

**CHAPTER III**  
**TAXES ON MOTOR VEHICLES AND**  
**STAMP DUTY & REGISTRATION FEES**

**3.1 Results of audit**

Test check of records relating to taxes on motor vehicles and stamp duty and registration fees conducted during the year 2003-04 revealed short/non-levy of duty, loss of revenue *etc.*, amounting to Rs 42.55 crore in 2,059 cases as detailed below:

Sl. No.	Category	No. of cases	Amount (in crore of rupees)
<b>A TAXES ON MOTOR VEHICLES</b>			
1.	Non-levy/short levy of tax due to incorrect application of rates	1,425	2.43
2.	Miscellaneous	7	0.05
	<b>Total</b>	<b>1,432</b>	<b>2.48</b>
<b>B STAMP DUTY AND REGISTRATION FEES</b>			
3.	Non-levy of stamp duty on instruments executed by co-operative societies	27	1.64
4.	Incorrect grant of exemption of stamp duty and registration fees	101	3.10
5.	Short levy due to misclassification of documents	128	12.48
6.	Short levy due to under valuation of property	333	4.58
7.	Review on <b>Working of internal controls in collection of Stamp Duty</b>	1	16.92
8.	Other irregularities	37	1.35
	<b>Total</b>	<b>627</b>	<b>40.07</b>
<b>Grand Total:</b>		<b>2,059</b>	<b>42.55</b>

During the year 2003-2004, the Department accepted and recovered under-assessments *etc.*, in 688 cases amounting to Rs 0.89 crore, of which 158 cases involving Rs 0.13 crore had been pointed out during 2003-04 and the rest in earlier years.

A review on **Working of internal controls in collection of Stamp Duty** involving Rs 16.92 crore and a few illustrative cases involving Rs 1.90 crore are given in the following paragraphs:

## SECTION A TAXES ON MOTOR VEHICLES

### 3.2 Non/short recovery of motor vehicles tax

Under the Bombay Motor Vehicles Tax Act, 1958 (BMVT Act) and the Rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State and is payable in advance by the registered owner of the vehicle. Payment of one time tax was made compulsory for light motor vehicles (LMVs) registered on or after 1 May 2000 and extended from 30 May 2001 to existing LMVs paying tax at the annual rate. Interest at the rate of two *per cent* of the amount of tax for each month or part thereof is payable in each case of default in payment of tax dues.

During the course of test check of records in 17 offices<sup>1</sup>, it was noticed between October 2000 and August 2003, that in respect of 786 vehicles, tax was either not recovered or short recovered resulting in under-assessment of tax amounting to Rs 1.25 crore.

After this was pointed out, the Department intimated recovery of Rs 45.07 lakh including interest of Rs 9.55 lakh in respect of 429 vehicles. Report on recovery in respect of the remaining vehicles has not been received (February 2005).

The matter was reported to Government in March 2004 and May 2004; their reply has not been received (February 2005).

### 3.3 Non-realisation of motor vehicles tax

Under the BMVT Act and the Rules made thereunder, tax shall be levied on every motor vehicle used or kept for use in the state unless prior intimation of non-use of the vehicle is given to the taxation authority on or before the date of expiry of the period for which tax has been paid, specifying inter *alia* the period of non use and the place where the motor vehicle would be kept during such period. If, at any time, during the period of non-use the vehicle is not found at the declared place, it shall be deemed to have been used through out the said period and the owner of the vehicle is liable to pay tax and interest at the prescribed rate for that period.

It was noticed in the office of the Regional Transport Officer, Nagpur that declarations of non-use in respect of two vehicles for the period from 2 February 1998 to 31 January 2004 were received from the owner of the vehicle in advance. On verification by the Inspector of Motor Vehicles in August 1999, the vehicles were not found at the declared place of parking. However no action was taken by the taxation authority to realise the tax and levy interest for violation of the non-use declaration. This resulted in under-assessment of Rs 14.26 lakh including interest of Rs 5.91 lakh.

