

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of records relating to assessment, collection and refund of motor vehicles tax in the office of the State Transport Authority (STA), Orissa and the regional transport offices conducted during 2005-06 revealed under assessment of tax and loss/blocking of revenue amounting to Rs.50.89 crore in 2,02,391 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Review on Receipts from Motor Vehicles Department	1	0.81
2	Non levy/non realisation of motor vehicles tax/additional tax and penalty	22,235	44.34
3	Non/short realisation of compounding fee/permit fee/process fee etc.	1,75,900	2.11
4	Blockage of revenue due to non disposal of vehicle check reports	1,658	0.94
5	Short realisation/short levy of motor vehicles tax/additional tax	607	0.54
6	Non/short realisation of composite tax and penalty	1,117	0.45
7	Non/short realisation of trade certificate tax/fees	164	0.04
8	Non/short accountal of revenue receipts	7	0.01
9	Other irregularities	702	1.65
Total		2,02,391	50.89

During the year 2005-06, the department accepted under assessment etc. of tax and penalty of Rs. 63.23 crore in 59,387 cases which were pointed out in earlier years. Of these, the department had recovered Rs. 3.96 crore in 8,330 cases. The department also recovered Rs. 0.54 lakh in seven cases pointed out in audit during the year 2005-06.

A few illustrative cases highlighting important audit observations involving Rs.41.99 crore including finding of a review “**Receipts from Motor Vehicles Department**” involving Rs.81.19 lakh are discussed in the following paragraphs.

3.2 Review on “Receipts from Motor Vehicles Department”

Highlights:

- ◆ Arrears amounting to Rs.131.50 crore were pending collection, out of which, demand for Rs.112.97 crore was not raised at all; while in respect of remaining arrears of Rs.18.53 crore, raising of demand could not be confirmed.

{Para 3.2.6.1}

- ◆ Inadequate pursuance/non institution of tax recovery proceedings led to non realisation of Rs.9.55 crore.

{Para 3.2.6.5, 3.2.6.6 and 3.2.6.7}

- ◆ In STA, Orissa and nine RTOs, 3,973 VCRs involving Rs.2.42 crore were not disposed of resulting in blockade of revenue to that extent.

{Para 3.2.7.1}

- ◆ Non issue of permits resulted in non realisation of Rs.38.81 lakh in seven regions.

{Para 3.2.8}

Introduction

3.2.1 Motor Vehicle Department is one of the largest revenue collecting departments of the State. Motor vehicles taxes are levied and collected under the provisions of Orissa Motor Vehicles Taxation Act (OMVT Act), 1975 and rules made thereunder. Besides, fees for licence, registration, fitness certificate, permit, appeal and amounts for compounding of offences are levied and collected under the provisions of the Motor Vehicles Act (MV Act), 1988 and the Rules made thereunder by the Central Government and the State Government.

Motor vehicles tax in respect of non transport vehicles are realised in lump sum as lifetime tax, whereas tax and additional tax from transport vehicles are realised quarterly/monthly at the rates specified in the Act.

Organisational set up

3.2.2 The Transport Commissioner-cum-Chairman, State Transport Authority (STA), Orissa is the head of the department and the apex controlling

and monitoring authority. He is assisted by two addl. Commissioners (one for administration and other for enforcement), one secretary, three deputy commissioners functioning at zonal levels and 26 regional transport officers (RTOs) functioning at regional levels. Each RTO has its own enforcement wing.

Scope of audit

3.2.3 There are 26 RTOs in the State. Out of these, eight RTOs earning maximum revenue for the state were test checked between September 2005 and May 2006. In addition, records of office of TC alongwith 13 other RTOs were scrutinised. The review covered the period from 2000-01 to 2004-05.

Audit objective

3.2.4 A review on internal controls of the department was conducted with a view to ascertain:

- ◆ whether adequate system and procedure existed in the department for timely assessment and collection of Government revenue and its credit to Government account;
- ◆ whether adequate internal controls existed for proper accounting and realisation of arrears and arresting pilferage/leakage of revenue;
- ◆ effectiveness and execution of enforcement activities and monitoring of financial management and functioning of internal audit wing.

Trend of revenue

3.2.5 As per the provisions of Orissa Budget Manual, estimates of revenue receipts should show the amount expected to be realised for the year and calculation should be based upon the actual demand including any arrear for past years and probability of their realisation during the year. The manual stipulates that head of the department is required to submit the departmental estimate of revenue to the Finance Department.

Audit observed that STA prepared the budget estimates (BE) without obtaining the inputs from the RTOs. No target was fixed for realisation in the budget estimates.

A comparison of BEs and actuals collection for the period from the year 2000-01 to 2004-05 revealed the following:

(Rupees in crore)

Year	Original budget estimates	Actual collection as per Finance Account	(-) short fall (+) excess	Percentage of variation (-) shortfall (+) excess
2000-01	216.00	178.17	(-) 37.83	(-) 17.51
2001-02	250.00	216.37	(-) 33.63	(-) 13.45
2002-03	250.00	257.35	(+) 7.35	(+) 2.94
2003-04	275.00	280.03	(+) 5.03	(+) 1.82
2004-05	304.39	338.11	(+) 33.72	(+) 11.07

It would be seen from the above that percentage of variation between BEs and actual collection ranged from (-) 17.51 to (-) 13.45 *per cent* during the period between 2000-01 and 2001-02 while for 2004-05 it was 11.07 *per cent*.

