

## CHAPTER III

### TAXES ON VEHICLES

#### 3.1 Results of audit

Test check of the records of the departmental offices during the period from April 2007 to March 2008 revealed non/short collection of tax, fees, penalty etc., and other audit observations amounting to Rs. 247.37 crore in 132 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	<b>Receipts from Motor Vehicles Tax – (A review)</b>	1	240.00
2.	Non/short collection of tax	93	5.14
3.	Non/short collection of penalty	17	0.62
4.	Other irregularities	21	1.61
<b>Total</b>		<b>132</b>	<b>247.37</b>

During the course of the year 2007-08, the department accepted and collected tax, fees, penalty etc., amounting to Rs. 66 lakh in 30 cases, out of which, Rs. 6,000 involved in one case was pointed out during the year and the rest in the earlier years.

A review of “**Receipts from Motor Vehicles Tax**” involving Rs. 240.00 crore is discussed below:

## **3.2 Receipts from Motor Vehicles Tax**

### **Highlights**

- Non-registration of 827 canvassers and 237 travel agents under the Motor Vehicles Act, 1988 resulted in loss of scope to collect revenue of Rs. 4.22 crore besides non-bringing them into the system.

**(Paragraph 3.2.7)**

- Failure to raise demand for life time tax in respect of 2,300 vehicles resulted in non-realisation of revenue of Rs. 3.18 crore.

**(Paragraph 3.2.10)**

- Failure to levy appropriate tax in respect of 1.57 lakh permits issued to spare buses of stage carriages, which operated as contract carriages under temporary permits, resulted in loss of revenue of Rs. 233.36 crore.

**(Paragraph 3.2.13)**

### **3.2.1 Introduction**

The assessment, levy and collection of receipts from motor vehicles is governed by the Motor Vehicles Act, 1988 (MVT Act), as applicable to the State of Tamil Nadu; Central Motor Vehicles Rules, 1989 (CMV Rules); Tamil Nadu Motor Vehicles Taxation Act, 1974 (TNMVT Act) and the rules made thereunder. The major receipts of the Transport Department comprise of tax on motor vehicles and fee for registration of vehicles, issue of driving licence and road permit etc. Under the National Permit Scheme formulated by the Government of India in 1975, the States and Union Territories are authorised to grant permits to owners of public carrier vehicles for carriage of goods throughout the territory of India or in such contiguous states not less than four in number including the home state. The composite fee payable to other states is received by the home state in the form of crossed bank draft payable to the designated authorities of those states and is forwarded to the state concerned.

Audit reviewed the assessment, levy and collection of taxes on motor vehicles in the Transport Department. It revealed a number of system and compliance deficiencies, which are discussed in the succeeding paragraphs.

### **3.2.2 Organisational set up**

The receipts from motor vehicles are administered by the State Transport Commissioner (STC) under the administrative control of the Secretary to Government, Home (Transport) Department. In addition, there are three Joint Transport Commissioners (JTC) at headquarter who deal with framing of

rules, administration and road safety. The state is divided into seven zones. Each zone is headed by a Deputy Transport Commissioner (DTC) except Chennai zone which is headed by a JTC. The State Transport Commissioner also acts as the Secretary, State Transport Authority (a statutory body that coordinates and regulates the activities and policies of the regional transport offices (RTO). There are 46 RTOs and 313 inspectors under the control of Zonal Offices. The JTC and DTC are under the control of STC.

### **3.2.3 Audit objectives**

The review was conducted with a view to ascertain the

- adequacy and effectiveness of the MVT Act, CMV Rules, TNMVT Act and Rules made thereunder;
- effectiveness and efficiency of the system/mechanism for proper assessment, levy and collection of taxes, fees etc., in accordance with the Acts and Rules; and
- adequacy and effectiveness of the internal controls.

### **3.2.4 Scope of Audit**

A test check of the records of the Home department (Transport) in the Secretariat, State Transport Commissioner office, three out of the seven Zonal Offices and 20<sup>1</sup> out of the 46 RTOs, covering the period from 2002-03 to 2006-07 was conducted between July 2007 and April 2008. The RTOs were selected on the basis of maximum revenue collection and vehicle population.

