

CHAPTER-3 : 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, Orissa and the Regional Transport Offices conducted during 2001-2002 revealed under-assessment of tax and loss of revenue amounting to Rs.26.06 crore in 18,248 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Short-realisation/short levy of motor vehicles tax/additional tax and penalty	561	0.68
2	Non-levy/non-realisation of motor vehicles tax/additional tax and penalty	13,274	24.39
3	Non/short realisation of compounding, permit, Reservation and Driving licence fees etc.	753	0.16
4	Non/short realisation of composite tax and penalty	3433	0.75
5	Non/short realisation of Trade Certificate tax/fees	129	0.03
6	Other irregularities	98	0.05
Total		18,248	26.06

During the course of the year 2001-2002, the department accepted under-assessment etc. of tax and penalty amounting to Rs.2.85 crore in 1195 cases which had been pointed out in audit in earlier years. Of these, the department had recovered Rs.9.35 lakh in 106 cases.

A few illustrative cases highlighting important audit observations involving Rs.22.97 crore are mentioned in the following paragraphs.

3.2 Non-realisation of motor vehicles tax/additional tax in respect of contract carriages

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 and rules made thereunder, motor vehicles tax in respect of contract carriages is to be realised as per the rates specified in the Act on the basis of number of passengers permitted to be carried as per the permit. In case of default, penalty ranging from 25 *per cent* to 200 *per cent* of the tax due is leviable depending upon the extent of delay.

Test check of records of 18 Regional Transport Officers²³(RTOs) (between May 2001 to March 2002) revealed that motor vehicles tax and additional tax in respect of 2305 contract carriages were not realised for various periods (between May 1998 and March 2001) though these vehicles were not covered by off-road undertakings. Therefore tax and additional tax amounting to Rs.1.11 crore and penalty of Rs.2.22 crore thereon remained unrealised.

On this being pointed out in audit (between June 2001 and March 2002), the taxing officers concerned recovered tax of Rs.0.16 lakh including penalty in 2 cases and demand notices were issued in 136 cases for Rs.17.76 lakh including penalty of Rs.11.84 lakh.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.3 Non/short realisation of motor vehicles tax and additional tax in respect of stage carriages

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, monthly tax payable in respect of a stage carriage is determined on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance permitted to be covered in a day as per the permit.

Test check of records of 18 Regional Transport Officers²⁴(RTOs) revealed that motor vehicles tax/additional tax of Rs.40.10 lakh in respect of 367 vehicles for the period between June 1998 and March 2001 was either not realised or realised short. This resulted in non-realisation of Government revenue of Rs.1.20 crore including penalty of Rs.80.20 lakh.

On this being pointed out in audit (between May 2001 and March 2002), all the taxing officers concerned recovered tax of Rs.0.27 lakh including penalty in 4

23 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

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cases and demand notices were issued in 22 cases for Rs.9.26 lakh including penalty of Rs.6.17 lakh.

The above matter was referred to the Government (April 2002). No reply was received from Government (November 2002).

3.4 Non-realisation of motor vehicles tax and additional tax in respect of goods vehicles/tractor-trailor combination

Under the OMVT Act, 1975, tax due on motor vehicles should be paid in advance within the prescribed period at the rates specified in the taxation schedule unless exemption from payment of such tax is allowed for the period for which necessary undertaking of temporary discontinuance of use of the vehicle is to be delivered by the owner of the vehicle to the taxing officer on or before the expiry of the terms for which tax has been paid. Further, according to the instructions issued (February 1966) by the Transport Commissioner, Orissa, demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) for payment of tax.

Test check of records of 18 Regional Transport Officers²⁵(RTOs) (between May 2001 to March 2002) revealed that tax in respect of 8303 vehicles (goods vehicles and tractor-trailor combination) was not paid during April 1998 to March 2001 and in respect of another 227 vehicles, tax was not paid for intervening periods falling between July 1998 and March 2001. These vehicles were neither covered by off-road declarations nor had they intimated the deposit of tax in any other region. Due to non-observance of the prescribed procedure and inaction on the part of the taxing officers, tax amounting to Rs.5.31 crore remained unrealised. In addition, penalty amounting to Rs.10.63 crore was also leviable.

On this being pointed out in audit (between June 2001 and March 2002), the department recovered tax of Rs.0.89 lakh including penalty in 10 cases and demand notices were issued in 846 cases for Rs.1.58 crore including penalty of Rs.1.05 crore. Final reply in other cases was not received.

The above matter was referred to the Government (April 2002). No reply was received from Government (November 2002).

