

## CHAPTER V : OTHER TAX RECEIPTS

### 5.1 Results of audit

Test check of records of departmental offices conducted during 2002-2003 revealed short realisation or loss of revenue amounting to Rs 111.70 crore in 4,662 cases as listed below :

| Sr. No.        | Nature of receipt   | No. of cases | Amount (In crore of rupees) |
|----------------|---|--------------|-----------------------------|
| 1.             | <b>Review: Education cess and employment guarantee cess</b> | 1            | 13.05                       |
| 2.             | Tax on Buildings (with larger residential premises)         | 593          | 0.28                        |
| 3.             | Entertainments duty   | 862          | 1.45                        |
| 4.             | Electricity duty  | 101          | 53.86                       |
| 5.             | Profession tax  | 3,084        | 0.54                        |
| 6.             | Repair cess   | 21           | 42.52                       |
| <b>Total :</b> |   | <b>4,662</b> | <b>111.70</b>               |

During the course of the year 2002-2003, the departments concerned accepted under-assessments *etc.*, in 3,166 cases involving Rs 93.39 crore, of which 161 cases involving Rs 0.05 crore related to 2002-03 and the rest to earlier years. The departments recovered Rs 50.98 crore in 3,165 cases.

A review, **Levy and collection of state education cess and employment guarantee cess**, having a financial effect of Rs 13.04 crore and a few illustrative cases having financial effect of Rs 100.79 crore are given in the following paragraphs:

## A - STATE EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS

### 5.2 Review: Levy and collection of state education cess and employment guarantee cess

#### 5.2.1 Highlights

- Arrears of state education cess and employment guarantee cess pending collection as on 31 March 2002 amounted to Rs 224.23 crore.

(Paragraph 5.2.7)

- Incorrect grant of exemption to 61 properties used for educational/residential/commercial purposes resulted in under-assessment of Rs 22.42 lakh.

(Paragraph 5.2.9)

- Non-assessment of 110 properties owned by Aurangabad, Kalyan-Dombivali, Nashik, Pune, Pimpri-Chinchwad and Thane Municipal Corporations resulted in non-levy of cesses of Rs 1.49 crore (approximately).

(Paragraph 5.2.10)

- Short/non-remittance of cesses collected by Brihan Mumbai, Thane, Nagpur and Solapur Municipal Corporations into government account amounted to Rs 11.33 crore.

(Paragraph 5.2.11)

#### 5.2.2 Introduction

The Maharashtra Education and Employment Guarantee (Cess) Act, 1962 provides for levy of cess on lands and buildings in municipal areas and on agricultural lands on which crops are raised for the purpose of providing for the cost of promoting education in the State of Maharashtra. State Education Cess (SEC) on land and buildings is levied as a percentage of the annual letting value. Where the land and building is used for non-residential purpose, the rate of cess is twice that prescribed for residential purpose. With effect from 1 April 1975, Employment Guarantee Cess (EGC) is also leviable on lands and buildings used for non-residential purpose as a percentage of the annual letting value<sup>1</sup> for raising resources for implementing the employment guarantee scheme. State education cess and employment guarantee cess are payable at slab rates provided in Schedules A and C of the Act respectively. The assessment of the properties is done by the municipal corporations in cities, municipalities in other areas and the Collectors in cantonments. The Revenue

<sup>1</sup> Annual letting value – means the rateable value or annual letting value or gross annual letting value of buildings or lands as determined in accordance with the relevant municipal law.

Rateable value – Amount of annual rent for which such land/building might reasonably be expected to be let from year to year minus ten *per cent* of the said annual rent.

& Forests Department is responsible for administering the provisions of the Act.

### 5.2.3 Organisational set up

The municipal corporation in cities, municipalities in other areas and Collectors in cantonments are authorised to levy and collect the cesses on behalf of the state government and remit it to government account. The municipal corporations and municipalities are entitled to rebate as prescribed by the state government.

