

CHAPTER 5

TAXES ON VEHICLES

5.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2001 to March 2002 revealed short/non collection of tax, short/non-collection of fees, non-levy/short collection of penalty, etc., amounting to Rs.348.35 crore in 95 cases which broadly fall under the following categories.

Sl. No.	Categories	No. of cases	Amount (Rs. in crore)
1	Short /Non-collection of tax	38	11.05
2	Short /Non-collection of fees	39	1.12
3	Non-levy/short collection of penalty	17	0.83
4	Review on `Receipts under Taxes on Motor Vehicles'	1	335.35
	Total	95	348.35

During the course of the year 2001-2002, the concerned department accepted under-assessments of Rs.3.98 lakh in 22 cases, out of which 8 cases involving Rs.0.97 lakh were pointed out during 2001-02 and the rest in earlier years. Out of the above a sum of Rs.3.94 lakh involved in 22 cases has been recovered (June 2002).

A Review on "Receipts under Taxes on Motor Vehicles" involving a financial effect of Rs.335.35 crore is mentioned below:

5.2 Review on Receipts under Taxes on Motor Vehicles

Highlights

❖ **Delay in issue of notification to revise the rates as per Motor Vehicles Act, 1988 resulted in revenue foregone of Rs.11.33 crore.**

[Paragraph 5.2.6]

❖ **Misuse of permits by All India Tourist Transport Operators, resulted in loss of revenue of Rs.38.98 crore.**

[Paragraph 5.2.7]

❖ **Additional tax of Rs.251.84 crore in respect of 1,93,721 temporary permits issued was omitted to be levied.**

[Paragraph 5.2.8]

❖ **Omission to operate minimum number of vehicles specified in Modified Scheme in respect of each district resulted in revenue foregone to the extent of Rs.27.86 crore.**

[Paragraph 5.2.9]

❖ **Non-revision of minimum fine for overloading of vehicles in accordance with Motor Vehicles Act by the State Government resulted in revenue foregone amounting to Rs.1.93 crore.**

[Paragraph 5.2.10]

❖ **Loss of revenue of Rs.2.66 crore due to violation of permit conditions by 1007 maxi cabs in 6 offices, which operated as stage carriage.**

[Paragraph 5.2.11]

5.2.1 Introduction

The Motor Vehicles Act, 1988 and rules made thereunder as amended from time to time regulate registration and control of motor vehicles, insurance etc. It provides for the levy and collection of fees for registration of motor vehicles etc. The Tamil Nadu Motor Vehicle Taxation Act, 1974 and Rules amended from time to time provides for levy and collection of tax on different types of motor vehicles registered and plying in Tamil Nadu and also on motor vehicles registered in other States but coming to the State for short stay.

The duties and responsibilities of the Transport Department broadly confine to receipts under registration of motor vehicles, issue of driving and conductor licenses, issue of fitness certificates to transport vehicles, inspection of vehicles involved in accidents, collection of taxes and fees and fines under the Act.

5.2.2 Organisational Set-up

State Transport Authority/Regional Transport Authorities are responsible for the grant of permits for plying vehicles on specified routes. The Transport Department is functioning under the charge of the Transport Commissioner, who is assisted by 44 Regional Transport Officers and 19 Transport Check Posts in Tamil Nadu manned by Motor Vehicle Inspectors in the State. The Regional Transport Officer is the Secretary to the Regional Transport Authority (District Collector) and responsible for levy and collection of taxes, registration of vehicles and for enforcing the provision of Motor Vehicles Act and rules framed thereunder.

5.2.3 Scope of Audit

With a view to evaluating the efficiency and effectiveness of the system and procedures relating to assessment and collection of Motor Vehicle Tax and also the compliance to the provisions of tax laws, records for the period April 1997 to March 2002 in twenty¹¹ out of 44 Regional Transport Offices and twelve¹² out of 19 check posts was conducted between November 2001 and May 2002. The major audit findings are given in following paragraphs.