After this was pointed out the department stated that BEs were being prepared on the potentiality of the vehicles and growth rate of their registration in previous years. However the variations reveal that BEs were not realistic.

3.2.6 Collection of arrears

As per OMVT Act any tax due and not paid is termed as arrear. The position of arrear and its collection as reported by STA, Orissa was as under:

(Rupees in crore)

Year	Arrear at the beginning of the year	Collection	Percentage of collection as compared with total arrear
2000-01	17.10	5.18	30.29
2001-02	13.26	5.07	38.23
2002-03	34.59	4.79	13.85
2003-04	28.52	4.52	15.85
2004-05	27.78	6.65	23.94

The percentage of collection as compared with the total arrears ranged between 13.85 and 38.23 *per cent* during the period 2000-01 to 2004-05. No target for collection of arrears was set during the period of review.

3.2.6.1 Unaccounted for arrears

Under OMVT Act and Rules, tax due on motor vehicles should be paid in advance within the prescribed period unless such period is covered by off road declarations. According to instructions issued by the TC, Orissa in February 1966 demand notices for realisation of arrears are to be issued within 30 days from the date of expiry of the grace period of 15 days.

The department was not maintaining any register for depiction of arrears upto 31 March 2005. TC, Orissa in his letter of July 2005 directed all RTOs to prepare the demand, collection and balance (DCB) register for computation of actual arrears.

Scrutiny of records in six regions revealed that arrear as of March 2005 reported to STA, Orissa was Rs.18.53 crore. However as per DCB register of

these RTOs arrears of Rs.131.50 crore were pending collection as detailed below.

(Rupees in crore)

Sl.No.	Region	Arrears as on 31 March 2005		Amount of arrear unaccounted for
		As reported to STA	As per DCB	
1.	Bhubaneswar	5.88	15.91	10.03
2.	Chandikhol	0.55	9.25	8.70
3.	Ganjam	3.88	45.75	41.87
4.	Keonjhar	0.64	3.89	3.25
5.	Rourkela	1.99	4.98	2.99
6.	Cuttack	5.59	51.72	46.13
Total		18.53	131.50	112.97

It was seen that though arrears of Rs.131.50 crore were included in DCB registers, demand for Rs.112.97 crore was not raised while, in respect of remaining arrears for Rs.18.53 crore, no records were produced to ascertain whether any demand was raised against the defaulters.

Discrepancy noticed in DCB register

3.2.6.2 In four regions arrear of Rs.12.41 crore in respect of 1,573 vehicles relating to the period between April 2000 and March 2005 was not included in the DCB register of the respective RTOs as detailed below.

(Rupees in crore)

Sl. No.	Region	Arrear as per DCB prepared and sent to by the region	Arrear not included in the DCB prepared and sent to STA by the regions			
			No. of cases	Tax	Penalty	Total
1.	Angul	0.22	331	1.04	2.09	3.13
2.	Bhubaneswar	15.91	503	1.46	2.93	4.39
3	Keonjhar	3.89	225	0.47	0.94	1.41
4	Rourkela	4.98	514	1.16	2.32	3.48
Total		25.00	1,573	4.13	8.28	12.41

3.2.6.3 In Bhubaneswar region an amount of Rs.6.94 crore was worked out as arrear by the department itself in respect of three series¹ of vehicles, as on 31 March 2005, but Rs.1.06 crore was taken into DCB register leaving a balance of Rs.5.88 crore. Demand of Rs.5.88 crore was also not raised.

The RTOs stated between March and May 2006 arrears would be included in DCB register and demand would be raised accordingly.

Tax recovery proceedings

3.2.6.4 Non disposal of tax recovery cases

The departmental officers were entrusted with the power of institution and disposal of the tax recovery (TR) proceedings with effect from June 1993 under Schedule II of OMVT Act.

Test check of the records of seven regions² revealed that in 4,003 cases tax and penalty amounting to Rs.11.12 crore remained unrealised as on 31 March 2005 due to non disposal of recovery proceedings as detailed below.

¹ OR-02, OR-02 E and OR-02 P.

² Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.

(Rupees in crore)

Year	Pending at the beginning of the year	Addition	Total	Disposal	Pending at the end of the year	Percentage of disposal
	Case Amount	Case Amount	Case Amount	Case Amount	Case Amount	Case Amount
2000-01	816	1,371	2,187	16	2,171	0.73
	4.12	2.01	6.13	0.02	6.11	0.33
2001-02	2,171	843	3,014	267	2,767	8.86
	6.11	2.07	8.18	0.28	7.90	3.42
2002-03	2,747	941	3,688	60	3,628	1.63
	7.90	1.86	9.76	0.11	9.65	1.13
2003-04	3,628	361	3,989	30	3,959	0.75
	9.65	0.55	10.20	0.07	10.13	0.69
2004-05	3,959	64	4,023	20	4,003	0.49
	10.13	1.07	11.20	0.08	11.12	0.71

The year wise break up of cases/amount was not available in respect of three regions³ while in four regions⁴ it was noticed that out of 1,691 cases involving revenue of Rs.4.33 crore, the pendency in 1,398 cases involving Rs.2.72 crore ranged between three years and 10 years whereas 126 cases involving Rs.37.65 lakh were more than 10 years old.

