

CHAPTER - III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of the records relating to assessment and collection of motor vehicles tax in the office of the State Transport Authority, Orissa and the regional transport offices conducted during the year revealed non/short realisation/levy of tax and loss of revenue etc., amounting to Rs. 64.70 crore in 1,62,866 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non-levy/realisation of motor vehicles tax/additional tax and penalty	24,917	58.61
2.	Loss of revenue due to non-realisation of entry tax	1,362	2.86
3.	Non/short realisation of compounding fee, permit fee and process fee	1,32,927	1.33
4.	Non/short realisation of composite tax and penalty	2,001	0.45
5.	Short levy/realisation of motor vehicles tax/additional tax and penalty	298	0.34
6.	Non/short realisation of trade certificate tax and fee	108	0.04
7.	Other irregularities	1,253	1.07
Total		1,62,866	64.70

During the year 2007-08, the department accepted non/short realisation/levy of tax and other deficiencies of tax and penalty of Rs. 145.42 crore in 79,831 cases, which were pointed out in audit in 2007-08 and earlier years. Of these, the department recovered Rs. 7.04 crore in 7,597 cases.

A few illustrative cases highlighting important audit observations involving Rs. 60.37 crore are discussed in the following paragraphs.

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

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 (as amended from time to time), 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 declaration. Penalty is to be charged at double the motor vehicle tax/additional tax due, if tax/additional tax is not paid within two months of the expiry of the grace period of 15 days. Regional transport officers (RTOs) are required to issue demand notices within 30 days from the expiry of the grace period for payment of tax/additional tax.

3.2.1 Scrutiny of the records of 26 transport regions²⁵ between May 2007 and March 2008 revealed that motor vehicles tax/additional tax of Rs. 18.45 crore in 27,427 cases was not realised for the period from April 2006 to March 2007 even though the vehicles had not been declared off road. This resulted in non-realisation of revenue of Rs. 55.34 crore including penalty of Rs. 36.89 crore as detailed below:

(Rupees in crore)

Sl. No.	No. of regions Nature of irregularities	Period between	No. of vehicles	Non-realisation of tax/additional tax	Penalty leviable	Total
1.	<u>26</u> Non-realisation of motor vehicles tax/additional tax from goods vehicles	April 2006 and March 2007	13,484	12.97	25.95	38.92
2.	<u>26</u> Non-realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2006 and March 2007	4,925	2.83	5.65	8.48
3.	<u>26</u> Non-realisation of motor vehicles tax from tractor trailer combination	April 2006 and March 2007	8,743	2.37	4.74	7.11
4.	<u>24</u> ²⁶ Non-realisation of motor vehicles tax/additional tax in respect of stage carriages	April 2006 and March 2007	275	0.28	0.55	0.83
Total			27,427	18.45	36.89	55.34

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

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

After the cases were pointed out, all the RTOs stated between May 2007 and March 2008 that action for realisation of the dues would be taken. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.2.2 Test check of the records of 18 transport regions²⁷ between May 2007 and March 2008 revealed that motor vehicles tax/additional tax of Rs. 2.37 lakh in 60 cases for the period from April 2006 to March 2007 was realised short. Besides, penalty of Rs. 4.74 lakh was also leviable.

After the cases were pointed out, all the RTOs stated between May 2007 and March 2008 that action for realisation of the dues would be taken. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.3 Non-realisation of motor vehicles tax/additional tax for violation of off road declaration

Under the OMVT Act, motor vehicles tax/additional tax is to 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 (TO). If, at any time, during the period covered by 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 a case, the owner of the vehicle is liable to pay tax/additional tax and penalty at double the tax due for the entire period for which it was declared off road.

Test check of the records of 14 transport regions²⁸ between May 2007 and January 2008 revealed that 150 motor vehicles under off road declarations for the period between June 2005 and March 2007 were either detected plying or not found at the declared places by the enforcement staff during the said period. No action was taken by the TOs to realise the motor vehicles tax/additional tax and levy penalty for violation of off road declaration. This resulted in non-realisation of motor vehicles tax and additional tax of Rs. 2.52 crore including penalty of Rs. 1.68 crore.

After the cases were pointed out, the RTO, Bhadrak in July 2008 intimated that demand notice in one case for an amount of Rs. 3 lakh has been issued. A report on further development in this case and replies in the remaining cases have not been received (November 2008).

²⁷ Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

²⁸ Balasore, Bargarh, Bhadrak, Bhubaneswar, Cuttack, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Puri, Rourkela and Sambalpur.

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.4 Non-realisation of process fee

As per the Motor Vehicles (MV) Act, 1988 read with the Government of Orissa, Commerce and Transport (Transport) Department notification dated 24 January 2003, process fee of Rs. 100 on every application was introduced with effect from 28 January 2003. The department by an order of March 2003, however, postponed the collection of fees at the rates prescribed in the notification.

Test check of the permit registers and other connected records in the State Transport Authority (STA), Orissa and 20 transport regions²⁹ including 12 check gates between June 2007 and March 2008 revealed that the process fee for the period from April 2006 to March 2007 was not realised in 1.17 lakh cases. This resulted in non-realisation of fees amounting to Rs. 1.17 crore.

After the cases were pointed out, the STA, Orissa and all the RTOs stated that the collection of the fee was postponed as per the Government of Orissa order of March 2003. The replies are not tenable as the rates published in the gazette had already come into force and charging of old rates by an executive order was irregular since executive orders cannot overrule the statutory provisions.

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.5 Non-realisation of composite tax for goods vehicles under reciprocal agreement

As per the decision (February 2001) of the Government of Orissa, goods vehicles belonging to Andhra Pradesh (AP) and authorised to ply in Orissa under the reciprocal agreement were required to pay annually composite tax of Rs. 3,000 per vehicle instead of the additional tax for each entry. The tax was payable in advance on or before the 15th 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 leviable in addition to the composite tax.

