

CHAPTER-III TAXES ON MOTOR VEHICLES

3.1 Results of Audit

Test check of records relating to assessment, collection and refunds of motor vehicles tax in the office of the State Transport Authority (STA), Orissa and the Regional Transport Offices (RTOs), conducted during 2004-05 revealed underassessment of tax and loss/blocking of revenue amounting to Rs.40.70 crore in 2,18,915 cases which may broadly be categorised as under:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1.	Non levy/realisation of motor vehicles tax/additional tax and penalty.	16,337	31.86
2.	Non/short realisation of compounding fee/permit fee/process fee etc.	1,96,812	2.68
3.	Short realisation/levy of motor vehicles tax/additional tax.	785	2.61
4.	Blockage of revenue due to non disposal of vehicle check reports.	3,535	2.04
5.	Other irregularities.	260	1.04
6.	Non/short realisation of composite tax and penalty.	1,083	0.44
7.	Non/short realisation of trade certificate tax/fee.	100	0.02
8.	Non/short accountal of revenue receipts.	3	0.01
Total		2,18,915	40.70

During the year 2004-05, the Department accepted underassessment etc of tax and penalty of Rs.6.46 crore in 4,331 cases inclusive of Rs. 1.55 crore in 799 cases pointed out in 2004-05. The Department recovered Rs.1.86 crore in 2,430 cases including realisation of Rs.70 lakh in 449 cases pointed out in audit during the year 2004-05.

A few illustrative cases highlighting important audit observations involving Rs.36.99 crore are discussed in the following paragraphs.

3.2 Non/short realisation of motor vehicles tax/additional tax

Under the Orissa Motor Vehicles Taxation Act (OMVT Act), 1975 tax due on motor vehicles should be paid in advance within the prescribed period at the rates prescribed in the Act unless exemption from payment of such tax is allowed for the period covered by off road declarations. Penalty is to be charged at double the tax due, if tax is not paid within two months of the expiry of the grace period, i.e. 15 days.

Test check of records of 23 regions¹ between June 2004 and March 2005 revealed that the motor vehicles tax/additional tax of Rs.10.27 crore in 15,746 cases was either not realised or realised short for the period between January 2002 and March 2004. This resulted in non realisation of Government revenue of Rs.30.83 crore including penalty of Rs.20.56 crore as detailed below:

<i>(Rupees in crore)</i>							
Sl. No.	No. of regions Nature of irregularities	Period	No. of vehicles	Non realisation of tax	Short realisation of tax	Total	Penalty leviable
1.	<u>20</u> Non realisation of motor vehicles tax/additional tax from goods vehicles	April 2002 and March 2004	8,078	7.16	-	7.16	14.32
Remarks- The Department recovered tax and penalty of Rs.41.52 lakh in 197 cases and raised demand of Rs.60.85 lakh in 259 cases. Final reply in other cases was not received (October 2005).							
2.	<u>19</u> Non realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2003 and March 2004	2,452	1.46	-	1.46	2.93
Remarks- The Department recovered tax and penalty of Rs.3.25 lakh in 30 cases and raised demand of Rs.3.25 lakh in 20 cases. Final reply in other cases was not received (October 2005).							
3.	<u>21</u> Non realisation of motor vehicles tax from tractor trailer combination	April 2003 and March 2004	4,788	1.27	--	1.27	2.55
Remarks- The Department recovered tax and penalty of Rs.3.10 lakh in 31 cases and raised demand of Rs.0.43 lakh in five cases. Final reply in other cases was not received (October 2005).							
4.	<u>22</u> Non/short realisation of motor vehicles tax/additional tax in respect of stage carriages	January 2002 and March 2004	428	0.31	0.07	0.38	0.76
Remarks- The Department recovered tax and penalty of Rs.12.60 lakh in 40 cases and raised demand of Rs.1.85 lakh in nine cases. Final reply in other cases was not received (October 2005).							
TOTAL			15,746	10.20	0.07	10.27	20.56

After this was pointed out in audit between June 2004 and March 2005, all the taxing officers agreed to realise the dues.

The matter was brought to the notice of the Transport Commissioner (TC)/ Government in April 2005. The TC stated in June 2005 that Rs.60.47 lakh had been recovered in 298 cases and demand of Rs.66.38 lakh raised in 293 cases. Final reply in other cases had not been received (October 2005).