(Rupees in lakh)

Period of pendency of cases	No of cases	Amount
More than 10 years	126	37.65
More than 5 years to 10 years	164	90.44
More than 3 years to 5 years	1,234	184.27
Three years and below	167	120.70

The department did not set any target for disposal of TR cases or collection of arrear through TR proceedings.

The percentage of disposal ranged between 0.49 and 8.86 per cent which reflects poor disposal of cases.

3.2.6.5 Unaccounted for tax recovery cases

Cross verification of records revealed that Tax Recovery Officer (TRO), Dhenkanal region transferred 267 TR cases relating to the year 2001 involving an amount of Rs.44.01 lakh to Angul region during 2002-03 but none of these cases were accounted for in the books of Angul region. Consequently, realisation of arrears could not be ascertained.

3.2.6.6 Non institution of tax recovery cases

No time limit has been fixed in instituting tax recovery cases. Though arrears were pending for more than one year, it was noticed in three regions that tax recovery cases for an amount of Rs.8.44 crore were not instituted for realisation of arrears as indicated below:

(Rupees in crore)

Name of the region	Arrear as on 1 April 2004	Arrear realised during 2004-05	Arrear held under OPDR Act	Balance	TR case instituted	TR case not instituted
Bhubaneswar	6.37	1.41	0.07	4.89	1.38	3.51
Cuttack	6.02	0.70	0.65	4.67	0.94	3.73
Ganjam	3.55	0.26	0.02	3.27	2.07	1.20
Total	15.94	2.37	0.74	12.83	4.39	8.44

3 Bhubaneswar, Ganjam and Keonjhar.

4 Angul, Chandikhol, Cuttack and Rourkela.

After this was pointed out RTOs did not furnish any reason for non institution of TR cases; however the concerned RTOs stated between December 2005 and March 2006 that TR cases would be instituted against defaulters.

3.2.6.7 Unreconciled tax recovery cases

The tax recovery case register of Ganjam region depicted pendency of 1,138 cases involving Rs.3.58 crore as on 31 March 2005 whereas the region reported pendency of 736 cases involving Rs.2.91 crore as on the above date. This resulted in discrepancy of 402 cases involving Rs.0.67 crore.

RTOs agreed in February 2006 that discrepancy would be reconciled; further progress made was awaited.

3.2.7 Enforcement measures

3.2.7.1 Non disposal of vehicle check reports

MV Act read with notification of September 1995 stipulates realisation of compounding fee from the vehicle owners committing offences under different sections of the Act *ibid*, on issue of VCRs. Further TC, Orissa issued guidelines during 1988, 1990 and 1994 for expeditious disposal of VCRs. These included serving of notices, seizure of vehicles, suspension of certificate of registration, and transfer of VCRs to proper quarter for expeditious and qualitative disposal and maintenance of pocket diary for checking second and subsequent offences.

Audit observed in STA, Orissa and nine RTOs⁵ that 3,973 VCRs involving Rs.2.42 crore relating to the period between April 2001 and March 2005 were not disposed of. Consequently, revenue remained unrealised. Out of these RTOs, details of outstanding VCRs furnished by six regions were as under:

(Rupees in lakh)

Name of the region	Period of pendency	VCRs relating to:-			
		Home region	Other region	Other States	Total
		Cases Amount	Cases Amount	Cases Amount	cases Amount
STA, Orissa	2000-01 to 2004-05	--	1,036	83	1,119
		--	60.15	4.80	64.95
RTO, Angul	2002-03 to 2004-05	118	67	4	189
		7.50	3.98	0.18	11.66
RTO, Bhubaneswar	2000-01 to 2004-05	339	333	102	774
		21.46	20.59	5.40	47.45
RTO, Chandikhol	2000-01 to 2004-05	124	88	25	237
		7.84	5.51	1.47	14.82
RTO, Cuttack	2000-01 to 2004-05	84	39	12	135
		5.30	2.47	0.78	8.55
RTO, Ganjam	2000-01 to 2004-05	231	62	34	327
		14.69	3.83	2.00	20.52
RTO, Rourkela	2000-01 to 2001-02	111	83	45	239
		6.83	5.23	2.69	14.75
Total		1,007	1,708	305	3,020
		63.62	101.76	17.32	182.70

Audit scrutiny further revealed in above regions that VCRs relating to other regions and other states were not transferred to the concerned quarter, as a

result of which the concerned regional authorities remained unaware of the offences committed by the defaulting vehicles. Besides, no action was taken for disposal of such reports pertaining to home region. There was no mechanism to watch the disposal of the reports. The returns regarding disposal and pendency of check reports were not furnished by the regions.

It would be seen from the above that the department was not following its own instructions.

After this was pointed out between December 2005 and March 2006, the department raised demand of Rs.3.13 lakh in 53 cases.

3.2.7.2 Non realisation of differential tax from stage carriages plying without permits

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

Test check of records of 14 RTOs⁶ revealed that 50 stage carriages were detected plying without permit between November 2003 and March 2005 as per VCRs issued by enforcement wing of the department and accident records. Motor vehicles tax/additional tax payable by the vehicles worked out to Rs.11.31 lakh against which tax of Rs.4.88 lakh was realised from the defaulting carriages. This resulted in short realisation of differential tax of Rs.6.43 lakh. Besides, penalty of Rs.12.86 lakh was also to be levied and collected.