### 5.2.4 Audit objective

Detailed check of the records of municipal corporations was conducted with a view to ascertain

Whether the system of levy and collection of education cess and employment guarantee cess on lands and buildings was effective and efficient;

whether exemption granted and arrears levied in accordance with the prescribed rules and cesses collected were credited in time to government account;

whether internal control existed for assessment and recovery.

### 5.2.5 Scope of audit

The relevant records relating to the periods 1997-98 to 2001-02 in eight<sup>2</sup> out of 15 municipal corporations in the state were selected for test check. The eight selected corporations have 49 offices. Of these, records in 24 offices were test checked between December 2002 and April 2003.

### 5.2.6 Budget estimates and actuals

The Budget estimates and actuals of state education cess and employment guarantee cess receipts during the years from 1997-98 to 2001-2002 were as under :

(Amount in crore of rupees)

| Sr. No. | Year      | Budget estimates | Actuals | Variations increase (+) decrease(-) | Percentage of variation column 5 to column 3 |
|---------|-----------|------------------|---------|-------------------------------------|--|
| (1)     | (2)       | (3)              | (4)     | (5)                                 | (6)  |
| 1.      | 1997-1998 | 79.08            | 94.99   | (+) 15.91                           | (+) 20                                       |
| 2.      | 1998-1999 | 106.24           | 103.07  | (-) 3.17                            | (-) 3  |
| 3.      | 1999-2000 | 111.49           | 136.90  | (+) 25.41                           | (+) 23                                       |
| 4.      | 2000-2001 | 114.84           | 103.14  | (-) 11.70                           | (-) 10                                       |
| 5.      | 2001-2002 | 120.58           | 210.70  | (+) 90.12                           | (+) 75                                       |

<sup>2</sup> Aurangabad, Brihan Mumbai, Kalyan-Dombivali, Nashik, Navi Mumbai, Pimpri-Chinchwad, Pune and Thane.

It would be seen from the above table that there is wide variation between the budget estimates and actuals except during 1998-1999. This indicates that the budget estimates were not prepared on realistic basis. On this being pointed out, the Finance Department stated in May 2003 that the collection depends on the actual land revenue recovery, which was not constant, as its collection by the local bodies, was uncertain. The steep increase in collection during the year 2001-2002 was stated to be due to recovery of Rs 144.71 crore from Brihan Mumbai, Pune, Pimpri-Chinchwad and Nagpur Municipal Corporations by adjustment against grants payable to them by Government. The reply of the Department is not tenable, as it should devise a method for prompt payment by local bodies of government dues in to government account immediately on their receipt. This would also reduce accumulation of arrears, which are mounting high as detailed below.

### 5.2.7 Arrears of revenue

As per information collected from the eight municipal corporations, the arrears as on 31 March 2002 amounted to Rs 224.23 crore as shown below :

| (Amount in crore of rupees) |                         |               |                    |               |
|-----------------------------|-------------------------|---------------|--------------------|---------------|
| Sr. No.                     | Name of the Corporation | S.E.C         | E.G.C.             | Total         |
| 1                           | Brihan Mumbai           | 106.81        | 21.62              | 128.43        |
| 2                           | Kalyan-Dombivali        | 6.35          | 0.50               | 6.85          |
| 3                           | Thane                   | 1.63          | 1.46               | 3.09          |
| 4                           | Navi Mumbai             | 46.95         | 9.65               | 56.60         |
| 5                           | Pimpri-Chinchwad        | 14.23         | 3.05               | 17.28         |
| 6                           | Pune                    | 5.92          | Not made available | 5.92          |
| 7                           | Nashik                  | 1.63          | 0.31               | 1.94          |
| 8                           | Aurangabad              | 2.33          | 1.79               | 4.12          |
| <b>Total :</b>              |                         | <b>185.85</b> | <b>38.38</b>       | <b>224.23</b> |

In none of the corporations except Mumbai and Navi Mumbai Corporations, yearwise break up of the arrears was made available.

