

CHAPTER V
OTHER TAX RECEIPTS

5.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2002 to March 2003 revealed under assessment/non-levy of urban land tax and luxury tax and incorrect exemption amounting to Rs.21.10 crore in 70 cases which broadly fall under the following categories.

(In crore of rupees)

Sl. No.	Categories	No. of Cases	Amount
Urban Land Tax			
1	Under assessment/non levy of urban land tax	53	17.75
2	Incorrect exemption	10	2.15
Total		63	19.90
Luxury Tax			
1	Non levy of luxury tax	4	1.19
2	Application of incorrect rate of tax	3	0.01
Total		7	1.20
Grand Total		70	21.10

During the year 2002-2003, the concerned Department accepted under assessments of Rs.69.29 lakh in 11 cases out of which an amount of Rs.4.69 lakh in 5 cases pertaining to earlier years has been collected.

A few illustrative cases involving a financial effect of Rs.1.62 crore are mentioned below.

URBAN LAND TAX

5.2 Non-assessment of urban lands

Under the Tamil Nadu Urban Land Tax Act (TNULT Act), 1966, as amended from time to time, urban lands are assessable to urban land tax from 1 July 1991 on the basis of market value of land, as on 1 July 1981. In such cases, where the revised urban land tax leviable on the basis of market value as on July 1981 exceeds five times the tax already levied, the revised urban land tax shall be limited to five times of the tax already levied.

In three assessment divisions, it was noticed that urban lands measuring 26.40 lakh sq.ft. belonging to 28 assesseees, were not assessed to tax from 1 July 1991 onwards. This resulted in non-levy of urban land tax amounting to Rs.28.29 lakh as detailed below:

(In lakh of rupees)

Sl. No	Name of the assessment division (Name of the village)	No. of assesseees	Total extent not assessed to tax (square feet)	Period	Non-levy of tax
1	Mylapore	2	66,740	1 July 1991 to 30 June 2000	5.72
2	Mylapore & Egmore	2	70,079	Between 1 July 1991 and 30 June 2002	5.73
3	Mylapore	3	3,53,098	1 July 1991 to 30 June 2001	9.06
4	Tambaram	21	21,50,033	1 July 1991 to 30 June 2001	7.78
	Total	28	26,39,950		28.29

On this being pointed out, the Department stated between September 2000 and February 2003, that the lands had since been assessed to tax and a demand for Rs.28.29 lakh raised. Report on recovery was awaited (June 2003).

The matter was reported to the Government between April and June 2003 and followed up with reminder in August 2003; reply had not been received (October 2003).

5.3 Short collection of tax due to non revision of demand for tax

Under the provisions of TNULT Act, 1991, Government by an order, reduced the urban land tax by 50 per cent, in respect of cinema studios both for vacant land and built up land. The concession was applicable, so long as the land was specifically used for the purposes of the institutions concerned and any violation would warrant levy of full tax.

In T.Nagar Assessment Circle, it was noticed that an extent of 9.88 lakh sq.ft. land in Saligramam Village, owned by a cinema studio, was assessed to tax at concessional rate for the period 1 July 1991 to 30 June 2002. As the said land was not fully utilised for the purpose of cinema studio, the concession allowed was cancelled in September 1997. However, no demand for the balance amount of tax was raised. This resulted in short collection of tax of Rs.18.23 lakh for 11 years.

On this being pointed out, the Department assessed the lands and raised additional demand in January 2002. Report on recovery was awaited (October 2003).

The matter was reported to the Government in June 2003 and followed up with reminder in August 2003; reply has not been received (October 2003).

5.4 Non-levy of urban land tax due to incorrect exemption

Under the provisions of Section 27(1) of TNULT Act, 1966, the Government, if satisfied that the payment of urban land tax in respect of any class of urban lands or by any class of persons will cause undue hardship, may by order exempt such lands or persons from payment of urban land tax, or reduce the amount of such tax, whether prospectively or retrospectively.

In Mylapore Assessment Division, it was noticed that an extent of 2.02 lakh sq.ft. of urban lands owned by M/s. Gandhi Nagar Cooperative House Construction Society Limited, was leased out to M/s.Gandhi Nagar Education Society, Kottur for a period of 99 years from 1965. The lessor was exempted from payment of urban land tax vide Government Order issued in June 1988, without indicating any reasons viz., undue financial hardship, etc. The incorrect exemption resulted in non-levy of urban land tax of Rs.13.97 lakh for the period 1 July 1975 to 30 June 2001.

On this omission being pointed out, the Department replied in November 2002, that orders were passed by Government on application from Society, under Section 29(h) wherein automatic exemption was available for lands held by educational institutions. The reply is not acceptable as the Government Order (G.O.) and the exemption granted thereunder, were not in order, since the exemption was granted to M/s.Gandhi Nagar Co-operative House Construction Society Limited (Lessor) which was not an educational society.

Thus, the irregular exemption granted had not only resulted in non-levy of urban land tax of Rs.13.97 lakh but had also extended unintended benefit to the assessee.

The case was reported to Government in April 2003 and followed up with reminder in August 2003; their reply was awaited (October 2003).

LUXURY TAX

5.5 Non levy of luxury tax

As per the Tamil Nadu Tax on Luxuries Act, 1981, luxury tax at the rate of twenty five per cent is to be charged for accommodation for residence provided in a hotel to any person, where such rate is rupees one thousand or more per room per day. Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, then luxury tax is to be paid by the proprietor of the hotel.

In Ooty (South) Assessment Circle, in respect of cottages/rooms occupied (where the approved tariff was more than rupees one thousand per day) by time share holders of two holiday resorts, for 20,144 room days during the year 2000-2001, luxury tax was neither collected by the proprietor nor levied and collected by the Department as per the provisions of the Act. This resulted in non levy of tax of Rs.1.02 crore.

On this being pointed out in audit, the Department contended in September 2002, that time share holders were owners of the cottages and therefore, levy of luxury tax did not arise. The reply is not tenable since, as per the terms and conditions of this time share scheme, (i) the member shall be liable to pay all levies, taxes, duties, charges, fees etc., that may be imposed by Government and (ii) the relationship of the Company and the unit holder was that of licensor and licensee and did not confer any other right, title or interest to the unit holder in any of the Company's properties. So, the time share holders were not owners of the cottages but were members of the Company which operate the Holiday Unit Scheme and which conferred upon them only the right of residence for specified number of days in holiday resorts, subject to availability of accommodation.

The matter was reported to Government in April 2003 and followed up with reminder in August 2003; their reply was not received (October 2003).