

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, Orissa and the Regional Transport Offices conducted during 2002-2003 revealed under-assessment of tax and loss/blocking of revenue amounting to Rs.25.47 crore in 18,415 cases which may broadly be categorised as under:

| (Rupees in crore) | | | |
|--------------------------|---|---------------|--------------|
| Sl. No. | Categories | No. of cases | Amount |
| 1 | Non-levy/non-realisation of motor vehicles tax/additional tax and penalty | 12,514 | 22.89 |
| 2 | Blocking of revenue due to non-disposal of vehicle check reports | 1,421 | 0.85 |
| 3 | Short realisation/short levy of motor vehicles tax/additional tax and penalty | 1,595 | 0.71 |
| 4 | Non/short realisation of composite tax and penalty | 2,383 | 0.46 |
| 5 | Non/short accountal of revenue receipts | 38 | 0.27 |
| 6 | Non/short realisation of compounding, permit, reservation and driving licence fees etc. | 353 | 0.19 |
| 7 | Other irregularities | 56 | 0.09 |
| 8 | Non/short realisation of trade certificate tax/fees | 55 | 0.01 |
| Total | | 18,415 | 25.47 |

During the year 2002-2003, the Department accepted under-assessment etc. of tax and penalty of Rs.2.59 crore in 2,028 cases. Of these, the Department had recovered Rs.0.41 crore in 729 cases in earlier years and Rs.0.07 crore in 23 cases pointed out during the year 2002-03.

A few illustrative cases highlighting important audit observations involving Rs.23.65 crore are mentioned in the following paragraphs.

3.2 Short accountal/misappropriation of Government revenue

Under the provisions of Orissa Treasury Code all moneys received by or tendered to Government Servants on account of the revenue of the state should, without undue delay, be paid in full into the treasury or into the bank and shall be included in the Public Account of the State. All monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the office in token of check.

Test check of cash book including subsidiary registers of four regions revealed short accountal/misappropriation of revenue of Rs.26.20 lakh during 2001-02 due to non-adherence to financial provisions by the Regional Transport Officers.

The Regional Transport Officers, Bhubaneswar and Chandikhol stated that the short accountal was due to excess deposit over the collection in previous days. The replies were not tenable, as revenue collected was required to be credited to Government Account forthwith

The matter was brought to the notice of Government in April 2003. Government in their reply in June 2003 asked the Transport Commissioner to conduct enquiry and to take proper disciplinary action against the employees involved.

3.3 Non-realisation of motor vehicles tax and additional tax in respect of goods vehicles

Under the Orissa Motor Vehicles Taxation (OMVT Act), 1975, tax due on motor vehicles should be paid in advance within the prescribed period at the rates prescribed unless exemption from payment of such tax is allowed for the period covered by off-road declarations. Further, according to the instructions issued in 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. Motor vehicles tax and additional tax in respect of goods vehicles are to be determined on the basis of the registered laden weight (RLW) of the vehicles and realised at the rates prescribed in item-3 of taxation schedule appended to the Act *ibid*. 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 regions²⁶ revealed that tax in respect of 6,076 goods vehicles was not paid during April 2000 to March 2002. These vehicles were neither covered by off-road declarations nor had they intimated the deposit of tax in any other region. Therefore, tax and additional tax amounting to Rs.4.81 crore remained unrealised due to lack of proper monitoring. In addition, penalty amounting to Rs.9.62 crore was also leviable.

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

On this being pointed out in audit, the Department recovered tax and penalty of Rs.0.13 lakh in one case and raised demand of Rs.0.65 lakh in 343 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.4 Non-realisation of motor vehicles tax and additional tax in respect of contract carriages

Under the OMVT Act, and rules made thereunder, motor vehicles tax and additional tax in respect of contract carriages are to be realised as per the rates specified on the basis of number of passengers permitted to carry, unless covered by an off-road undertaking.

Test check of records of 16 regions²⁷ revealed that motor vehicles tax and additional tax in respect of 1,728 contract carriages were not realised for different periods between January 2001 and March 2002 even though these contract carriages were not covered by off-road undertakings. This resulted in non-realisation of motor vehicles tax and additional tax amounting to Rs.1.11 crore. Besides, penalty of Rs.2.22 crore was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.29.00 lakh in 137 cases and recovered tax and penalty of Rs.0.01 lakh in one case. Final reply was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.5 Non-realisation of motor vehicles tax in respect of tractor-trailor combination

Under the OMVT Act, as amended from time to time, motor vehicles tax in respect of tractor-trailor combination is to be realised as per the rates prescribed on the basis of registered laden weight (RLW) unless covered by an off-road undertaking.