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<sup>1</sup> R.T.O./D.R.T.O. offices at Ahmednagar, Aurangabad, Jalna, Kalyan, Kolhapur, Latur, Mumbai (Central), Mumbai (East), Osmanabad, Pune, Pimpri-Chinchwad, Parbhani, Pen, Ratnagiri, Solapur, Sindhudurg and Thane.

After this was pointed out in February 2003, the Department accepted the non-recovery of tax and stated that Revenue Recovery Certificates for realisation of the dues had been issued on 28 May 2003. Report on recovery has not been received (February 2005).

The matter was reported to Government in April 2004; their reply has not been received (February 2005).

### **3.4 Delay in filing of returns**

Under the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 and the rules made thereunder, every stage carriage operator is required to submit a monthly return in Form IV to the taxation authority not later than the seventh day of the month immediately following the month to which the return relates.

Test check of returns filed by the Solapur Municipal Transport for the periods between October 1998 and November 2001 in the office of the Deputy Regional Transport Officer, Solapur revealed that monthly returns were filed late with delays ranging from one month to six months.

There is no provision in the Act or Rules for levy of penalty for non-filing/delay in filing of returns. The Department has not moved a formal proposal for getting this lacuna removed.

The matter was reported to Government in May 2004; their reply has not been received (February 2005).

## **SECTION B**

### **STAMP DUTY AND REGISTRATION FEES**

#### **3.5 Review on Working of internal controls in collection of Stamp Duty.**

##### *Highlights*

**During the course of inspection, it was observed that 13 treasuries had not sent annual forecast to Superintendent of Stamps as provided in rules.**

*(Paragraph 3.5.7)*

**Licensed Stamp Vendors/Stamp Vendors whose licenses were suspect had sold/sold in excess insurance stamps of Rs 16.92 crore during the period from April 1994 to March 2004.**

*(Paragraph 3.5.8)*

##### **3.5.1 Introduction**

The Indian Stamp Act, 1899 and Rules made thereunder as amended from time to time regulate the levy of stamp duty on various instruments. The Stamps and Registration department is empowered by Bombay Stamp Act, 1958 and rules made thereunder to appoint Licensed Stamp Vendors (LSVs) through the Joint District Registrar (JDR) of the concerned district for sale of stamps. Superintendent of Stamps (SoS) Mumbai who is also an ex-officio vendor is required to place indents for all categories of stamps on the Central Store Depot (CSD), Nashik. The treasury officer of the respective district receives stamps directly from CSD. The sale of stamps to the general public is effected directly through ex-officio vendors, treasuries or through the LSVs. Franking machines are also in use since 1994 for collection of stamp duty. Stamps required for instruments upto Rs 2000 (Rs 10000 from February 1999) can be sold by the LSVs. They in turn collect the stamps from treasuries by remitting sale value net of discount through treasury challans. The treasuries are required to submit the account of sale of stamps to the Accountant General in the form of monthly receipt schedules, plus minus memoranda and annual store accounts.

##### **3.5.2 Organisational set up**

At the apex level, Secretary, Relief and Rehabilitation(R&R) heads the Department. Responsibility for overall administration of these acts is entrusted to Inspector General of Registration (IGR), Pune. Forecasting, procurement and indenting of stamps is the responsibility of SoS, Mumbai who reports to IGR, Pune. IGR is assisted by eight Deputy Inspector General of Registration, and 36 JDRs. Realisation of stamp duty and registration fee through registered documents is the responsibility of 312 Sub Registrars (SRs).

### 3.5.3 Audit objectives

A review was conducted with a view to:

- draw assurance that the indenting and supply of stamps was based on actual requirement and that gap in indenting/supply did not lead to artificial shortages of stamps;
- compare secondary data from organisations other than stamp and registration authorities to ascertain gaps, if any, in the sale and use of stamps for documents that did not require registration; and
- detect the weakness/failures of internal controls leading to possible leakage of revenue.