### **3.2.5 Acknowledgement**

The Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing necessary information and records for audit. At the outset an entry conference was held in June 2007 with the Transport Commissioner and other departmental officers. He was apprised of the objectives of the review taken up by audit. The draft review was forwarded to the Government and the department in May 2008 and was discussed in the meeting of the Audit Review Committee held in August 2008. The Government was represented by the Deputy Secretary to the Government, Home (Transport) Department and the department was represented by the Transport Commissioner. The view point of the Government and that of the department have been incorporated in the respective paragraphs of the report.

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<sup>1</sup> Chennai (C), Chennai (S), Chennai (W), Chennai (NW), Coimbatore (N), Coimbatore (S), Erode, Kancheepuram, Karur, Madurai (N), Madurai (S), Meenambakkam, Namakkal, Pollachi, Salem, Srirangam, T.V.Malai, Tiruchy, Vellore and Villupuram.

### 3.2.6 Trend of Revenue

The budget estimates and the actual receipts under the head “Motor Vehicles Tax” for the last six years ending March 2008 are mentioned below:

(Rupees in crore)				
Year	Budget estimates	Actuals	Variation Excess (+) Shortfall (-)	% of variation
2002-03	700.50	745.62	(+) 45.12	(+) 6.44
2003-04	878.41	934.29	(+) 55.58	(+) 6.00
2004-05	1,101.11	1,014.75	(-) 86.36	(-) 8.00
2005-06	1,130.50	1,124.93	(-) 5.57	(-) 0.49
2006-07	1,248.28	1,260.88	(+) 12.60	(+) 1.00
2007-08	1,410.22	1,483.21	(+) 72.99	(+) 5.18

The increase of revenue of 25 per cent in 2003-04 over 2002-03 was due to revision of the tax for transport vehicles, introduction of the life time tax<sup>2</sup> for four wheelers and introduction of the green tax<sup>3</sup>.

### System Deficiencies

#### 3.2.7 Non-registration of the canvassers/travel agents

The MVT Act (Section 93) provides that no person shall engage himself as an agent or canvasser in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles or distributing goods carriages unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government. Rule 235(1) read with Rule 279 of the Tamil Nadu Motor Vehicles Rules, provide for collection of fees and security deposit at the rates prescribed from time to time.

**3.2.7.1** Test check of the records conducted in the office of the STC revealed that the department had not at any time made any effort to detect the unregistered travel agents or canvassers engaged in sale of tickets and forwarding or distributing goods carriages etc. No survey was conducted to unearth the unregistered agents/canvassers. No data was available with the department regarding the number of persons to whom licence was granted or to be granted. The absence of provisions for conducting market survey in the Tamil Nadu Motor Vehicles Rules, coupled with the failure of the department to institute control measures for registration of the travel agents and canvassers resulted in loss of revenue to the State which cannot be quantified in the absence of data. Audit could detect some cases of the unregistered

<sup>2</sup> Life time tax means tax paid in lump sum in advance for life time of the vehicle.

<sup>3</sup> Green tax is an additional tax levied on the motor vehicle for the purpose of implementation of measures to control air pollution.

travel agents and canvassers by cross verification of records as mentioned below:

**3.2.7.2** As per the MVT Act read with Tamil Nadu Motor Vehicles Rules, the licence fee for grant of licence to the travel agents and canvassers of goods was Rs. 45 and Rs. 450 and the security deposit was Rs. 5,000 and Rs. 50,000 respectively.