25 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

3.5 Short realisation of composite tax under National Permit Scheme

As per Government of Orissa Notification (February 1999), composite tax in respect of goods carriages belonging to other States/Union Territories plying in Orissa under the National Permit Scheme shall be payable at the rate of Rs.5000 per annum per vehicle in advance in one instalment.

Test check of records in the office of the STA, Orissa, revealed (July 2001) that composite tax in respect of 2,771 goods carriages belonging to other States, authorised to ply in Orissa during the year 2000-2001 under National Permit Scheme was short realised as the vehicle operators has paid composite tax at incorrect rates. This resulted in short realisation of composite tax of Rs.67.62 lakh.

On this being pointed out in audit (July 2001), the Transport Commissioner, Orissa, stated (July 2001) that action would be taken for realisation of dues.

The above matter was referred to the Government (December 2001). No reply was received from Government (November 2002).

3.6 Non/short realisation of motor vehicles tax and additional tax in respect of stage carriages plying without permit

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, if a vehicle is detected plying without permit, the 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 kilometers (express) for the entire period not covered by permit,

Test check of records of 17 Regional Transport Offices²⁶ (RTOs) (between May 2001 and March 2002) revealed that 163 stage carriages were detected plying without permit during various periods between April 1999 and March 2001. Motor vehicles tax/additional tax in respect of these vehicles were neither collected at the prescribed rates nor any vehicle was seized. This resulted in non/short realisation of tax amounting to Rs.19.99 lakh. Besides, penalty of Rs.39.97 lakh was also leviable.

On this being pointed out in audit (between June 2001 and March 2002), the department recovered tax of Rs.0.43 lakh including penalty of Rs.0.29 lakh in 3 cases and demand notices were issued in 4 cases for Rs.1.92 lakh including

²⁶ Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

penalty of Rs.1.28 lakh. Final action taken in respect of the remaining cases not received (November 2002).

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.7 Non/short realisation of motor vehicles tax/additional tax on stage carriages under reciprocal agreement

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 Orissa Motor Vehicles Taxation Act, 1975 as amended and rules made thereunder.

Test check of records of State Transport Authority, Orissa and nine regions²⁷ (between June 2001 and February 2002) revealed that motor vehicles tax and additional tax amounting to Rs.17.23 lakh in respect of 82 stage carriages including 47 other State stage carriages authorised to ply on inter-State routes under reciprocal agreement was either not realised or realised short. Besides penalty of Rs.34.46 lakh was also leviable.

On this being pointed out in audit (between June 2001 and February 2002), the Transport Commissioner, Orissa and the taxing officers concerned stated that action would be taken to realise the dues. Out of the above cases demand notices were issued in 3 cases for Rs.1.26 lakh including penalty of Rs.0.84 lakh.

The above matter was referred to Government (between December 2001 and April 2002). No reply was received from Government (November 2002).

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

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, and rules made thereunder, penalty shall be leviable if a vehicle owner has not paid tax/additional tax in respect of motor vehicles within the specified period. In case of delay, the vehicle owner shall be liable to pay penalty ranging from 25 *per cent* to 200 *per cent* of the tax/additional tax due depending upon the period of delay.

²⁷ Balasore, Bargarh, Cuttack, Ganjam, Keonjhar, Koraput, Mayurbhanj, Sambalpur and Sundargarh.

Test check of records of 18 Regional Transport Offices²⁸ (RTOs) (between May 2001 and March 2002) revealed that there was non/short levy of penalty for delayed payment of taxes. In 212 cases penalty of Rs.16.53 lakh for the period from April 1997 to March 2001 was not levied at all, while in 128 cases penalty of Rs 11.33 lakh for the period from April 1997 to March 2001 was short realised.

On this being pointed out in audit (between May 2001 and March 2002), the department recovered penalty of Rs.0.25 lakh in 7 cases and demand notices were issued in 16 cases for Rs.1.70 lakh. Final action taken in the remaining cases has not been received.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.9 Non-realisation of motor vehicles tax/additional tax in respect of motor vehicles which violated off-road declaration

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 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 specifying *inter-alia*, the period of non-use and the place where the motor vehicle is to be kept during such period. If during the declared period 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 and in such case the owner of the vehicle is liable to pay tax/additional tax and penalty for the entire period.