After this was pointed out between July 2005 and March 2006 all the taxing officers agreed between July 2005 and March 2006 to realise the dues.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.07 lakh had been realised in two cases; final reply in other cases had not been received (November 2006).

6 Bargarh, Cuttack, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Koraput, Nawarangapur, Nayagarh, Nuapada, Phulabani, Rayagada, Rourkela and Sambalpur.

3.2.7.3 Non maintenance of pocket diary

Audit observed in STA and seven regions⁷ that no pocket diary was maintained by any of the enforcement staff. This was not monitored at apex level also.

3.2.8 Non realisation of revenue due to non issue of permanent permits

As per section 66 (1) of MV Act and instructions issued by the TC (December 2002) tractor trailer combinations need to be issued permanent permit under the MV Act at the time of initial registration. Rate of application fee is Rs.500 and permit fee is Rs.5,000 per vehicle.

Test check of seven regions, revealed that 1,341 tractor trailer combinations were registered between December 2002 and March 2005. Out of these 337 vehicles were issued temporary permits occasionally and intermittently and 414 vehicles were neither issued permanent permits nor temporary permits. This resulted in non realisation of revenue of Rs.38.81 lakh towards application fee and permit fee as mentioned below.

(Rupees in lakh)						
Sl. No	Region	No. of vehicles registered	Period of Registration	No. of vehicles in respect of which PP not issued	No. of vehicles in respect of which TP issued	Non realisation of revenue
1.	Angul	88	Dec 2002-Aug. 2003	51	5	3.05
2.	Bhubaneswar	300	Dec. 2002-March 2005	65	128	9.81
3.	Chandikhol	279	Dec. 2002-Jan. 2005	112	60	9.01
4.	Ganjam	331	Dec.2002-March 2005	44	98	7.20
5.	Jharsuguda	98	Jan.2003-March 2005	21	5	1.38
6.	Keonjhar	195	Dec.2002-Dec.2004	94	39	6.79
7.	Rourkela	50	Feb.2003-Mar.2005	27	2	1.57
Total		1341		414	337	38.81

After this was pointed out, the RTOs stated between December 2005 and April 2006 that notices to the vehicle owners for obtaining permanent permits would be issued.

3.2.9 Non raising of demand

According to instructions of February 1966 issued by TC, Orissa demand notices for realisation of arrears are to be issued within 30 days from the date of expiry of the grace period of 15 days.

It was noticed in six regions that demand notices for realisation of unpaid taxes relating to the period from April 2000 to March 2005 were not issued in respect of 317 vehicles as detailed below.

(Rupees in crore)					
Sl. No.	Region	No. of vehicles	Tax	Penalty	Total
1.	Angul	41	0.12	0.25	0.37
2.	Bhubaneswar	28	0.08	0.16	0.24
3.	Chandikhol	54	0.25	0.50	0.75
4.	Ganjam	30	0.06	0.11	0.17
5.	Keonjhar	104	0.28	0.57	0.85
6.	Rourkela	60	0.21	0.42	0.63
Total		317	1.00	2.01	3.01

Delay for non issue of demand notices ranged from 10 months to more than five years with tax implication of Rs.3.01 crore including penalty.

3.2.10 Under MV Act, a motor vehicle registered in other State and plying in Orissa for a period exceeding 12 months shall be assigned with Orissa registration mark on payment of requisite fees.

Test check of records of seven regions⁸ revealed that 652 vehicles registered in other States and plying in Orissa for more than 12 months were not assigned Orissa registration mark. The authorities did not take any effective steps to allot vehicles state registration mark. This resulted in non realisation of revenue for Rs.3.46 lakh.

After the above facts were pointed out, the RTOs accepted the audit observation and stated between December 2005 and April 2006 that notices would be issued to get the vehicles registered under the OMVT Act and demand notices would be issued to vehicle owners. Further reply had not been received (November 2006).

3.2.11 National Permit Scheme

The national permit scheme authorises a goods vehicle registered in one State to ply in other States. The Central Motor Vehicle (CMV) Rules and national permit rules stipulate that the registering State in such cases shall furnish full details of vehicles through quarterly returns along with the period of authorisation for plying, to the State in which the vehicles are to operate. For such outside operation a composite tax paid by operator is to be remitted to the transport authorities of the plying State through a crossed demand draft.

Audit scrutiny revealed that details of vehicles including their period of authorisation under national permit scheme were not available with the department. Receipt of quarterly returns from authorities of other States were neither watched through nor made available for verification. Even the receipts of composite tax in shape of bank drafts were not monitored properly and bank drafts were accepted beyond their period of validity.

As per information collected from STA, Orissa 449 bank drafts valued at Rs.21.87 lakh drawn during the period between 2000-01 and 2004-05 were received after expiry of their validity period. These drafts were returned for revalidation during the period between September 2003 and August 2005, and were still to be received back after revalidation.

Further in STA, bank draft of Rs.13.58 lakh lapsed in March 2005. In addition, Rs.14.32 lakh were kept in civil deposit, as on 31 March 2005; out of which Rs.3.32 lakh pertained to March 1998.

8 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.