The details of the yearwise break up of arrears in respect of Mumbai and Navi Mumbai Municipal Corporations were as follows:

#### Yearwise break up

| Year         | Mumbai        |              | Navi Mumbai  |             |
|--------------|---------------|--------------|--------------|-------------|
|              | SEC           | EGC          | SEC          | EGC         |
| Upto 1997-98 | 19.26         | 4.41         | 16.97        | 3.21        |
| 1998-99      | 5.75          | 0.93         | 6.05         | 1.17        |
| 1999-2000    | 8.43          | 1.49         | 7.59         | 1.51        |
| 2000-01      | 27.42         | 5.65         | 8.95         | 1.79        |
| 2001-02      | 45.95         | 9.14         | 7.39         | 1.97        |
| <b>Total</b> | <b>106.81</b> | <b>21.62</b> | <b>46.95</b> | <b>9.65</b> |

**Agewise break-up**

(Amount in crore of rupees)

|                         | Mumbai        |              | Navi Mumbai  |             |
|-------------------------|---------------|--------------|--------------|-------------|
|                         | SEC           | EGC          | SEC          | EGC         |
| More than 20 years      | 2.04          | 1.15         | -            | -           |
| Between 15 and 20 years | 1.82          | 0.50         | -            | -           |
| Between 10 and 15 years | 3.94          | 0.81         | -            | -           |
| Between 5 and 10 years  | 7.33          | 1.44         | -            | -           |
| Between 3 and 5 years   | 9.89          | 1.45         | 23.02        | 4.38        |
| Between 1 and 3 years   | 81.79         | 16.27        | 23.93        | 5.27        |
| <b>Total</b>            | <b>106.81</b> | <b>21.62</b> | <b>46.95</b> | <b>9.65</b> |

The Revenue and Forests Department responsible for administering the Act is required to maintain relevant records detailing the cesses pending recovery with the collecting agencies, and is also required to watch remittances of the collection into government treasury. However, no such records were produced to audit. The position of arrears was also not made available to audit by the Department.

Agewise analysis in respect of Brihan Mumbai Municipal Corporation indicated that Rs 15.13 crore (SEC) & Rs 3.90 crore (EGC) were in arrears for more than five years and arrears of Rs 91.68 crore (SEC) & Rs 17.72 crore (EGC) were between one and five years old.

**5.2.8 Non-recovery of arrears from closed factories**

Under the Act, education cess and employment guarantee cess is to be levied and collected on lands and buildings used or intended to be used for non-residential purposes.

Information furnished by four<sup>3</sup> municipal corporations revealed that SEC and EGC amounting to Rs 3.04 crore relating to the period between 1997-98 and 2001-02 was due from 335 closed factories which had closed business prior to 1997. The municipal corporations had not indicated the follow up action taken for recovery of the same from the occupiers.

Lack of follow up action on the part of the corporations resulted in non-recovery of Rs 3.04 crore.

**5.2.9 Incorrect grant of exemption**

Under the Act, lands and buildings belonging to a public trust registered under the Bombay Public Trust Act, 1950 and exclusively occupied for charitable purpose or public worship are exempt from cess. Also, lands and buildings belonging to a municipality and used exclusively for public purposes and not used or intended to be used for profit are exempt. If rent is derived, the land and buildings or portion thereof shall not be deemed to be exclusively occupied for public worship or for charitable purposes.

<sup>3</sup> Kalyan-Dombivali, Navi Mumbai, Pimpri-Chinchwad and Thane

A scrutiny of the records in nine offices<sup>4</sup> revealed that 61 properties used for educational/residential/commercial purpose were erroneously exempted from cess. Further rent was being recovered in respect of all the properties used as hostels of private colleges/residential quarters of hospitals/markets etc. The incorrect exemption resulted in under-assessment of Rs 22.42 lakh for the years from 1997-98 to 2001-2002.

On this being pointed out the municipal corporations stated that the exemptions allowed would be examined and reply furnished. Final replies have not been received (December 2003).

#### 5.2.10 Non-assessment of properties owned by municipal corporations

State education cess & employment guarantee cess are payable at slab rates provided in the Schedules A & C to the Act.