Test check of records of 9 Regional Transport Officers²⁹ (RTOs) (between May 2001 and March 2002) revealed that 30 motor vehicles under off-road declarations for various periods (between July 1999 and March 2001) were either detected plying or not found at the declared places by the enforcement staff during the period covered by such off-road declarations. But no effective steps were taken by the taxing officer to realise the tax and levy penalty for violation of off-road declaration. This resulted in non-realisation of tax/additional tax of Rs.5.55 lakh. Besides, penalty of Rs.11.10 lakh was also leviable.

On this being pointed out in audit (between June 2001 and March 2002), all the taxing officers concerned agreed to realise the dues for all cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

28 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

29 Balasore, Bargarh, Chandikhol, Ganjam, Koraput, Mayurbhanj, Phulbani, Puri and Sambalpur.

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

Under the Orissa Motor Vehicles Taxation Act, 1975 (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 the vehicle 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.

Test check of records (between May 2001 and March 2002) of 16 Regional Transport Offices³⁰ (RTOs) revealed that 104 stage carriages were granted contract carriage permits during various periods (between April 1999 and March 2001) which attract higher rate of tax than what is applicable to stage carriages. However, motor vehicle tax/additional tax of Rs.3.46 lakh, being the differential amount of tax was not realised from the owners of these vehicles. Besides, penalty of Rs.6.93 lakh was also leviable.

On this being pointed out in audit, the department recovered tax of Rs.0.42 lakh including penalty in 2 cases and demand notices were issued in 7 cases for Rs.0.41 lakh including penalty of Rs.0.27 lakh. The department stated that demand would be raised in the remaining cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.11 Non-realisation of composite tax in respect of goods vehicles under reciprocal agreement

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975 when a goods vehicle enters the State of Orissa 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. In respect of goods vehicles belonging to the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreement, Government of Orissa decided (August 1986) to levy Rs.1500 annually on each vehicle as composite tax with effect from July 1986. The tax was payable in advance in lump sum on or before 15 April every year by crossed bank drafts to the State Transport Authority, Andhra Pradesh, for onward transmission to the State Transport Authority, Orissa. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof is also leviable in addition to the composite tax.

30 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela and Sambalpur.

Test check of records of the State Transport Authority, Orissa, it was noticed (July 2001) that out of 900 goods vehicles belonging to the State of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement during the year 2000-2001, composite tax in respect of 325 goods vehicles amounting to Rs.4.87 lakh was not realised. In addition, penalty of Rs.3.90 lakh calculated up to March 2001 was also leviable but not levied.

On this being pointed out in audit (July 2001), the State Transport Authority, Orissa, stated (July 2001) that State Transport Authority, Andhra Pradesh will be moved to realise the dues.

The above matter was referred to Government (December 2001). No reply was received from Government (November 2002).

3.12 Short realisation of motor vehicles tax and additional tax due to application of incorrect rates in respect of goods carriages

The Orissa Motor Vehicles Taxation (OMVT) Act, 1975, as amended prescribes different rates of motor vehicles tax and additional tax on the basis of the registered laden weight (RLW) in respect of goods carriages.

Test check of records of 6 Regional Transport Officers³¹ (RTOs) revealed (between June 2001 and March 2002) that motor vehicles tax/additional tax of Rs.3.36 lakh in respect of 20 goods carriages for the period from April 1998 to March 2001 were due for payment, of which Rs.1.96 lakh was realised resulting in short realisation of tax/additional tax amounting to Rs.1.40 lakh. In addition, penalty amounting to Rs.2.80 lakh was also leviable.

On this being pointed out in audit (between July 2001 and March 2002), all the taxing officers concerned stated to issue demand notices for realisation of the dues for all cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.13 Non-realisation of tax/fees on trade certificate

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, read with the Central Motor Vehicles Rules 1989, manufacturers or dealers in motor vehicles are required to obtain a trade certificate from the registering authorities and required to pay trade certificate tax and fees at the rates prescribed in respect of

31 Balasore, Ganjam, Kalahandi, Koraput, Sambalpur and Sundargarh.

two wheelers and other vehicles within whose area the dealers have their place of business.

Test check of records of 6 Regional Transport Officers³² (RTOs) revealed (between June 2001 and March 2002) that trade certificate tax and fees were not collected during the period April 1999 and March 2001 from 95 motor vehicle dealers resulting in non-realisation of revenue amounting to Rs.2.54 lakh.

On this being pointed out in audit (between June 2001 and March 2002), the taxing officers concerned recovered tax/fees of Rs.0.04 lakh in 2 cases and agreed to raise demand in remaining cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

32 Balasore, Bhubaneswar, Cuttack, Keonjhar, Rourkela and Sambalpur.