3.2.12 Acceptance of tax without tax clearance certificate

OMVT Rules prescribe that a registered owner of a transport vehicle desirous to pay tax in the region other than where the tax was last paid shall produce the tax clearance certificate (TCC) in form-D from the taxing officer where the tax last paid.

Audit observed in seven regions⁹ that tax was accepted from 222 vehicles that had changed their place of business during the period between April 2000 and March 2005 without insisting on TCC. Cross verification of records of previous regions in which these were registered with the regions to which they shifted their place of business revealed that in case of 41 vehicles in five regions, tax was accepted even though arrears amounting to Rs.15.21 lakh were pending against them. Out of this Rs.7.20 lakh pertained to the period from 2000-01 to 2004-05 as given below.

(Rupees in lakh)

SLNo.	Name of the region where tax paid without TCC	Name of the registering Region No. of cases	Month from which tax paid in other region without TCC	Period of arrear due	Tax	Penalty	Total	Amount of arrears between 2000-01 to 2004-05
1.	Chandikhol Angul	<u>Cuttack</u> 2	1/04	4/03 to 12/03	0.12	0.24	0.36	
2.	Keonjhar Bhubaneswar Rourkela	<u>Chandikhol</u> 4	Between 1/01 and 10/02	7/96 to 9/02	0.71	1.43	2.14	1.16
3.	Chandikhol Rourkela	<u>Bhubaneswar</u> 3	Between 4/02 and 1/04	4/95 to 12/03	0.81	1.61	2.42	1.81
4.	Rourkela	<u>Sundergarh</u> 18	Between 4/00 and 7/03	1/94 to 6/03	1.75	3.51	5.26	0.73
5.	Chandikhol Bhubaneswar Angul Rourkela	<u>Keonjhar</u> 14	Between 4/02 and 3/2005	7/94 to 12/04	1.68	3.35	5.03	3.50
Total		41			5.07	10.14	15.21	7.20

3.2.13.1 Short fall in verification of off road vehicles

In accordance with instructions dated 27 July 1990 and 10 June 1991 issued by TC, area wise list indicating vehicles covered by off road declarations was required to be prepared by departmental authorities. This list was required to be calculated to the officers responsible for checking these vehicles.

Test check of off road register in seven regions¹⁰ revealed that 18,090 vehicles were covered under off road declaration during the period between April 2000 and March 2005. Out of these, only 2,549 vehicles were verified at their places of declarations occasionally and intermittently, leaving 15,541 vehicles unverified. Non verified vehicles constituted 85.91 per cent of the total vehicles declared off road. The area wise distribution of off road declaration was not made.

9 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.

10 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.

3.2.13.2 Non realisation of motor vehicles tax/additional tax from motor vehicles violating off road declaration

Under the OMVT Act, if any vehicle at any time, during the period covered by off road declaration, 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 a case, the owner of the vehicle is liable to pay tax/additional tax and penalty at the prescribed rate for the entire period for which it was declared off road.

Test check of records of six RTOs¹¹ revealed that 32 motor vehicles under off road declarations for the period between September 2003 and March 2005 were either detected plying or not found at the declared places by the enforcement staff during the period covered by such off road declarations. Thus, they were to pay motor vehicle tax/additional tax and penalty of Rs.23.09 lakh. No action was taken by the department to recover the same, which resulted in non realisation of Rs.23.09 lakh.

After this was pointed out between June 2005 and January 2006, the department raised demand of Rs.3.05 lakh in one case.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).

3.2.14 Unauthorised diversion of revenue

Orissa Treasury Code prohibits incurring departmental expenditure from the revenue collected. According to executive instructions of TC Orissa of 1987, cash collected from offending vehicles by the enforcement staff should be deposited in the respective offices by the next day.

Test check conducted in STA and six regions¹² revealed that an expenditure of Rs.56.46 lakh was incurred on repair and maintenance of vehicles, procurement of office contingencies, payment of wages and advance payment made to Government and non Government officials out of revenue which was in contravention to the rules.

Further, test check of STA and Seven regions¹³ revealed in 1,161 cases Rs.26.38 lakh collected by enforcement staff between April 2000 and March 2005 was deposited by concerned offices after a delay ranging from 2 to 810 days. This resulted in unauthorised retention of Government dues outside Government account for a prolonged period.

11 Ganjam, Gajapati, Kalahandi, Mayurbhanj, Sambalpur and Sundergarh.

12 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam and Rourkela.

13 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.

3.2.15 Non distribution of second copy of money receipt for endorsement of tax details in General Register

The TC, Orissa instructed (September 2000) to hand over the second copy of money receipt towards payment of tax by the cashier to the head clerk who will distribute the same to the concerned clerk. The concerned clerk will return the same after endorsing the tax payment particulars in the respective GRs.

Audit observed in seven regions¹⁴ that the second copy of money receipts were not distributed to the concerned revenue clerk to enable him to make tax endorsement; instead endorsement was made on the basis of the owner's copy as and when produced by the owner. In one region (Ganjam) 66 tax endorsements for Rs.2.56 lakh in respect of 12 vehicles were made incorrectly in registration register for the period between November 2003 and November 2004.

3.2.16 Non maintenance of basic records

Orissa Record Manual prescribes certain basic records for effective functioning and monitoring the activities of the department. It was revealed in review that the following mandatory records were not maintained properly.