Test check of records of 18 regions²⁸ revealed that motor vehicles tax in respect of 3,508 tractor-trailor combinations were not realised for different periods between April 2001 and March 2002 even though these vehicles were not covered by off-road undertakings. This resulted in non-realisation of motor

27 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Koraput, Mayurbhanj, Phulabani, Puri, Rourkela, Sambalpur and Sundergarh.

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

vehicles tax amounting to Rs.91.94 lakh. Besides, penalty of Rs.1.84 crore was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.10.00 lakh in 129 cases and recovered tax and penalty of Rs.0.19 lakh in 4 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

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

Under the OMVT Act, as amended, motor vehicles tax and additional tax payable in respect of a stage carriage is determined on the basis of passengers (including standees) which the vehicle is allowed to carry and the total distance permitted to be covered in a day as per permit.

Test check of records revealed that in 18 regions²⁹ motor vehicles tax and additional tax of Rs.33.52 lakh in respect of 347 vehicles for the period between April 2000 to March 2003 was either not realised or realised short. This resulted in non-realisation of Government revenue of Rs.1.01 crore including penalty of Rs.67.04 lakh.

On this being pointed out in audit between May 2002 and March 2003, the Department raised demand of Rs.2.00 lakh in 9 cases and recovered tax and penalty of Rs.0.09 lakh in 2 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.7 Non/short realisation of motor vehicles tax/additional tax in respect of 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 (including standees) which the vehicle is permitted to carry and the total distance to be covered in a day as per 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 vehicles 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.

²⁹ Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Rayagada, Sambalpur and Sundargarh.

In course of audit of 16 regions³⁰ it was noticed that 131 stage carriages were detected plying without permit between April 2001 and March 2002. Motor vehicle tax/additional tax in respect of these vehicles were not collected at the prescribed rates resulting in non/short realisation of tax amounting to Rs.12.98 lakh. Besides, penalty of Rs.25.96 lakh was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.0.63 lakh in 5 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.8 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.5,000 per annum per vehicle in advance in one instalment.

Test check of records in the office of the State Transport Authority, Orissa revealed that composite tax in respect of 1,107 goods carriages belonging to the operators of other States authorised to ply in Orissa during 2001-02 under National Permit Scheme was short realised as the vehicle operators had paid composite tax at incorrect rates. This resulted in short realisation of composite tax of Rs.27.59 lakh.

On this being pointed out in audit, Transport Commissioner, Orissa stated in July 2002 that action would be taken to realise the dues. Final reply was awaited (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in March 2003; their reply was awaited (November 2003).

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

Under the OMVT Act, 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

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

declared place it shall be deemed to have been used through out the said period. Moreover in such a case the owner of the vehicle would be liable to pay tax and penalty for the above period at the highest rate of tax as per taxation schedule.

Test check of records of 13 regions³¹ revealed that 51 motor vehicles under off-road declarations for the periods between September 2000 and March 2002 were either detected plying or not found at the declared places by the enforcement staff during the period covered by off-road declarations. But no appropriate steps were taken by the Taxing Officer to realise the tax and levy penalty for violation of off-road declaration. Tax and additional tax payable on these vehicles worked out to Rs.8.64 lakh. Besides penalty of Rs.17.28 lakh was also leviable.

On this being pointed out in audit between May 2002 and March 2003, the Department raised demand of Rs.2.95 lakh in four cases. Final reply in other cases was not received (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.10 Non/short realisation of motor vehicles tax/additional tax on 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, as amended and rules made thereunder.

Test check of records of State Transport Authority, Orissa, Cuttack and four regions³² revealed that motor vehicles tax/additional tax amounting to Rs.8.16 lakh for the periods between April 2001 and March 2002 in respect of 45 stage carriages authorised to ply on the inter-state routes under reciprocal agreement was either not realised or realised short. Besides penalty of Rs.16.32 lakh was also leviable.

