy, loss of revenue etc., amounting to Rs 441.18 crore in 373 cases which broadly fall under the following categories:

Sr. No.	Category	Number of cases	Amount (In crore of rupees)
1.	Review on change in use of land	1	268.80
2.	Non-levy/short levy/incorrect levy of NAA, ZP/VP cess, conversion tax and royalty	212	129.47
3.	Non-levy/short levy/incorrect levy of increase of land revenue	17	0.69
4.	Non-levy/short levy of occupancy price etc.	117	41.77
5.	Short levy of measurement fees etc.	26	0.45
Total		373	441.18

During the course of the year 2002-2003, the department accepted under assessment of Rs 21.75 crore in 382 cases which had been pointed out in earlier years and recovered the same.

A few illustrative cases involving financial effect of Rs 10.05 crore and a review, **change in use of land**, involving financial effect of Rs 268.80 crore are given in the following paragraphs :

4.2 Review: Change in use of land

4.2.1 Highlights

- **Conversion tax and penalty of Rs 240.89 crore was not levied in 44,022 cases of unauthorised change in use of land.**

(Paragraph 4.2.7)

- **10,209 out of 10,807 cases of unauthorised change in use of land involving revenue of Rs 2.94 crore detected and reported by the City Survey Officers were not even registered in revenue records of 2 Collectorates.**

(Paragraph 4.2.8)

- **Non-agricultural assessment of Rs 21.20 crore had remained unrealized from Nagpur Improvement Trust.**

(Paragraph 4.2.10)

- **Non-vacation of stay granted by Government had resulted in non-realisation of non-agricultural assessment of Rs 2.28 crore.**

(Paragraph 4.2.11)

4.2.2 Introduction

Under the Maharashtra Land Revenue (M.L.R.) Code, 1966, land revenue is assessed with reference to the use of land such as agricultural, residential, commercial or any other purpose. Land held or assessed for one purpose cannot be used for another purpose without obtaining the permission of the Collector. When land assessed to agriculture is used for non-agricultural (NA) purpose or vice versa or being assessed to one non-agricultural use is used for another non-agricultural purpose, then the assessment is liable to be altered. Conversion tax was payable at the rate of 3 times the non agricultural assessment (NAA) up to May 1999 and 5 times thereafter. Land pertaining to unauthorised use is either to be restored to its original use or to be regularised. For regularisation of unauthorised use of land fine/penalty may be imposed by the Collector.

4.2.3 Organisational set up

The District Collector is empowered to grant permission for change in use of land. He is assisted by the Tahasildars and Talathis. The Revenue Department at government level is subdivided into two parts for administration viz. i) Revenue Branch, and ii) Land Records Branch. Revenue Branch is mainly concerned with grant of permission for change in use of land, assessment of land revenue and levy thereof. It is administered by six Divisional Commissioners at regional level and 35 District Collectors at district headquarters. Settlement Commissioner and Director of Land Records, Pune is the administrative head of the Land Record branch with six Regional Deputy Directors working under his control assisted by 35 District Superintendents of land records. City Survey Officers/Taluka Inspectors of Land Records work under the District Superintendents of Land Records in urban and rural areas respectively and are responsible for detecting and

reporting to Tahasildars the cases of unauthorised conversion of use of land. The Divisional Commissioner is the regional administrative head and acts as Appellate Authority in respect of cases decided by the District Collector. Supplementary directives are issued and policy decisions are taken by the Government from time to time under the provisions of the Code.

4.2.4 Audit objectives

With a view to assess the mechanism of implementation of codal provisions in assessment and realisation of land revenue on authorised as well as on unauthorised change in use of land, records were scrutinized in audit to ascertain.

- (i) whether the competent authority granted permission for the change in use of land within the prescribed period;
- (ii) whether NAA was levied timely and accounted for;
- (iii) whether the cases of unauthorised conversion were disposed of promptly and the fine/penalty/conversion tax was recovered wherever applicable.