- ◆ Receipt of applications for issue of permits, fitness, off road permission and driving licence etc., were not recorded in registers of letters received. A separate register to record application for issue of permits, though maintained by the STA, did not indicate the date of disposal.

- ◆ Log books indicating receipts and disposal of letters at the assistant level were not maintained properly. The ministerial level officers had not exercised periodical checks to watch over receipts and disposals by their subordinates.

- ◆ At no level, file index registers were maintained. Thus the total number of files in operation could not be ascertained.

- ◆ Though the STA and RTOs were controlling operation of passenger busses, in different routes of Orissa by issuing permits, the department had not prepared the chart of route distance as required under OMVT Act/Rules. No route survey was conducted since 1982. Different RTOs adopted different processes to arrive at the operating distance.

- ◆ Entries in the cash book by the drawing and disbursing officer (DDO), check of totaling by a person other than the writer of cash book, surprise verification of cash balance by the DDO, reconciliation of remittances with records from the treasury and realisation of security deposit from the person responsible for handling cash as stipulated in Orissa Treasury Code (OTC) and the Orissa General Financial Rules (OGFR) was not done.

◆ In STA and eight regions,¹⁵ number of vehicles checked by the enforcement staff and number of VCRs issued out of such checks were not available. In absence of this, performance of the enforcement staff could not be ascertained.

◆ The department had not prepared any manual. The executive instructions issued from time to time were not serialised or centralised. Further, all the executive instructions and circulars were not available in the department.

◆ STA had not maintained any register to watch the receipt of statutory returns like return of revenue collection, arrear collection, issue and disposal of VCRs, issue of permits, fitness, registration etc. The regions had also not maintained such register to watch timely submission of above returns to STA.

3.2.17 Non maintenance of vehicle wise record of fitness certificate

As per CMV Rules, a register with separate page for each vehicle containing the registration number of the vehicle, name and address of the owner, engine number, chassis number, validity of certificate of fitness is required to be maintained by the fitness granting authority. TC, Orissa in circular No. 27 instructed that the inspector of motor vehicle (IMV) should draw up a list of vehicles every month whose fitness certificate has expired and circulate the same among all RTOs to check plying of vehicles without fitness certificate.

Audit of records in seven regions¹⁶ revealed between December 2005 and May 2006 that 1,80,470 fitness certificates were granted/renewed during different periods between April 2000 and March 2005. It was however, noticed that vehicle wise fitness records were not maintained. In absence of this, the IMVs were not in a position to ascertain and list out details of vehicles, whose validity of fitness expired, for circulation among all RTOs. Consequently vehicles plying without fitness certificates could not be ascertained.

3.2.18 Internal audit

There is an internal audit wing functioning under the control of TC, Orissa. The sanctioned strength of internal audit wing from 2000-01 to 2004-05 was 10 while the staff in position was reduced from nine to six during the said period.

Audit observed that neither planning and programming for internal audit was drawn up nor annual target in terms of number of units to be audited was set for the audit staff. The progress of internal audit during the last five years is as follows.

15 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Jharsuguda, Keonjhar and Rourkela.

16 Angul, Bhubaneswar, Chandikhol, Ganjam, Jharsuguda, Keonjhar and Rourkela.

Year	Number of auditable units to be covered	Number of units programmed for audit	Number of units audited	Number of units pending
2000-01	103	--	--	103
2001-02	121	--	--	121
2002-03	139	--	--	139
2003-04	157	--	--	157
2004-05	182	43	43	139

The figures given above indicate that 139 auditable units remained unaudited by the end of 2004-05, 43 units audited in 2004-05 related prior to 1991-92 and thereby had lost its significance. Even though audit of the units was taken up belatedly resulting in creation of huge pendency, the department had not prepared any guidelines to watch the issue of inspection reports and compliances thereof.

After this was pointed in September 2005, it was stated that the pendency was due to shortage of hands and engagement of auditors in other miscellaneous work and the details of inspection reports were not available due to non maintenance of watch register.

This indicates that there has been no emphasis on internal audit and it has been taken in casual manner.

3.2.19 Acknowledgement

Audit Review Committee (ARC) meeting was held in July 2006. All the points were discussed in the ARC meeting. The views of Government were taken into consideration while drafting the review.

3.2.20 Recommendations

- ◆ Steps should be taken to ensure maintenance of basic records such as demand, collection and balance register so as to facilitate accountability towards timely issue of demand notices and track realisation of arrears.
- ◆ Monitoring of arrear collection needs to be systematised so as to reflect realistic position and to enable identification of areas of concern as well as to ensure remedial action.
- ◆ Department may take steps for ensuring prompt institution of tax recovery proceedings and may consider fixing time limit or targets for disposal of tax recovery proceedings.
- ◆ Functioning of internal audit needs to be strengthened.

3.2.21 Conclusion

The department did not have any operational manual and several internal controls were found to be ineffective particularly in areas like maintenance of basic records, monitoring the system of raising demand and realisation of revenue, strengthening of enforcement activities, reporting and computation of arrears and institution and disposal of tax recovery proceedings. Internal audit was virtually non functional.

3.3 Non/short realisation of motor vehicles tax and additional tax

Under the OMVT Act, tax/additional 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/additional tax is allowed for the period covered by off road declarations. Penalty is to be charged at double the tax/additional tax due, if tax/additional tax is not paid within two months of the expiry of the grace period i.e. 15 days.