On this being pointed out in audit, Transport Commissioner, Orissa and the taxing officers agreed between July 2002 and March 2003 to realise the dues.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

31 Balasore, Bhubaneswar, Cuttack, Dhenkanal, Ganjam, Kalahandi, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

32 Ganjam, Kalahandi, Mayurbhanj and Rourkela.

3.11 Non/Short levy of penalty

Under the OMVT Act, as amended and the rules made thereunder, penalty shall be leviable if a vehicle owner has not paid tax and additional tax in respect of his vehicle within the specified period.

Test check of records of 18 regions³³ revealed that in respect of 193 cases no penalty was levied by the taxing authority though taxes were paid belatedly and in other 144 cases penalty was short levied. This resulted in non/short levy of penalty to the extent of Rs.24.43 lakh for the period between April 1998 and March 2003.

On this being pointed out in audit, the Department raised demand of Rs.0.41 lakh in 8 cases and recovered Rs.0.22 lakh in 3 cases. Final reply in other cases was not received (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

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

Under the OMVT Act, 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 of 14 regions³⁴ revealed that 150 stage carriages were permitted to ply temporarily as contract carriages between April 2001 and March 2002 for which tax was not realised at the appropriate higher rate. This resulted in short-realisation of motor vehicles tax/additional tax amounting to Rs.6.18 lakh. Besides, penalty of Rs.12.36 lakh was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.0.36 lakh in 5 cases. Final reply in other cases was not received (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

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34 Balasore, Bargarh, Bhubaneswar, Chandikhole, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Mayurbhanj, Phulbani, Puri, Rourkela and Sambalpur.

3.13 Non-realisation of composite tax in respect of Andhra Pradesh goods vehicles under reciprocal agreement

Under the provisions of the OMVT Act, 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 Andhra Pradesh authorised to ply in Orissa under the reciprocal agreement, Government of Orissa decided in February 2001 to levy Rs.3,000 annually on each vehicle as composite tax. The tax was to be paid in advance in lump sum on or before 15 April every year by crossed bank drafts to the State Transport Authority (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 the composite tax.

Test check of records of STA, Orissa, revealed that out of 1,384 goods vehicles belonging to the State of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement during 2001-02, composite tax in respect of 419 goods vehicles amounting to Rs.12.57 lakh was not realised. In addition penalty of Rs.5.03 lakh was also leviable but not levied.

On this being pointed out in audit, STA, Orissa stated in July 2002 that action was being taken to realise the dues. Final reply was awaited.

The matter was referred to Government in March 2003; their reply was awaited (November 2003).

3.14 Non-realisation of differential tax in respect of private vehicles plying on hire or reward

Under Section 2(22) of Motor Vehicles Act, 1988 "maxi cab" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers excluding the driver, plying for hire or reward such a vehicle is to be taxed depending upon the potential nature of use of the vehicle in terms of circular of 1996 of State Transport Authority, 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 used in contravention, the owner shall be liable to pay tax under the relevant section of OMVT Act.

Test check of registration records, together with the vehicle check reports in 3 regions³⁵, revealed that 19 vehicles having seating capacity of more than six but not more than twelve excluding the driver, registered on the strength of an affidavit and being taxed under item 6 of schedule-I of OMVT Act, were detected between July 2000 and March 2002 by the enforcement staff as

35 Bolangir, Rourkela and Sambalpur.

plying for hire or reward in contravention of the said undertaking. However, no action was taken to realise the differential tax of Rs.2.13 lakh. Besides, penalty of Rs.4.26 lakh was also leviable.

On this being pointed out in audit between November 2002 and March 2003, concerned taxing officers agreed between November 2002 and March 2003 to realise the dues. Final reply was awaited.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.15 Non-realisation of Trade Certificate tax/fees

Under the OMVT Act, read with Central Motor Vehicles, Rules, 1989, as amended, dealers in motor vehicles are required to obtain trade certificates from the registering authorities by paying the requisite tax/fees annually in advance. Under the Motor Vehicles Act, 1988, 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 4 regions³⁶ revealed that in respect of 49 dealers, trade certificate tax and fees for the period 2000-2001 and 2001-2002 were not realised which resulted in non-realisation of tax and fees amounting to Rs.1.25 lakh.

On this being pointed out in audit between October 2002 and February 2003 all taxing officers agreed between October 2002 and February 2003 to realise the dues. Final reply was awaited.

The above matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

36 Bargarh, Bhubaneswar, Dhenkanal, Keonjhar.