¹¹ Chennai (South), Coimbatore (North), Coimbatore (South), Dharmapuri, Dindigul, Erode, Gobichettipalayam, Kancheepuram, Kanyakumari, Karur, Madurai (North), Madurai (South), Namakkal, Pollachi, Salem, Tiruchengode, Trichy, Tirunelveli, Tiruvallur and Vellore.

¹² Amarampalayam, Bannari, Gopalapuram, Hosur (incoming), K.G. Chavadi (incoming), K.G. Chavadi (outgoing), Katpadi, Pethikuppam, Poonamallee, Puliyarai, Serkadu and Tiruthani.

5.2.4 Trend of Revenue

The budget estimates vis-à-vis the actual receipts under the head Motor Vehicles Tax for the last five years ending March 2002 are indicated below.

(Rupees in Crore)

Year	No. of registered vehicles	Budget estimates	Actuals	Variation Excess(+) Shortfall(-)	Percentage of Variation
1997-1998	3181819	460.00	469.69	(+) 9.69	(+) 2
1998-1999	3614248	539.00	518.14	(-) 20.86	(-) 4
1999-2000	4456719	574.00	577.98	(+) 3.98	(+) 1
2000-2001	4607228	655.23	590.44	(-) 64.79	(-) 10
2001-2002	5162082	734.31	648.43	(-) 85.88	(-) 12

The variations between the budget estimates and actuals during 2000-01, was attributed to stay ordered by Madras High Court on levy of life time tax on four wheelers which was subsequently lifted under the orders of the Supreme Court in July 2000 and during the year 2001-02 due to non collection of tax at enhanced rates as ordered by government with effect from 1 December 2001.

5.2.5 Mini Bus Scheme-Violations of permit conditions

Government of Tamil Nadu introduced (September 1997) Mini Bus Scheme for the benefit of rural public in remote Villages. According to the Scheme, private operators were permitted to operate mini buses with approved route length of 16 kms, which was increased to 20 kms in October 1998 in rural areas of the State which included a route length of 4 kms in the already served areas of State Transport Undertakings and private operators. For the purpose of the scheme "rural areas" do not include Chennai Metropolitan Area, any Municipal Corporation and any township constituted under any Law for the time being in force. As on 31 March 2002, the Transport Authorities have issued 4023 mini bus permits in 28 Districts.

- i) Test check of the records of Transport Commissioner revealed that checking of mini buses during the period from 21 June 2001 to 26 August 2001 in 36 Regional Transport Offices, revealed that out of 3062 buses for which check reports were issued 1564 minibuses were found plying on routes which were more lucrative, but not covered by their permits. This constitutes 51 per cent of the total mini buses checked. Further, 198 mini buses were plying without obtaining valid permits and 11 mini buses without payment of taxes.
- ii) In Madurai, Karur and Tiruppur regions, it was noticed that in the case of 132 out of 525 mini bus, permits were issued for short distances upto 6 km only, out of which 4 km was in the served areas.
- iii) The operators had a tendency to ply shuttle trips on main roads and curtailed their operation in rural areas restricting their operation only in served sector instead of operating their mini buses to total distance of 16 km/ 20km in the rural areas for which permits were granted. This was gross violation of the permit conditions defeating the object of serving the rural public.
- iv) The Government had fixed maximum of 250 mini buses for all twenty eight¹³ revenue districts which was arbitrary and not based upon any criteria which is evident from the fact that the maximum limit of 250 minibuses was fixed for big district like Coimbatore having 5 Regional Transport Offices and the same for small districts like Kanyakumari and Nilgiris where only one Regional Transport Office, is functioning in each district.

The mini buses were plying in the town areas and operating from the regular bus stands and Government Hospitals etc., which were traffic generating points, which revealed the failure of the department to take action against the erring permit holders despite specific complaints made by the State Transport Undertakings. This resulted in revenue forgone by the Government amounting to Rs.13.00 crore per year due to concessional rate of tax allowed for these buses in addition to loss of Rs. 4 crore per month to the State Transport Undertakings as estimated in the policy note for the year 2001-2002 presented by the Transport Department.