4.2.5 Scope of Audit

The records of 7 District Collectors, 34 Tahasildars, 6 Sub Divisional Officers (SDOs), 14 City Survey Officers (CSOs) and 5 Taluka Inspector of Land Records Offices (TILR) covering the period from 1997-98 to 2001-02 were test checked in seven out of the 35 districts between January 2003 and August 2003. Results of the test check are mentioned in the following paragraphs.

4.2.6 Trend of revenue collection

The position of assessment, realisation and arrears of NAA during the years from 1997-98 to 2001-2002 is given in the table below:

(Amount in crore of rupees)

Year	Opening Balance	Demand during the year	Total	Recovery (percentage of Col. 5 to 4)	Balance
1	2	3	4	5	6
1997-98	45.44	29.79	75.23	18.29 (24)	56.94
1998-99	56.94	18.60	75.54	19.31 (26)	56.23
1999-2000	56.23	16.07	72.30	18.97 (26)	53.33
2000-01	53.33	30.79	84.12	45.02 (55)	39.10
2001-02	39.10	51.55	90.65	57.44 (63)	33.21

From the above details, it is evident that percentage recovery of non agricultural assessment ranged between 24 per cent and 63 per cent during the period from 1997-98 to 2001-02.

4.2.7 Non-levy of conversion tax and non-imposition of penalty

Under the provisions of Section 45 of the MLR Code, 1966 read with Government of Maharashtra Circular dated 28 February 1989, the holder of land who has changed the use of land unauthorisedly is liable to pay non agricultural assessment and fine. A show cause notice asking the offender to apply within a period of 6 months from the date of issue of notice with necessary documents is required to be issued by the Collector under Section 45(1). Conversion tax wherever applicable, is required to be levied u/s 47 (B) when the unauthorised use is regularised. In case, the holder of land does not

apply for regularisation within six months, the Collector may impose penalty not exceeding Rs 300 for such contravention and a further penalty not exceeding Rs 30 for each day during which the contravention persists.

A test check of records in 7 Tahsils of two districts¹ revealed that 44,022 cases of unauthorised change in use of land were detected during the period from 1996-97 to 2001-02. Notices were also issued to the holders of land who did not apply for regularisation of unauthorised change in use of land. The Department did not take any further action either to regularise the illegal use of land or restore the land to its original use. This resulted in non-recovery of penalty of Rs 169.74 crore and conversion tax of Rs 71.15 crore as per details given below.

(Amount in crore of rupees)

Sr. No.	Name of the Additional Tahasildar	No. of cases detected by the Department	Penalty leviable at Rs 300/ case	Further penalty leviable at Rs 30/ day/ case	Total penalty leviable (4) +(5)	Non-levy of conversion tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Borivali-II	7,226	0.22	22.93	23.15	8.27
2.	Thane	2,415	0.07	10.16	10.23	9.81
3.	Kurla-III	4,973	0.15	17.29	17.44	0.80
4.	Kalyan-II	3,702	0.11	10.97	11.08	12.14
5.	Kalyan-I	12,418	0.37	67.70	68.07	11.35
6.	Andheri	5,309	0.16	14.91	15.07	22.49
7.	Kurla-I	7,979	0.24	24.46	24.70	6.29
	Total	44,022	1.32	168.42	169.74	71.15

On this being pointed out, Collector, Andheri stated that the matter had been referred to Government for permission to levy penalty. The reply is not tenable as the Act empowers the Collector to take action and there was no need to refer the case for any clarification to the Government. The Collector, Thane stated that the powers had already been delegated to the Additional Tahasildars (NAA) for taking appropriate action under the provisions of the MLR Code. The Additional Tahasildars (NA), Thane, however, stated that conversion tax was not levied for want of application for regularisation from the land holders. The reply is not tenable as no action was taken by the Additional Tahasildars either to impose penalty or to restore the land used unauthorisedly to its original use. Neither any report was submitted nor was it called for by the Collector. No returns had been prescribed to bring the facts to the notice of Collector to the Government. Consequently, no monitoring could be done at the apex level.