As per the information obtained from the Central Excise Department at Madurai, 73 canvassers were paying service tax but none of them was registered with the Transport Department at Madurai. In addition to the above, a perusal of the telephone directory published by BSNL in the jurisdiction of 15 regional transport offices<sup>4</sup>(RTOs) revealed that 754 canvassers/agents were engaged in the business of forwarding and delivering of goods, but none of them was registered. Further in 6 RTOs<sup>5</sup>, 237 travel agents had not registered themselves, as required under the Act. No survey was conducted by the regional transport offices to identify such canvassers/travel agents. Failure to identify and register these canvassers and agents by the department resulted in loss of scope to collect fee of Rs. 3.83 lakh and security deposit of Rs. 4.18 crore, besides non-bringing them into the system.

### **3.2.8 Internal Audit**

In the Transport Department, the internal audit wing has been functioning since 1970. It is headed and monitored by a Chief Accounts Officer under the overall control of the Transport Commissioner. However, there was no internal audit manual in the department codifying the practices and procedures relating to conduct of internal audit. No control register to watch the issue of inspection reports and the observations raised and settled was maintained by the department.

The total number of inspection reports and audit observations pending for disposal was not available with the internal audit wing. As per the information obtained from four zones, 838 audit observations involving a money value of Rs. 4.50 crore were outstanding with the department as on 31 March 2007. The information in respect of the remaining zones was not available. Thus, in the absence of the vital information, Audit could not ascertain the efficacy of the internal audit wing.

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<sup>4</sup> Chennai (C), Chennai (NW), Chennai (S), Chennai (W), Coimbatore (N), Coimbatore (S), Erode, Karur, Meenambakkam, Pollachi, Salem, Tiruvannamalai, Trichy, Vellore and Villupuram

<sup>5</sup> Chennai (NW), Chennai (W), Meenambakkam, Pollachi, Salem and Villupuram.

### **3.2.9 Non-raising of demand of arrears of tax from other state omni buses**

The Government by an order dated 30 November 2001 enhanced the rate of tax payable in respect of omni buses from Rs. 2,000 to Rs. 3,000 per seat per quarter. This was challenged by the operators in writ petition 212/2002 etc., before the Madras High Court which dismissed the petitions in November 2005 and held the collection of tax at the enhanced rate as valid. In the meantime, the State Transport Commissioner (STC), in the light of an audit observation, had instructed (April 2005) all the officers to maintain records relating to the collection and dues payable by the home state and other state omni bus operators by obtaining the details from check reports<sup>6</sup> issued by the inspectors. The STC had directed (April 2005) the internal audit wing to ensure proper maintenance of the registers and raising of the demand.

Test check of the records revealed that, in 16 RTOs<sup>7</sup>, the registers were not maintained properly to watch the recovery of difference of the tax from other state omni bus operators. As per the check reports of motor vehicle inspectors available in the department, an amount of Rs. 57 lakh was realisable from 733 buses. However, no demand was raised by the department. This fact was not reported by the internal audit wing inspite of the direction of the STC.

After the cases were pointed out between August 2007 and March 2008, the department stated (May 2008) that the concerned offices had been instructed to furnish progress report and final reply would be furnished.

### **3.2.10 Non-raising of demand of life time tax**

The Government in 1998 levied life time tax on non-transport vehicles. This was challenged by the vehicles owners in the Supreme Court which in March 2005 held the levy of life time tax valid. The STC had directed (April 2006) all the registering officers to ensure that details of all such vehicles are kept in separate registers meant for watching the difference of tax. The particulars of the vehicles were required to be taken from the "B" register maintained for registration of vehicles and these registers were required to be checked by internal audit wing.

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<sup>6</sup> Check records are issued by Motor Vehicle Inspectors during the checking of vehicle on road.

<sup>7</sup> Chennai (C), Chennai (NW), Chennai (W), Coimbatore (N), Erode, Kanchipuram, Karur, Madurai (N), Madurai (S), Pollachi, Salem (Mettur unit), Srirangam, T.V.Malai, Trichy, Trichy Enforcement wing and Villupuram.

Test check of the records of 17 RTOs<sup>8</sup> revealed that the registers meant for watching the difference of tax was incomplete. 2,300 vehicle owners registered between November 1999 and September 2000 were liable to pay difference of life time tax of Rs. 3.18 crore. But the demand was not raised by the department and this was not pointed out by the internal audit. The failure to follow the instructions resulted in non-realisation of revenue of Rs. 3.18 crore.