¹³ Chennai, Coimbatore, Cuddalore, Dharmapuri, Dindigul, Erode, Kancheepuram, Kanniyakumari, Karur, Madurai, Nagapattinam, Namakkal, Perambalur, Pudukkottai, Ramanathapuram, Salem, Sivaganga, Thanjavur, Theni, Tiruchirappalli, Tiruvannamalai, Tirunelveli, Tiruvallur, Tiruvarur, Thoothukudi, Vellore, Villupuram and Virudhunagar.

In view of the above, it is essential to identify unserved rural areas and determine the services that can serve rural areas. Otherwise it would result in crippling of stage carriages operated by State Transport Undertakings due to unscrupulous operation of these mini buses besides, not achieving the very purpose of the Scheme.

5.2.6 Delay in implementing Government Orders resulting in revenue foregone

The Government of India by a notification (28 March 2001) had enhanced the fees for various activities connected with registration of vehicles and issue of licences. But the Tamil Nadu Government had notified these enhanced rates on 18 September 2001 to be applicable with effect from 1 October 2001 though the Government of India notification was received by the Government on 26 April 2001.

Delay in publishing the notification by the State Government to charge fees at enhanced rates, resulted in loss of revenue of Rs.11.33 crore during the period from 1 April 2001 to 30 September 2001.

5.2.7 Loss of revenue due to misuse of permits by All India Tourist Transport Operators

Motor Vehicles (All India Permit for Tourist Transport Operation) Rules, 1993, provide for State Transport Authority (STA) of one State granting permit in respect of Tourist Vehicles valid for the whole of India or such contiguous States not being less than three in number including the State in which the permit is issued on recognized Tourist Circuits. Such permit holders were to pay composite tax at the rate of Rs.12,000 per quarter for such vehicles.

However, those operators who are misusing such permits by operating their vehicles as regular stage carriages by picking up and dropping passengers enroute are not eligible for such concessional rate and are liable to pay tax applicable to 'Omni buses'.

Instances of misuse of such permit noticed through check reports issued by the transport department was initially pointed out (February 1997) through Local Audit Reports for collection of difference in tax. However, the operators obtained stay (May 1997) from High Court of Madras on the demand raised by the department for collection of difference tax.

In August 2001, it was held by High Court of Madras that those operators who misused such permits have to pay the difference in tax thereby affirming the contention of audit. Subsequently, in March 2002 High Court of Madras bench also quashed all appeals preferred by such operators. Despite the judicial pronouncements, the department failed to issue the demand in respect of 420 vehicles covered by stay which had obtained 'All India permits for tourist transport operators' and misused the permits inside Tamil Nadu by operating their vehicles as stage carriages. This has resulted in loss of revenue of Rs.38.98 crore.

5.2.8 Non-levy of additional tax on stage carriages issued with Temporary Permits

Under the Tamil Nadu Motor Vehicles Taxation Act, 1974, when a motor vehicle for which tax has been paid is altered or is proposed to be used as a vehicle for the period, for which tax is payable at a higher rate, the difference between tax which is payable at the higher rate and the tax already paid shall be levied as additional tax.

It was noticed in eighteen¹⁴ regional offices, for the period April 1997 to March 2002, that 1,93,721 special permits were issued under section 88(8) of the Motor Vehicles Act, 1988 to 830 vehicles (stage carriages/spare buses), allowing them to operate as contract carriage without collecting additional tax. This resulted in loss of revenue of Rs.251.84 crore.

On this being pointed out (October 2001), the department had stated (January 2002) that necessary proposals have been sent to Government to amend the provision of Tamil Nadu Motor Vehicles Taxation Act, 1974.

¹⁴ Coimbatore (North and South), Dharmapuri, Dindigul, Erode, Gobichettipalayam, Karur, Madurai (North and South), Mettupalayam, Namakkal, Pollachi, Salem, Tiruchengode, Tirunelveli, Tiruppur, Tiruvallur and Vellore.