4.2.8 Non-levy of non-agricultural assessment

Under the provisions of the MLR Code, cases of unauthorised change in use of land detected by the CSOs and Taluka Inspectors during their survey, are reported to the Tahasildars in urban areas and to SDOs in the rural areas respectively. Collectors or the sub-ordinate officers to whom the powers have been delegated are required to assess the NAA and penalty. The show cause notices are issued to the landholders asking them to restore the land to its

¹ Mumbai Sub-urban and Thane

original use or to get it regularised within the period of six months. No time limit has been fixed for finalisation of these cases.

Cross verification of records of nine CSOs in four districts² with that of the respective Tahasildars revealed that 10,807 cases of unauthorised use involving NAA of Rs 2.94 crore detected by CSOs, were reported to the respective Tahasildars. The cases in two districts, Thane and Mumbai Suburban District, were not produced to audit while in two other districts Nagpur and Aurangabad, they were lying unattended.

In reply to audit it was stated by the Tahasildar, Thane and Mumbai Suburban District that 10,209 cases reported by the CSOs were not traceable in their records. The Tahasildars of Nagpur and Aurangabad however, intimated that 598 cases reported to them were pending. Thus, absence of time limit for disposal of cases and inadequate monitoring resulted in non-levy of NAA of Rs 2.94 crore.

4.2.9 Short realisation of NAA due to non-application of revised rates

Under the provisions of Section 113(ii) of the MLR Code, the standard rate of NAA shall remain in force for a period of 5 years and shall be revised thereafter. The rates of NAA were revised in September 2001 by the Government retrospectively with effect from 1 August 2001.

During the course of audit, it was however, noticed that in three districts Aurangabad, Pune and Kolhapur, the Department continued to recover the NAA in 16,896 cases at pre revised rates during the year 2001-02. This resulted in short realisation of NAA of Rs 92.02 lakh and conversion tax of Rs 13.60 lakh.

On this being pointed out in audit, the Tahasildars concerned stated that recovery will be done after due verification.

4.2.10 Non-recovery from Nagpur Improvement Trust

Under the provisions of Section 168 of the MLR Code, the Nagpur Improvement Trust (NIT) is liable to pay NAA to State Government in respect of the land leased by it to allottees. Land revenue is to be levied with reference to the nature of use of land.

During the course of audit, it was noticed that NAA of Rs 6.38 crore was payable by NIT for the period 1987-88 to 2000-01. However, the amount was neither paid by the NIT nor demanded by the Department.

On this being pointed out the Department raised a demand for Rs 21.20 crore in December 2002. However, no recovery has been made as NIT, Nagpur had referred the matter to Government in February 2003 for adjustment of stamp duty payable to them by Government. The Collector, Nagpur stated in September 2003 that the matter was pending with the Government for decision.

4.2.11 Non-vacation of stay by government.

In accordance with government instructions issued in August 1993, any stay granted by Government without specifying the period of stay shall be deemed

² Mumbai Sub-urban, Thane, Nagpur and Aurangabad

to have been vacated automatically after lapse of three months from the date of issue of the stay order.

During the course of scrutiny of records in Kolhapur District, it was noticed that in 5,778 cases, demand of Rs 2.28 crore for the year 2001-02 was raised at the revised rates. However, recovery was stayed by the Additional Secretary, Revenue & Forests Department in May 2002. Since, no specific period was mentioned in the stay order granted by the government, the stay should have been treated as vacated after August 2002. However, no action was taken for recovery resulting in non-realisation of NAA of Rs 2.28 crore.

On this being pointed out, Collector stated that recovery would be made after Government vacates the stay. The reply is not tenable as the Government orders are self-explanatory and it was necessary to recover the NAA as the stay granted automatically lapsed after three months of its issue.

4.2.12 Non-recovery of NAA and fine due to pendency of cases in appeal

Under the provisions of the MLR Code and the Rules made thereunder, the Collector is empowered to regularise the unauthorised change in use of land if the holder so desires subject to payment of NAA, fine and conversion tax wherever applicable. Government has issued instructions in October 1987 that maximum possible fine (40 times of NAA) should be imposed while deciding the regularisation of unauthorised change in use of land so as to discourage the tendency for unauthorised change. No time limit has been fixed for disposal of appeals.