After this was pointed out, the department accepted the audit observations and directed the concerned offices to collect the tax and furnish progress report.

### **3.2.11 Delay in review of the inter-state agreements**

Under the provisions of Section 88 of the Motor Vehicles Act, an agreement between the states is a prerequisite for granting of permits for different types of transport vehicles to ply between the states on identified inter state routes. The inter state agreement, *inter-alia*, facilitates determination of the number and the routes of inter state vehicle transport by paying road tax in a single point. The agreements entered by the states provide for review once in two years to accommodate future requirements and also for effecting changes to the original agreement.

Test check of the records in the office of the Commissioner of Transport, Chennai, disclosed that the agreements entered into between Tamil Nadu and the states of Andhra Pradesh, Karnataka, Kerala and the Union Territory of Puducherry were not reviewed once in two years as envisaged in the original agreements. The delay in review of the agreements ranged from 2 years to 22 years. Though there were ministerial level meetings between Tamil Nadu and other states, final decision was not arrived in respect of Puducherry and in respect of Karnataka and Andhra Pradesh, the notification was issued only in November 2007. The impact of non-review of the agreements is mentioned in the following paragraphs.

**3.2.11.1** As per the inter state agreement with Puducherry entered in 1985, 468 buses of Tamil Nadu against 117 buses of Puducherry in the ratio of 4:1 were required to be operated between Tamil Nadu and Puducherry. However, only 248 buses were operated by Tamil Nadu. On verification of records, it was seen that 82 buses of Tamil Nadu were plying between Tamil Nadu and Puducherry on payment of double point tax. In spite of the requisitions made by the State Transport Undertakings for operating these buses on single point tax, the same could not be done due to non-review of the original agreement.

<sup>8</sup> Chennai (C), Chennai (NW), Chennai (S), Chennai (W), Coimbatore (N), Coimbatore (S), Erode, Kanchipuram, Karur, Madurai (S), Namakkal, Pollachi, Srirangam, T.V.Malai, Trichy, Vellore and Villupuram.

**3.2.11.2** As per the existing agreement entered in 1985, seven buses of Tamil Nadu transport undertakings were operated on routes using the permits assigned to the Union Territory of Puducherry by paying tax to that Government. In the absence of the review of the agreement even after a lapse of 22 years, the buses (seven) continued to ply under Puducherry permits resulting in loss of revenue amounting to Rs. 1.20 crore during 1989-90 to 2006-07 including Rs. 38 lakh for the last five years.

**3.2.11.3** The third draft supplementary agreement was entered into between the states of Tamil Nadu and Andhra Pradesh in February 2005 for operation of 115 additional buses in specified routes by Tamil Nadu on single point tax basis using temporary permits, till finalisation of the supplementary agreement. The draft agreement was notified by the Government of Andhra Pradesh in October 2005. However, it was not notified by Tamil Nadu.

After this was pointed out in audit, the Government issued notification in November 2007. The delay in issue of notification has resulted in foregoing of revenue of Rs. 1.90 crore<sup>9</sup> for the period from October 2005 to March 2007.

## **Compliance Deficiencies**

### **3.2.12 Non-collection of composite tax**

The Government of Tamil Nadu issued a notification in December 1999 for collecting composite tax at a higher rate in respect of goods carriages registered in the other states and allowed to ply in Tamil Nadu, if any other state levied composite tax at a higher rate for goods carriages registered in Tamil Nadu. The state of Kerala had enhanced the composite tax from Rs. 3,000 to Rs. 5,000 from 17 July 2006, payable by the goods carriages registered outside the state and permitted to ply in Kerala. Accordingly, the Government of Tamil Nadu enhanced the composite tax in respect of vehicles registered in Kerala and authorised to ply in Tamil Nadu.