Test check of records of 24 RTOs¹⁷ revealed between May 2005 and March 2006 that motor vehicles tax/additional tax of Rs.12.60 crore in 19,267 cases was either not realised or realised short for the period between December 2002 and March 2005. This resulted in non/short realisation of Government revenue of Rs.37.80 crore including penalty of Rs.25.20 crore as detailed below:

(Rupees in crore)							
Sl. No.	No. of regions Nature of irregularities	Period	No. of vehicles	Non realisation of tax/addl. tax	Short realisation of tax/addl. tax	Total	Penalty leviable
1.	<u>20</u> Non realisation of motor vehicles tax/additional tax from goods vehicles	April 2004 and March 2005	10,474	9.12	-	9.12	18.24
Remarks- The department raised demand of Rs.69.48 lakh in 226 cases and recovered Rs.8.89 lakh in 105 cases.							
2.	<u>19</u> Non realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2004 and March 2005	2,716	1.60	-	1.60	3.20
Remarks- The department raised demand of Rs.0.67 lakh in six cases and recovered Rs.0.44 lakh in 13 cases.							
3.	<u>21</u> Non realisation of motor vehicles tax from tractor trailer combination	October 2003 and March 2005	5,682	1.50	--	1.50	3.00
Remarks- The department raised demand of Rs.3.36 lakh in 51 cases and recovered Rs.0.95 lakh in 37 cases.							
4.	<u>22</u> Non/short realisation of motor vehicles tax/additional tax in respect of stage carriages	December 2002 and March 2005	395	0.32	0.06	0.38	0.76
Remarks- The department raised demand of Rs.2.49 lakh in six cases and recovered Rs.0.071 lakh in two cases.							
T O T A L			19,267	12.54	0.06	12.60	25.20

After this was pointed out between May 2005 and March 2006, the department raised demand of Rs.76 lakh in 289 cases while reply in other cases has not been received..

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.10.35 lakh had been realised in 157 cases; final reply in other cases had not been received (November 2006).

¹⁷ Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

3.4 Non realisation of fees at revised rates

As per MV Act read with Government of Orissa, Commerce and Transport (Transport) Department notification dated 24 January 2003, rate of various fees such as countersignature of permits, transfer of permits and process fees was revised with effect from 28 January 2003.

It was noticed that Government by an order of March 2003 postponed the collection of various fees at the rates prescribed in the above notification stating that the enhancement of fees would be decided after receipt of report of a technical committee that was going to give its report within a month. However the Act/notification has not been amended/declared void till date. Since an executive communication cannot overrule a statutory notification its implementation was incorrect. Test check of permit registers and other connected records in STA, Orissa, Cuttack and 26 RTOs¹⁸ revealed that non realisation of fee at the rates prescribed in the notification resulted in short collection of revenue of Rs.1.77 crore in 1,56,018 cases for the period from April 2004 to March 2005.

The matter was brought to the notice of TC/Government in April 2006. Government stated in May 2006 that audit contention was not sustainable in view of order of March 2003. The reply was not tenable as executive communication cannot overrule statutory notification. Besides 36 months had elapsed as of March 2006 and the notification has not been amended till date (November 2006).

3.5 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/additional tax due depending on the extent of delay in payment shall be leviable if a vehicle owner has not paid tax and additional tax for his vehicle within the specified period.

Test check of records of 25 RTOs¹⁹ conducted between May 2005 and March 2006 revealed that in 168 cases no penalty was levied by the taxing authorities though taxes were paid belatedly and delay ranged between 25 days to two years three months. Further, in 89 cases, penalty was short levied. This resulted in non/short levy of penalty amounting to Rs.23.19 lakh for the period between April 2000 and March 2005 which was due to failure on the

¹⁸ Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangapur, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

¹⁹ Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

part of the taxing officers to impose and collect penalty at the time of realisation of tax.

After this was pointed out between May 2005 and March 2006, the department raised demand of Rs.0.79 lakh in eight cases.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.42 lakh had been realised in four cases; final reply in other cases had not been received (November 2006).

3.6 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 of STA, Orissa revealed in May 2005 that composite tax in respect of 290 goods carriages belonging to other States authorised to ply in Orissa during 2004-05 under national permit scheme was realised short by Rs.6.86 lakh. As the vehicle operators did not pay the tax in advance in one instalment and part payment was accepted, penalty of Rs.3.40 lakh up to March 2005 was leviable for default in full payment of tax. This resulted in short realisation of composite tax of Rs.10.26 lakh.

The matter was brought to the notice of Government in January 2006. Government stated in May 2006 that transport authorities of other States were requested for realisation of balance composite tax. Report on realisation was awaited (November 2006).

3.7 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 agreement with any other State, it is liable to pay additional tax for each entry into the State at the prescribed rate. Government of Orissa decided in February 2001 that goods vehicles belonging to Andhra Pradesh and 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 on or before 15 April every year 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 revealed in June 2005 that out of 1,722 goods vehicles of Andhra Pradesh authorised to ply in the State on the strength

of valid permit under reciprocal agreement during 2004-05, composite tax for 827 goods vehicles amounting to Rs.24.81 lakh was not realised. Besides, penalty of Rs.9.92 lakh was also leviable.

After this was pointed out in June 2005, STA Orissa stated in July 2005 that steps would be taken to issue demand notice for realisation of dues.