In 6 out of the 8 municipal corporations, a test check of records revealed that the rateable value of 110 properties owned by the corporations was not fixed. The non-assessment of these properties utilised for profit, resulted in non-levy of cesses amounting to Rs 1.49 crore relating to various periods between 1997-98 and 2001-02 worked out on the basis of the data made available to audit by the land and estate wing of the respective corporations as detailed in the following table :

(Amount in lakh of rupees)

| Sr. No.        | Name of the Corporation | No. of properties | Categories of properties                                | E.C.          | E.G.C        | Total         |
|----------------|-------------------------|-------------------|---|---------------|--------------|---------------|
| 1              | Thane                   | 20                | Market/. Residential Quarters/Natyagriha/ Swimming pool | 61.28         | 13.70        | 74.98         |
| 2              | Aurangabad              | 11                | Natyagriha/Market/ Meeting hall/Quarters                | 11.20         | 2.62         | 13.82         |
| 3              | Pimpri-Chinchwad        | 27                | Shops and stalls/ Market/Natyagriha                     | 29.93         | 7.25         | 37.18         |
| 4              | Kalyan-Dombivali        | 4                 | Market/Natyagriha/ commercial complex/ car parking.     | 8.18          | 2.04         | 10.22         |
| 5              | Nashik                  | 4                 | Shopping Centre/office                                  | 1.19          | 0.30         | 1.49          |
| 6              | Pune                    | 44                | Natyagriha/Market/ Gymkhana/ Commercial Bldg.           | 8.70          | 2.19         | 10.89         |
| <b>Total :</b> |                         | <b>110</b>        |   | <b>120.48</b> | <b>28.10</b> | <b>148.58</b> |

On this being pointed out in March 2003, the Pune Municipal Corporation stated that municipal properties were not being assessed and hence no cess was levied. The reply of the corporation is not tenable as every property including municipal property is to be assessed and rateable value is to be fixed for levy of EC/EGC at specified rates unless exempted. The plea that the

<sup>4</sup> Mumbai (H/East, P/South, F/South, K/West, K/East and R/Central), Nashik, Thane and Navi Mumbai

properties are owned by the corporation and hence not assessed is incorrect, as rent is being recovered and the premises are not used for public/charitable purpose. The Thane Municipal Corporation stated that action taken to assess the properties would be intimated to audit. The remaining four corporations stated that the assessments would be done. Report of action taken has not been received (December 2003).

### 5.2.11 Short/non-remittance of cess

Under the provisions of the Maharashtra Education and Employment Guarantee Cess Act, 1962 and the rules made thereunder, the corporations are to credit the proceeds of cesses to government account before the expiry of the following week. If any municipal corporation 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 the 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 the government shall be sufficient discharge to such bank/treasury from all liabilities to the municipal corporation.

A test check of records in three corporations and information furnished by three offices of the Brihan Mumbai Municipal Corporation revealed that as against collections of Rs 141.50 crore relating to state education cess, employment guarantee cess and penalty during the years 2000-2001 and/or 2001-2002, the corporations had remitted or adjusted only Rs 130.17 crore resulting in non-remittance of revenue of Rs 11.33 crore as shown below :

(Amount in crore of rupees)