¹ Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

3.3 Non realisation of fees at revised rates

As per Motor Vehicle Act (MV Act), 1988 read with Government of Orissa, Commerce and Transport (Transport) Department notification of January 2003, rate of various fees was revised with effect from 28 January 2003.

Test check of records in STA, Orissa, Cuttack and 26 regions² including check gates between June 2004 and December 2004 revealed that in 1,65,833 cases fees for the period between 28 January 2003 and 31 March 2004 was realised at the pre revised rate. Non realisation of fees at the revised rate resulted in short realisation of Rs.2.01 crore.

After this was pointed out in audit between June 2004 and March 2005, STA, Orissa and all RTOs except Cuttack, Koraput and Mayurbhanj stated between June 2004 and March 2005 that the collection of fees was postponed as per Government of Orissa, Commerce and Transport (Transport) Department order of March 2003. The reply was not tenable since executive orders could not overrule the statutory provisions. The RTO, Cuttack, Mayurbhanj and Koraput agreed to realise fees.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.4 Non realisation of revenue for non disposal of vehicle check reports

In exercise of powers conferred by Section 200 of MV Act, Government of Orissa, Commerce and Transport (Transport) Department in its notification dated 29 September 1995 empowered specific officers of Orissa Motor Vehicles Department to exercise check and realise compounding fees from all motor vehicles committing offences under various sections of the Act *ibid*. TC issued directives/instructions from time to time for expeditious disposal of pending vehicle check reports (VCRs).

Test check of records of STA, Orissa and 16 regions³ between July 2004 and March 2005 revealed that 9,502 VCRs remained undisposed out of 44,304 VCRs issued in the year 2003-04. In audit 3,467 VCRs were test checked and it was found that no action was taken to dispose of these reports involving Rs.2 crore resulting in non realisation of Government revenue to that extent.

2 Angul, Balasore, Baragarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangapur, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

3 Bhadrak, Bolangir, Chandikhol, Cuttack, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Keonjhar, Koraput, Nayagarh, Nawarangapur, Puri, Rourkela, Sambalpur and Sundargarh.

After this was pointed out in audit between July 2004 and March 2005, the Department recovered Rs.4 lakh in 69 cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.5 Short realisation of one time tax on advalorem basis

Under section 4A of OMVT Act, the owner of every motor vehicle (being a motor car) covered under schedule I appended to the Act, was liable to pay one time tax at the rate equal to 10 times the annual rate of tax. The said provision was amended with effect from February 2003. As per amended provision, the owner of every motor vehicle (being a motor car) covered under the schedule I appended to the Act is liable to pay one time tax on advalorem basis at five *per cent* of the cost of the vehicle at the time of initial registration.

Test check of the registration records of four regions⁴ between July 2004 and February 2005 revealed that the taxing officers realised one time tax of Rs.24.75 lakh only as against Rs.76.64 lakh realisable at revised rate in respect of 323 vehicles registered between February 2003 and March 2004. This resulted in short realisation of Rs.51.89 lakh.

After this was pointed out in audit between July 2004 and February 2005, all the taxing officers agreed between July 2004 and February 2005 for realisation of dues.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.6 Non realisation of composite tax for goods vehicles under reciprocal agreement

Under the provisions of the OMVT Act, when a goods vehicle enters the State under the terms of any agreement between the Government of Orissa and Government of any other State, it is liable to pay additional tax for each entry into the State at the prescribed rates. Government of Orissa decided in February 2001 that goods vehicles belonging to Andhra Pradesh authorised to ply in Orissa under the reciprocal agreement were required to pay composite tax of Rs. 3,000 per vehicle per annum. The tax was payable in advance in lumpsum on or before 15 April every year by crossed bank drafts to the STA, Orissa. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof was also leviable in addition to composite tax.

Test check of records of STA, Orissa in July 2004 revealed that out of 1,623 goods vehicles registered in the State of Andhra Pradesh authorised to ply in

⁴ Bhadrak, Bhubaneswar, Chandikhol and Sambalpur.

Orissa under reciprocal agreement during 2003-04, composite tax for 898 goods vehicles amounting to Rs. 26.94 lakh was not realised. Besides, penalty of Rs. 10.78 lakh (calculated upto March 2004) was also leviable.

After this was pointed out in audit in July 2004, the STA, Orissa recovered Rs.5.25 lakh in 125 cases.

The matter was referred to the Department/Government in December 2004; reply had not been received (October 2005).