Test check of the records of STA between April and July 2007 revealed that out of 1,926 goods vehicles of AP authorised to ply in Orissa on the strength of valid permits under reciprocal agreement during 2006-07, composite tax for 1,000 goods vehicles amounting to Rs. 30 lakh was not realised. Besides, penalty of Rs. 12 lakh was also leviable. The department did not initiate any action to realise the dues.

After the case was pointed out, the STA stated in July 2007 that STA, AP would be moved for realisation of the composite tax. A report on further development has not been received (November 2008).

²⁹ Angul, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela and Sambalpur.

The matter was brought to the notice of the Government/Transport Commissioner in January 2008; their replies have not been received (November 2008).

3.6 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 does not pay tax and additional tax within the specified period.

Test check of the records of 25 transport regions³⁰ between May 2007 and March 2008 revealed that though taxes in respect of 324 vehicles for the period between April 2002 and March 2007 were paid belatedly after a delay ranging between two days and 59 months, yet in 157 cases, penalty of Rs. 14.46 lakh was not levied by the RTOs while in the remaining 167 cases, penalty of Rs. 16.50 lakh was levied short. This resulted in non/short levy of penalty amounting to Rs. 30.96 lakh.

After the cases were pointed out, the RTOs of Angul, Cuttack, Dhenkanal, Ganjam and Mayurbhanj intimated between June and August 2008 that Rs. 42,000 had been realised in 10 cases. Besides, in 26 cases demand notices for an amount of Rs. 2.78 lakh had been issued. A report on recovery and replies in other cases has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.7 Non/short realisation of tax from stage carriages plying without route permits

Under the OMVT Act (as amended from time to time), 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 permit. 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 kilometres i.e. at the highest rate of tax as per the taxation schedule. In case of default, penalty amounting to double the tax due is leviable.

Test check of the records of 17 transport regions³¹ between June 2007 and March 2008 revealed that though 69 stage carriages were detected to be plying without permit by the Enforcement Wing during different periods between

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

31 Bhubaneswar, Bolangir, Cuttack, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nabarangpur, Nayagarh, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

June 2005 and March 2007, motor vehicles tax/additional tax were either not realised or realised at lower rates resulting in non/short realisation of motor vehicles tax and additional tax amounting to Rs. 8.02 lakh. Besides, penalty of Rs. 16.41 lakh though leviable was not levied.

After the cases were pointed out, all the RTOs stated between June 2007 and March 2008 that the dues would be realised. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

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

Under the OMVT Act, when a vehicle in respect of which motor vehicle tax/additional tax for any period has been paid as per the registration certificate, is proposed to be used in a manner for which higher rate of motor vehicle tax/additional tax is payable, the owner of the vehicle is liable to pay the differential tax. In case of failure in payment of the tax/additional tax within two months after the grace period of 15 days, penalty amounting to double the differential tax/additional tax is leviable.

Test check of the records of 16 transport regions³² between May 2007 and March 2008 revealed that 126 stage carriages were permitted to ply temporarily as contract carriages during the period between March 2006 and March 2007 on which higher rate of tax was applicable. Though the differential tax was not paid in advance, the RTOs did not take any action to issue demand notices for realisation of the dues. This resulted in non-realisation of differential motor vehicle tax/additional tax of Rs. 4.51 lakh. Besides, penalty of Rs. 9.02 lakh was also leviable.

After the cases were pointed out, all the RTOs concerned stated between May 2007 and March 2008 that demand notices to realise the dues would be issued. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.9 Non/short realisation of motor vehicles tax/additional tax from stage carriages

In pursuance of an agreement between the Government of Orissa and any other State, if a stage carriage plies on a route partly within the State of Orissa, it 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 the Rules made thereunder. In case the tax/additional tax is paid beyond two months after the grace period of 15 days, penalty is to be charged at double the tax/additional tax due.

³² Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Jharsuguda, Keonjhar, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

Test check of the records of the STA and four transport regions³³ between June and December 2007 revealed that in case of nine out of 15 stage carriages authorised to ply on interstate routes under the reciprocal agreement, motor vehicles tax/additional tax of Rs. 3.85 lakh was not levied while in the remaining six cases, motor vehicles tax/additional tax of Rs. 23,854 was levied short. Thus, there was non/short realisation of motor vehicles tax/additional tax of Rs. 4.09 lakh. Besides, penalty of Rs. 8.18 lakh was also leviable for non-payment of dues.

After the cases were pointed out, the Transport Commissioner and all the RTOs stated between June and December 2007 that the dues would be realised. A report on recovery has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.10 Non-realisation of trade certificate tax/fees

Under the OMVT Act read with the Central Motor Vehicles Rules, 1989 (as amended), dealers in motor vehicles are required to obtain a trade certificate from the registering authorities by paying the requisite tax/fees annually in advance. Under the MV Act, a dealer includes a person who is engaged in building bodies on the chassis or in the business of hypothecation³⁴, leasing or hire purchase of motor vehicles.

Test check of the records of five transport regions³⁵ between May and December 2007 revealed that in respect of 122 dealers, trade certificate tax and fees for the period between April 2004 and March 2007 were not realised. This resulted in non-realisation of tax and fees of Rs. 3.62 lakh.

After the cases were pointed out, all the RTOs stated between May and December 2007 that the dues would be realised. A report on recovery has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

33 Bargarh, Keonjhar, Mayurbhanj and Sambalpur.

34 Financing through mortgage.

35 Balasore, Bhubaneswar, Bolangir, Ganjam and Rourkela.