Test check of the records in the office of the STC revealed that 2,135 National Permit holders registered in Kerala had applied (March 2006) for permits from the State Transport Authority, Tamil Nadu to ply in Tamil Nadu for the year 2006-07. Permits were issued by collecting tax at Rs. 3,000. As the State of Kerala had enhanced the rate of composite tax in July 2006 for the vehicles of Tamil Nadu permitted to ply in Kerala, the tax should have been collected at the enhanced rate of Rs. 5,000 as per the said notification, which was not done. This resulted in non-realisation of tax of Rs. 43 lakh.

After this was pointed out in June 2007, the STC stated that an amount of Rs. 4 lakh was collected in respect of 180 vehicles and the Transport Commissioner of Kerala was requested to realise the balance amount.

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<sup>9</sup> At Rs. 500 per seat per quarter for 115 buses of 55 seating capacity.



**3.2.13 Non-levy of additional tax on reserve stage carriages**

According to section 11 of the Tamil Nadu Motor Vehicles Taxation (TNMVT) Act, 1974, when any motor vehicle in respect of which tax has been paid is altered or proposed to be used in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or person who is in possession or control of such vehicle shall pay an additional tax of a sum equal to the difference between the tax already paid and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of its being altered.

Test check of the records in 15 RTOs<sup>10</sup>, revealed that 1.57 lakh temporary permits were issued between April 2002 to March 2007 to reserve stage carriages<sup>11</sup>, allowing them to operate as “contract carriages” on tour from one point to another, without collecting the tax as applicable to the contract carriages for the period of permit. The vehicle owners were liable to pay tax of Rs. 258.55 crore against which Rs. 25.19 crore were collected. This resulted in short recovery of Government revenue of Rs. 233.36 crore as mentioned below:

(Rupees in crore)				
Year	Number of permits issued	Tax payable	Tax paid	Balance
2002-03	12,602	20.79	2.09	18.70
2003-04	25,030	41.30	4.01	37.29
2004-05	39,432	65.00	6.32	58.68
2005-06	40,349	66.57	6.47	60.10
2006-07	39,331	64.89	6.30	58.59
<b>Total</b>	<b>1,56,744</b>	<b>258.55</b>	<b>25.19</b>	<b>233.36</b>

After this was pointed out, the STC stated (May 2008) that necessary proposals were submitted to the Government in March 2008 for levy of tax on reserve stage carriages operating on special temporary permits under the enabling provisions of the TNMVT Act. The reply is not tenable as additional tax could be levied under the enabling provisions of the TNMVT Act, without referring to the Government.

<sup>10</sup> Coimbatore (N), Coimbatore (S), Erode, Kancheepuram, Karur, Madurai (N), Madurai (S), Namakkal, Pollachi, Salem, Srirangam, Tiruvannamalai, Trichy, Vellore and Villupuram.

<sup>11</sup> Reserve stage carriages are the buses deployed in the event of break down of the stage carriages buses. On the other hand, contract carriages are the one used for special purposes on contract.

### **3.2.14 Non-collection of fee for transfer of permits**

Under Section 82(1) of the Motor Vehicles Act, 1988, permits of transport vehicles may be transferred from one person to another with the permission of the State Transport Authority which granted the permit on payment of Rs. 2,400 per permit.

Test check of the records in the office of the STC revealed that as per the Government order dated 16 February 2004, 17 state transport undertakings incorporated under the Companies Act were amalgamated into seven transport undertakings in a phased manner between 2001 and 2004 by transfer of the assets and liabilities including the permits of 8,414 buses of the erstwhile transport undertakings. However, the prescribed fees for transfer of the permits, amounting to Rs. 2.02 crore was not collected.

After this was pointed out in August 2007, the STC accepted the audit observations and stated (May 2008) that a proposal was submitted to the Government in May 2008 for collection of the fees for transfer of permit.

### **3.2.15 Short levy of tax**

Rule 306 of the Tamil Nadu Motor Vehicles Rules provides for seating of not less than 80 cms and not more than 90 cms of length for each seat with pushback facility in deluxe buses. As per this parameter, buses having wheel base of 222 inches would be able to accommodate a minimum of 35 + 1 seats. This was applicable to both stage carriages and omni buses. The rule was, however, amended in March 2004 wherein only stage carriages were brought under the purview and omni buses were excluded.