### 3.5.4 Scope of audit

The review confined to overall indenting, receipt and sale of non-judicial stamps for entire State covering the period from 1996-97 to 2002-03<sup>2</sup> was conducted between February and September 2004 by referring to the records of IGR, SoS, JDRs and SRs of 12<sup>3</sup> out of 33 districts in Maharashtra. Inputs were also obtained from the auditors of India Security Press (ISP), Nashik where considered necessary.

### 3.5.5 Discrepancies between departmental figures of receipt (actuals) and figures as per Finance Accounts

The administration of Stamp Act is with the Department of Revenue and Forests whereas the treasuries realising the sale value of stamps are under the administrative control of the Finance Department. An effective periodical reconciliation of receipts between two departments is therefore necessary.

As per information furnished by the IGR, non-judicial stamps worth Rs 11,023.82 crore were sold during the years 1997-1998 to 2002-2003 whereas the Finance Accounts disclosed the revenue realisation of Rs 10,564.76 crore as detailed below:

(Amount in crore of rupees)

Year	Actual Receipt Non-Judicial		Variation
	IGR	Finance Account	
1997-1998	1,443.20	1,453.15	9.95
1998-1999	1,406.43	1,263.27	(-) 143.16
1999-2000	1,680.95	1,500.09	(-) 180.86
2000-2001	1,936.92	1,901.86	(-) 35.06
2001-2002	2,099.83	2,073.79	(-) 26.04
2002-2003	2,456.49	2,372.60	(-) 83.89
<b>Total</b>	<b>11,023.82</b>	<b>10,564.76</b>	<b>(-) 459.06</b>

<sup>2</sup> Observations covering the period upto 2003-2004 are also included where possible.

<sup>3</sup> Aurangabad, Ahmednagar, Jalgaon, Kolhapur, Mumbai, Nashik, Nagpur, Pune, Raigad, Sangli, Thane and Wardha.

Difference between these figures revealed that the reconciliation of figures was not done between the two departments.

Secretary(R&R) in response claimed in November 2004 that there is sufficient co-ordination between the two departments and IGR. He, however, accepted that there were lapses in the reporting mechanism between SoS and Treasuries and from Treasuries to the Accountant General.

### **3.5.6 Forecasting and indenting**

In accordance with the provisions of Government of India Rules for the supply and distribution of stamps, SoS is the controlling officer to obtain annual forecast of non-postal stamps from treasuries in the State. SoS has to send a forecast in the prescribed format in respect of non-postal stamps to CSD not later than 15<sup>th</sup> June of each year. The forecast is to be prepared on the basis of the average sale for the preceding three years. The officer in charge of treasury sends indent to the SoS who in turn must scrutinise the indent and pass the quantity.

- During the course of inspection of 19 treasuries out of 33 it was observed that 13 treasuries<sup>4</sup> did not submit annual forecast to SoS as provided in rules.

Director of Accounts and Treasuries while accepting the lapse in November 2004 informed that treasury officers were instructed to observe the time schedule provided in the rules.

- Each treasury officer is required to maintain a reserve stock of stamps not less than the probable consumption of two months in addition to the stock required for the quarterly or four monthly or annual consumption as the case may be. While placing the indents, the treasury officers should take into account the reserve stock of stamps for few months duration.

Test check of records revealed that Pune treasury held huge inventories in the categories of general, special adhesive, insurance, share transfer and foreign bill stamps. The opening stock of stamps in these categories in treasury was Rs 2,981.41 crore as on 1 April 1996. Stamps worth Rs 644.43 crore were received from CSD Nashik and other treasuries by way of inter-treasury transfers up to 31 March 2003. During this period the sale of stamps was Rs 620.23 crore only, leaving closing stock of Rs 3,005.61 crore as on 31 March 2003. If only SoS had taken into account surplus stock available with the treasury, placing of indents for 13<sup>5</sup> other districts for stamps worth Rs 1,210.04 crore with CSD could have been avoided. Further, it was also noticed that in two<sup>6</sup> treasuries reserve stock of stamps was not maintained in two categories of stamps for a period ranging from 23 to 288 days during the year 2001-02. This showed lack of control by SoS on placing of indents.