| Name of the corporation  | Period  | Collection    |              |             | Adjustment/Remittance |              |             | Balance to be remitted |             |             |
|--------------------------|---------|---------------|--------------|-------------|-----------------------|--------------|-------------|------------------------|-------------|-------------|
|                          |         | S.E.C.        | E.G.C        | Penalty     | S.E.C.                | E.G.C        | Penalty     | S.E.C.                 | E.G.C       | Penalty     |
| Mumbai (city)            | 2000-01 | 15.10         | 2.94         | NIL         | 15.10                 | 2.00         | NIL         | NIL                    | 0.94        | NIL         |
|                          | 2001-02 | 20.66         | 4.07         | NIL         | 20.66                 | NIL          | NIL         | NIL                    | 4.07        | NIL         |
| Mumbai (Eastern Suburbs) | 2001-02 | 14.99         | 2.34         | 0.01        | 13.78                 | 1.88         | NIL         | 1.21                   | 0.46        | 0.01        |
| Mumbai (Western suburbs) | 2001-02 | 40.30         | 5.30         | 0.12        | 40.30                 | 4.16         | 0.09        | NIL                    | 1.14        | 0.03        |
| Thane                    | 2001-02 | 27.11         | 3.56         | NIL         | 27.16                 | 3.30         | NIL         | (-) 0.05               | 0.26        | NIL         |
| Nagpur                   | 2001-02 | 3.05          | 0.51         | NIL         | 1.74                  | NIL          | NIL         | 1.31                   | 0.51        | NIL         |
| Solapur                  | 2001-02 | 1.27          | 0.17         | NIL         | NIL                   | NIL          | NIL         | 1.27                   | 0.17        | NIL         |
| <b>Total</b>             |         | <b>122.48</b> | <b>18.89</b> | <b>0.13</b> | <b>118.74</b>         | <b>11.34</b> | <b>0.09</b> | <b>3.74</b>            | <b>7.55</b> | <b>0.04</b> |
| <b>Grand Total</b>       |         | <b>141.50</b> |              |             | <b>130.17</b>         |              |             | <b>11.33</b>           |             |             |

On this being pointed out between July 2002 and August 2002, the Solapur Municipal Corporation stated that the amount would be credited to government account. In respect of Nagpur Municipal Corporation, government had adjusted Rs 1.56 crore against the grants due to the

corporation and the corporation had remitted Rs 0.18 crore. Report of remittance of the balance amount of Rs 11.33 crore has not been received (December 2003).

### 5.2.12 Absence of provision for levy of interest on delayed remittance

The municipal corporations are to credit the proceeds of the cesses to government account before expiry of the following week. However, the Act does not provide for levy of penalty or interest for delay in remittance of cesses collected by the municipal corporations to government account.

Scrutiny of the remittances made by six corporations revealed that there were delays ranging from one week to over two years in the remittance of cesses collected amounting to Rs 143.73 crore as shown below :

**(Amount in crore of rupees)**

| Sr. No.        | Name of the Corporation | Period of delay                     | Amount of delayed remittance |              | Total         |
|----------------|-------------------------|-------------------------------------|------------------------------|--------------|---------------|
|                |                         |                                     | SEC                          | EGC          |               |
| 1              | Thane                   | From 3 months to 12 months          | 12.65                        | 1.21         | 13.86         |
| 2              | Kalyan-Dombivali        | From 1 week to 3 months             | 1.44                         | 0.10         | 1.54          |
| 3              | Pimpri-Chinchwad        | From 3 months to over two years     | 34.40                        | 7.11         | 41.51         |
| 4              | Aurangabad              | From 3 months to 12 months          | 5.66                         | 0.93         | 6.59          |
| 5              | Navi Mumbai             | From 4 months to 12 months          | 39.78                        | 6.77         | 46.55         |
| 6.             | Pune                    | From 6 months to more than one year | 27.70                        | 5.98         | 33.68         |
| <b>Total :</b> |                         |                                     | <b>121.63</b>                | <b>22.10</b> | <b>143.73</b> |

### 5.2.13 Lack of internal control

According to Schedule 9 of the Bombay Provincial Municipal Corporation Act, 1949 the municipal corporations are to maintain assessment register. In Thane Municipal Corporation in 11 out of 13 wards, initial records viz., assessment register and inspection book were not maintained. Only individual case files of assessment were maintained. In the absence of the assessment register, correctness of the rateable value fixed and the levy and collection of education and employment guarantee cesses could not be verified in audit. Similarly, in Aurangabad and Pune Municipal Corporations in the absence of description relating to residential/non-residential/commercial properties in the assessment register the correctness of the rateable value fixed and the cesses levied could not be verified in audit.

On this being pointed out (January 2003), the Thane Municipal Corporation stated that the matter would be investigated and results communicated to audit.