The reply of the department is not tenable as Public Service Vehicles for which special permit was issued could be operated only on contract basis and as such, proportionate differential rate of tax as envisaged under the Act should be collected.

5.2.9 Omission to operate minimum number of vehicles by State Transport Undertakings

Under Section 104 of Motor Vehicles Act, 1988 when a scheme is framed for providing efficient, adequate, economical and properly coordinated road transport service, it is obligatory on the part of State Transport Undertakings to provide all services specified in the scheme. Accordingly, the State Government notified (November 1999) Modified Approved Area Scheme, for each district (except Chennai), which specified the maximum and minimum number of vehicles to be operated by the State Transport Undertaking.

It was judicially held (AIR 1995 All 294) that, if the Corporation is unable to provide vehicles for maximum strength fixed by the scheme, under Section 104, the concerned transport authority has to grant temporary permit to private operator against the remaining services.

However in twelve¹⁵ regional offices, it was noticed that against a minimum number of 6337 vehicles prescribed for operation, only 5021 vehicles were operated by the State Transport Undertaking during the period from January 2000 to March 2002. Though the Transport Authority is required to grant temporary permits to private operators, it failed to do so resulting in revenue foregone amounting to Rs.27.86 crore.

On this being pointed out (May 2002), the Government/Department stated (June 2002) that (i) no private operators had applied for temporary permits, (ii) as all the districts in the State are covered under Area Nationalisation Scheme, permits could not be granted and (iii) since the mini bus scheme has been introduced, there was no necessity for granting temporary permits to private operators.

¹⁵ Coimbatore (North), Dharmapuri, Dindigul, Erode, Kancheepuram, Karur, Madurai, Namakkal, Salem, Trichy, Tirunelveli and Tiruvallur.

The department's reply is not tenable because (i) it was the Transport Commissioner who at the instance of Government instructed not to entertain any applications from private operators for issue of temporary permits, and even though applications were received from private operators in Kancheepuram and Karur districts, they were rejected only on the above instructions, (ii) under Area Nationalisation Scheme, regular stage carriage permit issued under Section 72 alone is prohibited and not temporary permits required to be granted under Section 104 of the Central Act and (iii) even though separate number of mini buses for private operators have been specified in the modified Area Scheme in each district, the same has no bearing on the issue of temporary permits required to be issued under Section 104.

5.2.10 Non-revision of minimum fine for overloading by vehicles

As per Section 194 of the Motor Vehicles Act 1988, for the offence of overloading by vehicles, minimum fine of Rs.2000 and an additional fine of Rs.1000 per tonne of excess load is leviable with effect from November 1994.

Rule 206 of Tamil Nadu Motor Vehicle Rules, 1989, provides for minimum fine of Rs.100 per day subject to maximum of Rs.5000 as compounding fee for overloading and the same was not revised in accordance with the amended provisions of the Motor Vehicles Act, 1988.

Test Check of records in Transport Commissioner Office revealed that in 23 Regional Transport Offices in respect of 9634 vehicles belonging to other States which committed the offence of overloading, minimum fine of Rs.100 only was levied and collected during the period from April 2000 to March 2002 instead of Rs.2000 as prescribed in the Central Act which resulted in revenue foregone amounting to Rs.1.93 crore.

On this being pointed out (between November 2001 and May 2002) the department stated that matter regarding proposal to amend the Tamil Nadu Motor Vehicle Rules, 1989 suitably has been taken up with the Government (March 2002) and orders of the Government are awaited.

5.2.11 Operation of maxi cabs as stage carriages

Under the Tamil Nadu Motor Vehicles Taxation Act, 1974, rate of tax to maxi cab is Rs.175 per seat per quarter and for stage carriages the rate of tax is Rs.450 per seat per quarter. However it was noticed that maxi cabs were used as stage carriages by picking up passengers along the line of route instead of operating them on contract basis from point to point.