Director of Accounts and Treasuries stated in November 2004 that treasury officers had to place the demand for a particular denomination of stamps even

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<sup>4</sup> Akola, Beed, Buldhana, Chandrapur, Gadchiroli, Gondia, Jalna, Nagpur, Nanded, Osmanabad, Parbhani, Wardha and Yeotmal

<sup>5</sup> Thane, Raigad, Ratnagiri, Sindhudurg, Kolhapur, Solapur, Satara, Ahmednagar, Jalgaon, Nashik, Dhule, Nandurbar, Sangli

<sup>6</sup> Yavatmal and Osmanabad

though the stock of stamps of other denominations is heavy. However, the treasury officers were being directed to transfer the stock of the stamps which is not required by them to other treasuries with the consent of the SoS. The Treasury Officers were also being directed to take into account the reserve stock to be kept while placing the indents and to expedite the supply.

### 3.5.7 Weaknesses in monitoring stamp stocks and sales

- Lack of control over franking machine

To check the discrepancies in operation of franking machine, rules regarding franking were finalised and published.

In spite of the rules framed, it was noticed in Jalgaon District that the JDR had loaded franking machine provided to one SR for Rs 5 crore against the authorisation of Rs 1 crore by the IGR.

Secretary (R&R) stated in November 2004 that necessary action in the form of promulgation of new rules and reporting mechanism is being taken to avoid such instances.

- Incorrect accounting of stamp receipts

Treasury officers prepare a consolidated plus/ minus memorandum showing the value of opening stock, stamps sold and value of closing stock during the month for the whole district. The sale of stamps for the entire district should normally agree with the receipt schedules for the month of the district.

Test check of records of three<sup>7</sup> district treasuries for the period from 1997-98 to 2002-03 revealed that total receipts as per receipt schedules (*i.e.* cash deposit challans) was more by Rs 55.92 crore than the plus/ minus memorandum as detailed below.

(Amount in crore of rupees)

Name of the treasury	Period	Figures of plus/minus memos	Figures of receipt schedule	Difference
Ahmednagar	4/1997 to 3/2003	135.79	187.63	(-) 51.84
Dhule	5/1998 to 3/2003	33.17	34.91	(-) 1.74
Solapur	2/2001 to 3/2003	25.13	27.47	(-) 2.34
<b>Total</b>				<b>(-) 55.92</b>

Director of Accounts and Treasuries stated in November 2004 that difference in the two sets is due to inclusion of receipts of franking charges and other receipts of registration department in the total of receipt schedule. Therefore, total sale figure of stamps will never agree with the total receipt schedules under the major head "0030 Stamps and Registration Department". Reply is

<sup>7</sup> Ahmednagar, Dhule and Solapur.

not tenable as there is a separate sub-major head for accounting registration fees. Further reply has not been received (February 2005).

### 3.5.8 Analysis of selected Vendors Accounts

- Test-check of 265 vendors records selected on the basis of statistical sampling revealed that in the case of 25 vendors, the value of stamps sold for the period from 1996 to 2004 in six<sup>8</sup> treasuries was in excess by Rs 36.88 lakh than the value of stamps received from treasuries after discount.
- Licensed stamp vendors of Jalgaon, Mumbai and Pune had sold insurance stamps to LIC Divisions outside the State in excess of Rs 8.48 crore than purchased by them from respective treasuries during the years from 1995-96 to 2001-02.
- Stamp vendors whose licenses were suspect, sold insurance stamps of Rs 8.07 crore to LIC Divisions outside the State from April 1994 to March 2003.

### 3.5.9 Internal audit

An effective Internal Audit (IA) wing always acts as deterrent to any major irregularity. The IA wing of this Department consists of five employees to cover 312 SRs offices. The Department originally planned to cover 36 units per year from 1996-97. However, it could cover only 102 units up to 2003-2004 as detailed below.