In respect of 17 municipal properties detailed in the following table, the non-levy of cesses could not be worked out as the assessments were not done and details such as area and the annual letting value was not available on record. No register to serve as a “check list register” was maintained to watch assessment and collection of government dues.

| Sr. No. | Name of the Corporation | No. of properties | Categories of properties                  |
|---------|-------------------------|-------------------|---|
| 1       | Nashik                  | 4                 | Natyagriha/Swimming pool/ Exhibition Hall |
| 2       | Pune                    | 4                 | Swimming Pool                             |
| 3       | Thane.                  | 2                 | Markets                                   |
| 4       | Aurangabad              | 1                 | Swimming Pool                             |
| 5       | Pimpri-Chinchwad        | 6                 | Swimming Pool                             |

The above points were reported to Government in June 2003; their reply has not been received (December 2003).

#### **5.2.14 Conclusions and Recommendations**

The review revealed that the Department has no control mechanism to monitor the assessment, levy and collection of the cesses and their remittance to government account. Consequently, large sums due to Government have remained out of the Consolidated Fund of the State. There is no provision for levy of interest on delayed remittance of the collections by the corporations to government account. Government may consider the following suggestions to monitor prompt realization of government dues and to enhance revenue collection:

- (i) Develop a system for monitoring the receipts under the provisions of the Act. This may include internal controls to be exercised by the Department for regulating the assessment, levy, collection and remittance of the cesses to government account;
- (ii) Prescribe a register to serve as a check list for the live properties in each zone of a corporation;
- (iii) Provision in the Act for levy of interest on delay/default in remittance of collections to government account.

## **B - ELECTRICITY DUTY**

### **5.3 Non-recovery of electricity duty**

Under the provisions of the Bombay Electricity Duty Act, 1958, electricity duty at 15 paise per unit is payable with effect from 1 April 2000 on the consumption of energy generated, by a person carrying on an industry and consumed by him for such industry.

A scrutiny of the records in the office of the Electrical Inspector, Thane in April 2001 revealed that electricity duty amounting to Rs 2.14 crore on 14.24 crore units of energy generated and consumed during various periods between April 2000 and March 2001, was not levied and recovered from 13 Industrial units.

On this being pointed out, the Department issued demand notices for Rs 2.14 crore between April 2001 and May 2001 and recovered Rs 0.05 crore from 10 industrial units between April 2001 and September 2001. Report on recovery of the balance amount has not been received (December 2003).

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

### **5.4 Non-levy of interest on incorrect retention of electricity duty**

Under the Bombay Electricity Duty Act, 1958 and the Rules made there under every licensee, who supplies electricity to consumers, is required to collect electricity duty from the consumers and together with his own charges pay it to the state government by the prescribed date. Further, if the duty collected is not deposited by the prescribed date, interest at the rate of 18 *per cent* per annum for the first three months and at the rate of 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

The Maharashtra State Electricity Board (MSEB) had collected electricity duty aggregating Rs 501.26 crore for the period from March 2002 to January 2003 from the consumers but had not remitted the amount to government account by the prescribed date (February 2003). The interest payable on the unpaid duty upto the end of March 2003 amounted to Rs 53.33 crore.

The matter was reported to the department and Government in May 2003. Government issued (March 2003) resolution adjusting the electricity duty payable by the Board for the period from 1 April 2002 to 31 March 2003. However, action taken to levy interest of Rs 53.33 crore on the incorrect retention of duty upto March 2003 has not been received (December 2003).

## C - ENTERTAINMENTS DUTY

### 5.5 Non/short realisation of entertainments duty from cable/dish antenna operators

Under the Bombay Entertainments Duty Act, 1923 with effect from 1 May 1998, entertainments duty is payable by cable and dish antenna 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 municipal council or other area.

During test check of records in 19 offices<sup>5</sup> in 10 districts<sup>6</sup>, it was noticed that in respect of 251 cable and dish antenna operators, entertainments duty amounting to Rs 32.51 lakh was neither paid by the operators nor demanded by the Department for various periods between May 1998 and March 2001. In 6 cases of Borivali Zone V and Wardha, entertainments duty recovered was short by Rs 1.06 lakh.