The matter was referred to Government in January 2006. Government stated in May 2006 that Rs.1.5 lakh had been realised in 50 cases and other State transport authorities were moved in respect of remaining cases (November 2006).

3.8 Non realisation of differential tax from stage carriages used as contract carriages

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 differential tax. In case of default in payment on due date, penalty of double the differential tax is also leviable for the period of delay beyond two months.

Test check of records of 11 RTOs²⁰ between June 2005 and March 2006 revealed that 63 stage carriages were permitted to ply temporarily as contract carriages between April 2004 and March 2005 on which higher rate of tax was applicable. Though differential tax was not paid in advance, RTO did not take any action to issue demand notices for the same. This resulted in non realisation of differential motor vehicle/additional tax of Rs.2.27 lakh. Besides, penalty of Rs.4.54 lakh was also leviable.

After this was pointed out between June 2005 and March 2006, all the taxing officers concerned agreed between June 2005 and March 2006 to realise the dues after issue of demand notices.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).

3.9 Non/short realisation of motor vehicles/additional tax from stage carriages plying under reciprocal agreement

In pursuance of reciprocal agreements between Government of Orissa and Government of any other State, if a stage carriage plies on a route partly within the State of Orissa and partly within other State, such stage carriage is

20 Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Keonjhar, Mayurbhanj, Puri, Rayagada, Rourkela and Sambalpur.

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 two RTOs²¹ between May and November 2005 revealed that motor vehicles tax/additional tax in respect of 10 stage carriages authorised to ply on inter State routes between April 2004 and March 2005 under reciprocal agreement either was not realised or realised in part. It was further revealed that six out of 10 stage carriages did not pay tax for last 12 months between April 2004 and March 2005. Thus, there was non/short realisation of motor vehicles tax/additional tax of Rs.2.06 lakh. Besides, penalty of Rs.4.12 lakh was also leviable for non payment of dues.

After this was pointed out between May and November 2005, the department raised demand of Rs.5.15 lakh in four cases.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.07 lakh had been realised in one case and demand notices were issued in rest of the cases (November 2006).

3.10 Non realisation of trade certificate tax/fees

Under the OMVT Act, read with CMV 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 RTOs²² between November 2005 and March 2006 revealed that in respect of 146 dealers, trade certificate tax and fees for the period from January 2003 to December 2005 were not realised. This resulted in non realisation of tax and fees of Rs.3.32 lakh.

After this was pointed out between November 2005 and March 2006, the department raised demand of Rs.0.13 lakh in 11 cases.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.05 lakh had been realised in three cases. In respect of others, dealers/firms could not be located since they had closed their business (November 2006).

21 Bargarh and Sundergarh.

22 Bargarh, Chandikhol, Dhenkhal, Koraput and Rourkela.

3.11 Short realisation of reservation fees on allotment of reserve registered numbers

Under the OMV Rules, 1993, read with TC, Orissa notification (April 2002), a two wheeler or any other motor vehicle opting for a number of the current series coming within 1,000 from the last number allotted to be registered shall pay a fee Rs.2,000 and Rs.4,000 respectively. The registering authority may, on an application in writing for special choice, reserve the registration number. Any number beyond 1,000 but within 10,000 from the last number registered in serial order can also be reserved on payment of Rs.5,000 for two wheelers and Rs.10,000 for motor vehicles other than two wheelers as per TC, Orissa circular letter dated 2 August 2002.

Test check of records of three RTOs²³ between August 2005 and March 2006 revealed that reserved numbers beyond 1,000 from the last number registered were allotted on application between April 2003 and March 2005 to six two wheelers and 159 motor vehicles but reservation fees were not realised at the rate applicable for reserved number beyond 1000. This resulted in short realisation of reservation fees amounting to Rs.9.66 lakh.

After this was pointed out between August 2005 and March 2006, all the taxing officers agreed between August 2005 and March 2006 to realise the differential fees. However, they did not offer any reason for non collection of fees at the appropriate rate.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).

3.12 Non realisation of entry tax

Under the Orissa Entry Tax Rules read with schedule of rates appended to the Orissa Entry Tax Act, motor vehicles are taxable at the rate of two *per cent* on their purchase value with effect from 1 June 2004. TC, Orissa in his circular letter dated 24 January 2003 communicated instructions of the Commissioner of Commercial Taxes, Orissa that at the time of registration of vehicles purchased from outside the State, the owners should be asked to furnish proof of entry tax paid at the time of entry in the State.

Test check of records of four RTOs²⁴ revealed between November 2005 and February 2006 that 308 motor vehicles purchased outside the State were registered between June 2004 and March 2005 without payment of entry tax. The owners of 24 motor vehicles admitted the fact of non payment of entry tax while RTOs did not insist upon furnishing the proof of payment of entry tax before registration of vehicles in other 284 cases. Thus, non observance of check for realisation of entry tax by the Transport Department and lack of

23 Kalahandi, Rourkela and Sundergarh.

24 Angul, Bargarh, Dhenkhal and Rourkela.

coordination between Transport Department and Commercial Department, led to non realisation of Government revenue of Rs.66.42 lakh.

After this was pointed out between November 2005 and February 2006, all RTOs agreed between November 2005 and February 2006 to send the list of vehicles as pointed out by audit to the Commercial Tax Department.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).