During the course of audit, it was noticed that 177 cases of unauthorised change in use of land were regularised by Additional Tahasildar (NAA) Kurla-III at Chembur, between 1998 and 2001 by imposing maximum fine of 40 times of NAA. All the land holders had gone in appeal in 2001-02 to the Additional Upper Deputy Collector (MSD) Mumbai against the orders of the Additional Tahasildar (NAA) Kurla-III with the request to condone the fine imposed by him. The appeal cases involving government revenue of Rs 24.75 lakh are lying with the Additional Upper Deputy Collector MSD, Mumbai for a period ranging from 1 to 2 years. In the absence of any time limit for disposal of the appeal cases, government revenue remained unrealised.

On this being pointed out the Additional Upper Deputy Collector, (MSD), Mumbai stated in August 2003 that the cases would be examined by making a reference to the Additional Tahasildar (NAA), Kurla.

4.2.13 Non-raising of demand

As soon as the order permitting change in use of land is accorded by the Collector, a copy of the same is endorsed to the talathi of the respective unit for keeping necessary note in the registers in Form TF-II and VF-II to watch recovery from the land holders.

Cross verification of permissions granted for non-agricultural use issued by Collectors/SDO with records of respective Talathis, revealed that permission for change in use of land measuring 3,964.47 hectare was granted by Collectors in 32 cases but no entries about such change in use of land were made in TF-II and VF-II registers by the respective Talathis. This resulted in

non-realisation of revenue to Government to the extent of Rs 12.07 lakh for the period from 1997-98 to 2001-02.

On this being pointed out, the Tahasildars concerned stated in June 2003 that action for recovery would be taken after making necessary entries in TF-II and VF-II.

4.2.14 Non-recovery of measurement fee

As per instructions, measurement fee at the rate of Rs 500 or Rs 1,000 per property/plot is recoverable in respect of rural and urban areas respectively

During scrutiny of records in 3 districts of Pune, Solapur and Yeotmal, it was noticed that in 307 cases and 181 cases in urban and rural areas respectively, change in use was permitted by the respective authorities during the period from 1997-98 to 2001-02. However, measurement fee of Rs 6.11 lakh was not recovered from the land holders.

On this being pointed out the respective CSOs and TILRs stated in August 2003 that necessary recovery would be done.

4.2.15 Conclusion and Recommendation

Audit findings show monitoring of the cases pending conversion was not satisfactory. The Department failed to levy conversion tax and penalty for illegal use of land. Besides, appeal cases pending finalisation also adversely affected revenue collection. State Government may consider the following steps to improve the effectiveness of the system:

Devise suitable control mechanism for levy and realization of conversion tax and fine in accordance with the prescribed procedures and norms.

Prescribe norms for disposal of appeals pending finalisation with Revenue Authorities.

Ensure that the records are maintained properly for timely and effective recovery.

4.3 Non-realisation due to non-revision of lease rent.

Under the provisions of the Maharashtra Land Revenue Code, 1966 and the Rules framed thereunder, any government land can be leased out to any person under grant or contract for such period, for such purpose and on such conditions as may be determined. The grantee of such land shall be called government lessee and shall pay lease rent for the lease period as per the terms and conditions of the lease.

During the course of audit, it was noticed that government land measuring 17,988.20 square meters³ comprising 3 holdings in Mumbai (Tahsil Borivali) was leased out to M/s Paramount Hotels Private Limited on 30 May 1983 and July 1987 for lease periods of 15 and 30 years subject to payment of lease rent at 8 *per cent* per annum on the prevailing market value of land. As per terms and conditions of lease agreement, the lease rent was to be revised after every 5 years on the basis of market value of the land prevailing at that time. Lease

³ 17988.20 sq.mtrs. = (5538.20+10000+2450) sq.mtrs

rent was, however, not so revised from due dates by taking into consideration the market value of land. This resulted in non-realisation of Rs 2.13 crore.