On this being pointed out in audit, the Department recovered entertainments duty of Rs 22.55 lakh from 184 cable/dish antenna operators between July 1999 and October 2002. Report on recovery of the balance amount has not been received (December 2003).

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

## D - PROFESSION TAX

### 5.6 Non/short realisation 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. In the case of salary and wage earners the employer is required to obtain a registration certificate and deduct tax at the rates prescribed in the schedule and remit it to Government.

During test check of records in ten Profession Tax Offices<sup>7</sup> it was noticed that 655 persons enrolled had not paid profession tax amounting to Rs 12.31 lakh for various periods falling between 1997-1998 and 2001-2002. Further, in three offices<sup>8</sup>, there was short recovery of Rs 0.63 lakh in respect of 88

<sup>5</sup> **R.D.C.:** Akola, Amravati, Aurangabad, Hingoli, Latur, Mumbai, Nanded and Wardha.

**Tahasildars:** Andheri Zone I, III and IV Borivali Zone V, VI, VII and VII-A, Kurla Zone IX, X, EDO Pune Zone A and E

<sup>6</sup> Amravati, Akola, Aurangabad, Hingoli, Latur, Mumbai (city), Mumbai (suburbs), Nanded, Pune and Wardha.

<sup>7</sup> Aurangabad, Barshi, Kalyan, Malegaon, Nagpur, Parbhani, Ratnagiri, Sangli, Sindhudurg and Yeotmal

<sup>8</sup> Akola, Buldhana and Mumbai

enrolled persons and Rs 1.53 lakh in the cases of three registration certificate holders for periods falling between 1998-99 and 2000-01.

On this being pointed out, the Department recovered Rs 4.15 lakh in 161 cases between September 1999 and December 2002. Report of recovery of the balance amount has not been received (December 2003).

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

## **E - REPAIR CESS**

### **5.7 Short levy of repair and reconstruction cess**

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

In Mumbai, it was noticed in 'G' and 'F'(South) wards that in respect of 62 properties repairs were completed between April 2000 and March 2001. However, due to application of incorrect slab rates an amount of Rs 13.12 lakh was levied short for the year 2000-2001.

On this being pointed out in audit, demands for Rs 1.21 lakh were raised in May 2002 at revised rates in respect of five properties in 'F' (South) ward by the Department. Report of recovery and action taken in the remaining cases has not been received (December 2003).

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

### **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 Brihan 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 therefrom 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.

As per information furnished by the Brihan Mumbai Municipal Corporation, repair cess amounting to Rs 42.41 crore collected by it during the period April 2002 to 31 March 2003 was not remitted to government account. No action was taken by the Department to get the government dues credited into government account.

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

## **F - TAX ON BUILDINGS (With Larger Residential Premises)**

### **5.9 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. If any municipal corporation 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 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>9</sup> of the Brihan Mumbai Municipal Corporation, it was noticed that government revenue amounting to Rs 1.47 crore collected on account of tax on buildings during the periods falling between June 2000 and March 2002 was not credited to government account.

On this being pointed out in audit, the municipal corporation stated in August 2002 and April 2003 that the amount was not remitted owing to non-receipt of its dues from the Government. The reply of the corporation is not tenable as such retention is against the provisions of the Act.

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

### **5.10 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 meters 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. The tax is collected in the same manner in which property tax is collected by the municipal corporations.

It was noticed in audit that tax of Rs 82.43 lakh in respect of 2,488 properties for the period 1999-2000 and 2000-2001 was not demanded by the Brihan Mumbai Municipal Corporation. Similarly, the Kolhapur Municipal Corporation did not raise demands for Rs 0.75 lakh in respect of 113

<sup>9</sup> Mumbai (Eastern Suburbs) and Mumbai (Western Suburbs)

properties for the year 2000-2001. The total non-levy of tax amounted to Rs 83.18 lakh.

On this being pointed out, the municipal corporations raised demands for the years 1999-2000 and 2000-2001 and recovered Rs 2.15 lakh in 106 cases for the year 1999-2000 and Rs 48.59 lakh in 1,449 cases for 2000-2001. Report on recovery of the balance amount has not been received (December 2003).

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