(Amount in lakh of rupees)

Year	Targeted units	Units audited	Objections raised	Amount involved	Pending objections	Amount involved
1996-1997	36	22	102	19.35	48	18.28
1997-1998	36	15	78	113.17	15	48.94
1998-1999	36	13	69	137.13	21	125.24
1999-2000	36	5	16	0.91	4	0.19
2000-2001	36	30	269	6.99	15	3.45
2001-2002	36	7	71	71.89	59	67.17
2002-2003	36	8	139	25.59	30	25.59
2003-2004	36	2	25	3.30.	25	3.30
<b>Total</b>	<b>288</b>	<b>102</b>	<b>769</b>	<b>378.33</b>	<b>217</b>	<b>292.16</b>

<sup>8</sup> Aurangabad, Jalgaon, Nagpur, Pune, Raigad and Sangli.



Failure to cover the targeted units planned resulted in increase in arrears of 65 *per cent* of units not being audited besides objections worth Rs 292.16 lakh remaining unsettled.

#### **3.5.10 Conclusions**

- There were lapses in the reporting mechanism between SoS and treasuries and from treasuries to Accountant General.
- Lapses in monitoring of LSVs at certain places were noticed.

#### **3.5.11 Recommendations**

It is recommended that :

- Monitoring of accounts of LSVs needs to be strengthened.
- Collection of stamp duty can be entrusted to designated banks.
- Internal audit wing of the IGR should be made more effective.

The report was referred to the Department and the Government in September 2004. Government stated in November 2004 that the review has given valuable suggestions by way of pinpointing shortcomings in certain procedures and lapses in compliance to certain rules and procedure relating to indent and supply. Certain flaws in reporting mechanism have also been spelt out. These recommendations are being looked into so as to address any shortcomings in future.

### **3.6 Short levy of stamp duty on lease deed**

Stamp duty on lease deeds, where the lease purports to be for a period in excess of three years but not more than 10 years, is leviable on thrice the amount of annual average rent at the rates prescribed in Schedule I to the Bombay Stamp Act.

In Sub-Registry (SR) Andheri at Bandra (Mumbai), a lease deed was executed in March 2001 for a period of 10 years involving a dutiable consideration of Rs 66.12 lakh on which the stamp duty of Rs 6.61 lakh was to be levied against which stamp duty of only Rs 0.91 lakh was levied. This resulted in short levy of stamp duty of Rs 5.70 lakh.

After this was pointed out in November 2002, the Inspector General of Registration (IGR), Pune accepted the audit observation in December 2003. Report on recovery has not been received (February 2005).

The matter was reported to the Government in April 2004; their reply has not been received. (February 2005).

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

As per the Bombay Stamp Act, stamp duty and registration fees on instruments relating to conveyance is to be levied on the true market value of the property which has to be ascertained by the registering authority by referring to the annual statement of rates of the area issued by the Chief Controlling Revenue Authority every year. In case the registering officer

finds the market value as stated in the instrument less than the minimum value prescribed by the statement, he shall refer the same to the Collector of the district for determination of true market value of the property which is the subject matter of the instrument. He is also required to prefer the deficient amount of stamp duty on such documents along with a penalty at the rate of *two per cent* per month of such deficiency.

In two<sup>9</sup> SRs, two instruments of conveyance were registered in January 2000 and March 2002 wherein stamp duty of Rs four lakh was charged on a consideration of Rs 1.03 crore set forth in those instruments without verifying the true market value of the property by referring to the annual statement of rates. It was noticed in December 2001 and April 2003 that true market value of the property mentioned in the documents worked out to Rs 3.38 crore as per rates mentioned in the annual statement of rates. This resulted in short levy of stamp duty amounting to Rs 45.52 lakh including penalty of Rs 20.32 lakh.

After this was pointed out between December 2001 and April 2003, the IGR accepted the short levy of stamp duty in both the cases except penalty in one case<sup>10</sup> without assigning any reasons. Report on recovery has not been received (February 2005).

The matter was referred to the Government in May 2004; their reply has not been received (February 2005).

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<sup>9</sup> Haveli-I, Pune and Andheri at Bandra (Mumbai)

<sup>10</sup> Haveli-I, Pune