On this being pointed out, the Department revised the lease rent with retrospective effect for two holdings⁴ only in March 2002 and raised demand for Rs 9.26 crore⁵ in March 2002, out of which, Rs 0.45 crore only has been recovered in March 2002 and April 2002 leaving a balance of Rs 8.81 crore which could not be recovered due to stay on recovery granted by the Government in June 2002. However, in the third case, the Department stated that revision was not done for want of valuation report from the Town Planning Department.

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

4.4 Non-levy of non-agricultural assessment, increase of land revenue and conversion tax.

Under the provisions of the Maharashtra Land Revenue Code, 1966 and the Rules framed thereunder read with Government Resolution (December 1988), agricultural land when acquired under the Land Acquisition Act, 1894 and made over for non-agricultural purpose, is liable to non-agricultural assessment (NAA) with reference to the use of land from the date of commencement of non-agricultural use or after the completion of six months from the date of possession whichever is earlier. The increase of land revenue (ILR) at 50 *per cent* or 100 *per cent* of land revenue is payable based on the area of land holding. Besides, conversion tax equal to three times the NAA is leviable if the land is situated within the areas of municipal corporation or municipal councils of A or B class.

4.4.1 In Jalna Tahsil, State Government allotted acquired land measuring 5,68,600 sq. mtrs. within Jalna Municipal Council to Agricultural Produce Market Committee (APMC) for construction of market yard in 1986. It was noticed in May 2002 that the Sub-Divisional Officer, Jalna had ordered Tahasildar, Jalna to levy NAA tax on the built up area of 1,96,333 sq. mtrs. However, Tahasildar Jalna had neither assessed nor levied the NAA tax from 1986-1987 to 2002-2003. This resulted in non-levy of government revenue of Rs 48.36 lakh comprising NAA tax of Rs 23.27 lakh, ILR of Rs 23.27 lakh and conversion tax of Rs 1.82 lakh.

On this being pointed out, the Tahasildar, Jalna accepted the audit observation in January 2003 and raised demand for Rs 48.36 lakh against which the APMC had paid Rs 20.28 lakh. Further progress of recovery has not been received (December 2003).

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

⁴ 5538.20 and 10000sq. mtrs.

⁵ As the up-to-date demand was raised by the department.

4.4.2 In two Tahsils⁶ of Thane district, land measuring 10,03,302.93 square meters⁷ was put to non-agricultural use. Though the land revenue was assessed and recovered, ILR was either not levied or short levied. This resulted in short/non-levy of increase of land revenue of Rs 18.14 lakh.

On this being pointed out, the Department accepted in February 2003 the under-assessment but no recovery was effected (December 2003).

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

4.5 Non-levy of land revenue and cess due to failure in making entries in basic records

Under the provisions of the Maharashtra Land Revenue Manual, Volume-V register in Taluka Form (TF) II and in Village Form (VF) II are basic records and the entries made therein form the basis for assessing land revenue for raising demand for non-agricultural assessment (NAA). Failure to make entries in the forms may result in non-recovery of land revenue and consequent recurring loss.

Sub-Divisional Officer, Jalna accorded permission for non-agricultural use of 40,000 square meters of land in village Jafrabad (Jalna district), in February 1995, out of which 24,592 square meters was proposed for residential purpose. However, the orders conveying the permission of NAA were not entered in the relevant records *i.e.* TF-II/VF-II. This resulted in non-levy of land revenue of Rs 12.38 lakh including cess of Rs 10.71 lakh for the period from 1995-96 to 2002-03.

On this being pointed out, the Tahasildar, Jalna accepted the omission in January 2003 and stated that demand notices would be issued. Further progress of recovery has not been received (December 2003).

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

⁶ Palghar and Vasai

⁷ 1003302.93 sq.mtr. =(210800+92800+215600+138988+256087+89027.93) sq.mtr.