The scrutiny of the check reports for the period April 2000 to March 2002 revealed that in six¹⁶ regions, in 1007 out of 1802 maxi cabs test checked were regularly plying as stage carriages ahead of timings allotted for the State Transport Undertakings in such a way to off set the revenue collection of the undertakings.

Failure of the Transport Authorities to take action to impound these vehicles resulted in revenue loss of Rs.2.66 crore for the period mentioned above in addition to revenue loss to State Transport Undertaking.

5.2.12 Non-levy of permit fees in respect of vehicles owned by educational institutions

Under the Motor Vehicles Tax Act, 1988, as amended (August 2000), the educational institution vehicles, which were previously exempted, were required to obtain permits for the vehicles owned by them. The permit fee in this case is Rs.750.

However, it was noticed that in 22 Regional Offices 3477 vehicles pertaining to educational institutions did not obtain permits after amendment i.e., August 2000. This had resulted in non-realisation of revenue amounting to Rs.16.66 lakh.

¹⁶ Dindigul, Kancheepuram, Madurai (North), Pollachi, Tirunelveli and Tiruvallur.

5.2.13 Non-issue of permit for driving school vehicles

As per Section 66(3)(h) of Motor Vehicles Act 1988, vehicles belonging to training schools are exempted from issue of permits. However the exemption was withdrawn (August 2000) and consequently vehicles belonging to driving schools should be issued with a permit as such vehicles fall within the category of Transport vehicles as per Section-2(47) of the Motor Vehicles Act, 1988.

It was noticed in twenty two¹⁷ Regional offices that for 1790 vehicles owned by 850 driving schools, permits were neither sought for nor issued. This had resulted in non-realisation of permit fees to the tune of Rs.13.43 lakh as applicable to private service vehicles.

On this being pointed out (January 2002) the department stated (May 2002) that necessary clarification would be obtained from the Government as this involves a policy decision

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5.2.14 Non registration of Tricycles fitted with engine capacity above 25cc under Motor Vehicles Act

As per Section 2(28) of Motor Vehicles Act, 1988 (Act) vehicles which are fitted with engine capacity of more than 25cc, are 'Motor Vehicles' within the meaning of the Act. But provisions of Motor Vehicles Act in regard to registration, assignment of number, possession of driving licence for driver, construction, and equipment conforming to Central Motor Vehicles Rules, 1989 are not followed by these vehicles and consequently could not be registered in this state.

However, based on directions issued by the High Court of Madras, Government decided (August 1998) in principle either to bring such vehicles, (Fish Carts - Tricycles) which are operating with Bajaj Chetak Scooter engine having capacity of more than 25cc under the Act, or to eliminate the same from operation on the roads.

¹⁷ Chennai (South), Coimbatore (North and South), Dharmapuri, Dindigul, Erode, Gobichettipalayam, Kancheepuram, Karur, Madurai (North and South), Mettupalayam, Nagercoil, Namakkal, Pollachi, Salem, Srirangam, Tiruchi, Tiruchengodu, Tirunelveli, Tiruppur and Tiruvallur.

To overcome the problem of Fish Cart menace, Government of India suggested the State (between December 2000 and January 2002) that these vehicles should either conform to Central Motor Vehicles Rules, 1989, or should be banned from operation on the road to safeguard the interest of other road users but no action has been taken so far.

5.2.15 Non-realisation of transfer fee

Under Section 82(1) of the Motor Vehicles Act, 1988, permit shall not be transferred from one person to another except with the permission of the Transport Authority which granted the permit and shall not, without such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit. To effect any such transfer of permit, Rs.2000/- per bus as transfer fee and Rs.500/- per bus as continuous endorsement fee was leviable.

The Company Law Board of Government of India by a notification (November 2000 and January 2001) allowed the merger of the Metropolitan Transport Corporation Limited (Chennai Division-II) with Metropolitan Transport Corporation Limited (Chennai Division-I) and Tamil Nadu State Transport Corporation (Coimbatore Division-III) Limited, Udhagamandalam with Tamil Nadu State Transport Corporation Limited (Coimbatore Division-I) with assets and liabilities. Accordingly 1492 vehicles of the dissolved corporations were transferred to the new corporations. However transfer fee and endorsement fee leviable amounting to Rs.37.30 lakh in respect of these vehicles have not been levied.