3.7 Non/short realisation of motor vehicles tax/additional tax from stage carriages plying without permits

Under the OMVT Act, motor vehicles tax and additional tax in respect of a stage carriage is leviable on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance to be covered in a day as per the permits. If such a vehicle is detected plying without a permit, the tax/additional tax payable is to be determined on the basis of the maximum number of passengers (including standees) which the vehicle would have carried reckoning the total distance covered each day as exceeding 320 kilometers i.e. at the highest rate of tax as per taxation schedule. In case of default, penalty of double the tax due is leviable.

Test check of records of 19 regions⁵ between June 2004 and March 2005 revealed that 102 stage carriages were detected plying without permit between April 2003 and March 2004. Motor vehicles tax/additional tax from these vehicles was either not collected or collected at lesser rates resulting in non/short realisation of tax amounting to Rs.11.36 lakh. Besides, penalty of Rs.22.71 lakh was also leviable.

After this was pointed out in audit between June 2004 and March 2005, the Department recovered tax and penalty of Rs.0.17 lakh in one case and raised demand of Rs.0.53 lakh in one case.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.8 Non/short levy of penalty on belated payment of motor vehicles tax and additional tax

Under the OMVT Act and the Rules made thereunder, penalty ranging from 25 to 200 *per cent* of the tax shall be leviable if a vehicle owner has not paid tax and additional tax within the specified period.

5 Angul, Bargarh, Bhadrak, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangpur, Phulbani, Rayagada, Sambalpur and Sundergarh.

Test check of records of 22 regions⁶ between June 2004 and March 2005 revealed that in 264 cases, no penalty was levied by the taxing authorities though taxes were paid belatedly. Further in 165 cases, penalty was short levied. Demand notices for realisation of penalty in these cases were not issued by RTOs. This resulted in non/short levy of penalty of Rs.33.42 lakh for the period between April 1999 and March 2004.

After this was pointed out in audit between June 2004 and March 2005, the Department recovered penalty of Rs.1.03 lakh in 13 cases and raised demand of Rs.3.76 lakh in 40 cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.9 Non/short realisation of motor vehicles tax/additional tax from stage carriages plying under reciprocal agreement on inter state routes having permits

Where, in pursuance of any agreement between the Government of Orissa and Government of any other State, a stage carriage plies on a route partly within the State of Orissa and partly within other State, such stage carriage is liable to pay tax/additional tax calculated on the total distance covered by it, on the approved route in the State of Orissa, at the rates and in the manner specified under the OMVT Act and Rules made thereunder. In case tax is paid beyond two months after the grace period, penalty is to be charged at double the tax due.

Test check of records of STA, Orissa, Cuttack and six regions⁷ between June 2004 and February 2005 revealed that motor vehicles tax/additional tax in respect of 39 stage carriages authorised to ply on inter state routes under reciprocal agreement were not realised in full. It was further revealed that 25 stage carriages out of 39 did not pay tax for the last 12 months between April 2003 and March 2004. Thus there was non/short realisation of motor vehicles tax/additional tax of Rs.7.94 lakh. Penalty of Rs.15.88 lakh was also leviable for non payment of dues.

After this was pointed out in audit between June 2004 and February 2005, the Department recovered tax and penalty of Rs.1.50 lakh in three cases and raised demand of Rs.9.02 lakh in 14 cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

6 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jagatsingpur, Jharsuguda, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangpur, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

7 Balasore, Ganjam, Keonjhar, Koraput, Rourkela and Sambalpur.

3.10 Non realisation of motor vehicles tax/additional tax from motor vehicles which violated off road declaration

Under the OMVT Act as amended, motor vehicles tax/additional tax shall be levied on every motor vehicle used or kept for use in the State of Orissa unless prior intimation of non use of the vehicle is given to the Taxing Officer 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 is to be kept during such period. If, at any time, during the period covered by such off road declaration, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period. In such case, the owner of the vehicle is liable to pay tax and penalty at double the tax due for the entire period for which it was declared off road.

Test check of records of eight regions⁸ between June 2004 and February 2005 revealed that out of 12 motor vehicles under off road declarations for the periods between September 2002 and March 2004, four were detected plying and eight were not found at the declared places by the enforcement staff during the period covered by such off road declarations. No action was taken as per the findings of the reports by the taxing officers to realise the tax and levy penalty for violation of off road declaration. This resulted in non realisation of tax and additional tax of Rs.12.42 lakh including penalty of Rs.8.28 lakh.