Test check of the records in the office of the STC Chennai, revealed that prior to March 2004, vehicle owners of 54 omni buses having wheel base of 222 inches were liable to pay tax for 36 seats each but the tax was incorrectly collected for seats ranging between 26 and 34 for the period from April 2002 to March 2004. This resulted in short realisation of tax of Rs. 26 lakh.

After this matter was pointed out in September 2007, the State Transport Commissioner stated (March 2008) that a proposal to levy tax based on floor space of the buses had been submitted to the Government in May 2007. However, the reply was silent about the permits issued before February 2004 and the action taken to collect the differential tax.

### **3.2.16 Short levy of life time tax**

Tamil Nadu Motor Vehicles Taxation Act provides that life time tax shall be collected in respect of non-transport vehicles (four wheelers) registered between July 1998 and July 2003 at the rates prescribed in the Act. This tax was required to be collected at double the rate applicable to individuals in respect of the vehicles owned by "others", viz., firm, company, etc.

Test check of the records in 9 RTOs<sup>12</sup>, revealed that there was short demand of tax of Rs. 75 lakh in respect of 415 vehicles due to adoption of the rate of tax applicable to individuals instead of others and adoption of the incorrect slab of tax.

After this was pointed out, the department accepted (May 2008) the audit observations and stated that the officers had been instructed to furnish progress report on the collection of the tax.

### **3.2.17 Non-enforcement of provisions for effective control of pollution**

Rule 116-A of the Tamil Nadu Motor Vehicles Rules, 1989 read with Rule 116 of the Central Motor Vehicles Rules, 1989 provide for testing of smoke emission levels from the motor vehicles by the Tamil Nadu Pollution Control Board/testing stations authorised by the STC. The certificate issued by the authorised testing centre is valid for a period of six months from the date of issue. This is required to be produced to the regional transport officer at the time of obtaining fitness certificate. As per sub-section 2 of Section 190 of Motor Vehicles Act, if a motor vehicle violates the standards prescribed in relation to air-pollution, the person who drives or causes or allows to be driven shall be punishable for the first offence with a fine of Rs. 1,000 and for any second or subsequent offence with a fine of Rs. 2,000.

Test check of the records in the offices under the Transport Department revealed that the number of vehicle testing stations meant for issuing pollution fitness certificate in Chennai had gone down from 130 in 1997 to 66 in 2006, while the number of vehicles checked had gone down from 4 lakh in 1998 to 1.25 lakh in 2006.

After this was pointed out, the STC stated (March 2008) that the matter was taken up with the insurance companies instructing them to make the pollution certificate mandatory before renewal of insurance, particularly in respect of non-transport vehicles which are under life time tax and which do not require any services from the RTOs after registration.

### **3.2.18 Conclusion**

Audit noticed that in the absence of market survey, the canvassers and agents for goods carrier and travel were not registered. There was inordinate delay in review of the inter state agreements which led to non-utilisation of the routes and buses and consequent foregoing of revenue. Failure to implement the provisions of Acts and Rules and ineffective monitoring of tax collection resulted in loss of revenue to the Government.

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<sup>12</sup> Chennai (C), Chennai (NW), Chennai (S), Chennai (W), Erode, Madurai (S), Meenambakkam, Trichy and Vellore (Vaniyambadi unit).

### **3.2.19 Summary of recommendations**

The Government may consider to:

- conduct market survey to identify the travel agencies/canvassers engaged in goods transport so as to bring the unregistered service providers into the tax net;
- prescribe a manual codifying the rules and procedures with reference to which the internal audit is required to be conducted. Besides, control registers to watch the issue and disposal of inspection reports and audit observations may be prescribed; and
- evolve a system for regular review of the inter state agreements so that deficiencies, if any, in the agreements can be rectified and the agreements are kept current to safeguard the interest of the state.