On this being pointed out (January 2001) the department contended that the transfer involved only change of addresses of the registered office and does not attract provisions under Section-82 of the Act. This is not tenable since these two Corporations were separate entities before merger which was approved by Company Law Board.

5.2.16 Non-levy of life time tax in respect of construction equipment vehicle being non-transport vehicle

Government of India, Ministry of Surface Transport, New Delhi, had notified (July 2000) that construction equipment vehicles such as 'Excavator' etc., as defined in Rule-2(ca) of the Central Motor Vehicles (6th Amendment) Rules, 2000 should be treated as 'Non-Transport Vehicles'.

Under the Tamil Nadu Motor Vehicles Taxation Act, 1974, life time tax should be levied in respect of Non-Transport Vehicles as per the rate prescribed.

In eight¹⁸ Regions it was noticed that in respect of 24 vehicles registered between the period November 2000 to March 2002, quarterly tax at rate of Rs.1355 was levied instead of collecting life time tax at the rates of Rs.34220 per vehicle, as per the rate prescribed. This had resulted in short realisation of tax amounting to Rs.8.24 lakh

5.2.17 Irregular operation of 'call taxis' under tourist motor cab permits

As per provisions of the Motor Vehicles Act, 1988, the State Government is empowered to limit the number of contract carriages generally or of any specific type of vehicles as may be fixed and specified in the notification for operating vehicles in City routes in towns.

On a scrutiny of the tourist motor cabs permits issued in seven¹⁹ Regional Transport Offices, it was noticed that the Tourist Taxi operators were misusing the Tourist taxi permits and using 989 vehicles as "Call Taxi" thereby violating permit conditions by making advertisements, fitted with fare meters and using wireless and cell phones and collecting fares from public which are neither approved by Government nor for which licence was obtained from competent authorities.

5.2.18 Incorrect grant of extension of time for payment of enhanced tax

As per section 8 of the Tamil Nadu Motor Vehicle Taxation Act, 1974, the tax due shall be paid within such period not being less than seven days or more than forty five days from the commencement of the quarter/half-year/year as may be prescribed. Any payment made after the due date would attract levy of penalty.

¹⁸ Coimbatore (North), Dindigul, Gobichettipalayam, Madurai (North), Namakkal, Salem, Tiruchengodu and Tiruvallur.

¹⁹ Chennai (Central), Chennai (South), Chennai (Meenambakkam), Coimbatore (South), Madurai (North), Salem and Tiruchy

Government by a notification (November 2001) revised the motor vehicle tax on certain classes of vehicles with effect from 1 December 2001. Subsequently, orders were issued (February 2002) by the Transport Commissioner, Chennai to collect taxes at pre-revised rates, without insisting on the payment of difference of tax until further orders are received from the Government.

In this connection, it is stated that, when notification for collection of enhanced tax is already incorporated in the tax schedule (December 2001), Government is not empowered to extend the period for collection of enhanced tax beyond the period prescribed in the above Act by an executive order which does not have statutory backing. Consequently, collection of difference of tax and penalty leviable in such cases could not be recovered for the period 1st December 2001 to 31st March 2002.

5.2.19 Conclusion

Delay in taking cognizance of the amendment to Central Act and subsequent issue of amendments to Tamil Nadu Motor Vehicles Taxation Act/Rules and failure in the matter of issue of permits and checking its misuse has resulted in the loss of revenue.

There is a need to evolve a monitoring system to ensure (i) that local Act is amended as and when Central Act is amended for plugging the loop holes in State Act in order to augment State revenue and (ii) that the objective viz., providing efficient, adequate and properly coordinated road transport service for which permits issued, are achieved without their misuse and consequent loss of revenue.