After this was pointed out in audit between June 2004 and March 2005, the Department raised demand of Rs.6.03 lakh in four cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.11 Non realisation of differential tax in respect of stage carriages issued with special contract carriage permits

Under the OMVT Act, as amended, when a vehicle in respect of which motor vehicles tax/additional tax for any period has been paid as per registration is proposed to be used in a manner as to cause it to become a vehicle in respect of which higher rate of motor vehicles tax/additional tax is payable, the owner of the vehicle is liable to pay the differential tax. In case of default in payment on due date, penalty of double the tax due is also leviable for the period of delay beyond two months.

Test check of records of 14 regions⁹ between July 2004 and February 2005 revealed that 72 stage carriages were permitted to ply temporarily as contract carriage on which higher rate of tax was applicable. Though differential tax was not paid in advance, RTOs did not take any action to raise demand for the

8 Balasore, Bargarh, Bhadrak, Dhenkanal, Ganjam, Mayurbhanj, Sambalpur and Sundergarh.

9 Bargarh, Bhadrak, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Phulbani, Puri, Rayagada, Rourkela and Sundergarh.

same. This resulted in non realisation of motor vehicles tax/additional tax of Rs.2.54 lakh. Besides, penalty of Rs.5.08 lakh was also leviable.

After this was pointed out in audit between July 2004 and February 2005, the RTOs recovered Rs.0.42 lakh in two cases. Final replies in other cases were awaited (October 2005).

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.12 Short realisation of composite tax under National Permit Scheme

As per Government of Orissa notification of February 1999, composite tax for goods carriages belonging to other States/Union Territories plying in Orissa under the National Permit Scheme will be payable at the rate of Rs. 5,000 per annum per vehicle in advance in one instalment. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof is also leviable.

Test check of records in the office of the STA, Orissa between June and July 2004 revealed that composite tax in respect of 185 goods carriages belonging to operators of other States authorised to ply in Orissa during 2003-04 under National Permit Scheme was realised short by Rs. 4.36 lakh as the vehicle operators did not pay composite tax in one instalment. Besides, penalty of Rs.2.20 lakh was leviable due to default in full payment of composite tax. This resulted in short realisation of composite tax of Rs.6.56 lakh.

After this was pointed out in audit between June and July 2004, the TC stated in August 2004 that action would be taken for realisation of dues.

The matter was brought to the notice of Government in December 2004; reply had not been received (October 2005).

3.13 Non realisation of differential tax from private vehicles plying on hire or reward

Under Section 2(22) of MV Act, "maxi cab"¹⁰ plying for hire or reward is to be taxed depending upon the potential nature of use of the vehicle as per circular of 1996 of STA, Orissa. If the vehicle is used privately, an undertaking to that effect in the form of an affidavit before the Registering Authority in the manner prescribed is to be submitted by the owner stating that if at any time, the vehicle is found to be used in contravention of the undertaking, he shall be liable to pay tax under relevant section of OMVT Act. Besides penalty extending upto double the tax is leviable.

¹⁰ "maxi cab" means any motor vehicle constructed or adapted to carry more than six passengers but not more than twelve passengers excluding the driver, for hire and reward.

Test check of registration records, together with the VCRs in two regions¹¹ between November and December 2004 revealed that 14 vehicles having seating capacity of more than six passengers but not more than 12 passengers registered on the strength of affidavit that they would be used privately, were detected between August 1999 and February 2004 by the enforcement staff as plying for hire or reward. Even after detection by enforcement staff, no action was taken by the RTOs to realise the differential tax of Rs.1.77 lakh. Besides, penalty of Rs.3.55 lakh was also leviable.

After this was pointed out in audit between November and December 2004, the RTOs agreed in December 2004 to realise the dues.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.14 Non realisation of trade certificate tax/fees

Under the OMVT Act, read with Central Motor Vehicles Rules 1989, dealers in motor vehicles are required to obtain trade certificate from the registering authorities by paying the requisite tax/fees annually in advance. Under the MV Act, dealer includes a person who is engaged in building bodies on the chassis or in the business of hypothecation, leasing or hire purchase of motor vehicles.

Test check of records of five regions¹² between July 2004 and February 2005 revealed that in respect of 92 dealers, trade certificate tax and fees for the period 2003-04 were not realised. This resulted in non realisation of tax and fees amounting to Rs.2.02 lakh.

After this was pointed out in audit between July 2004 and February 2005, the Department recovered Rs.0.27 lakh in five cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

11 Bolangir and Koraput.

12 Chandikhol, Cuttack, Koraput, Phulbani and Sambalpur.