

CHAPTER-IV TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1 Results of audit

Test check of records of various offices of the Transport Department conducted in audit during 2004-05 revealed non/short levy of taxes, under assessment of road tax, goods tax and other irregularities amounting to Rs.61.57 crore in 190 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non / short-levy of passenger tax / additional tax	86	17.51
2.	Underassessment of road tax	15	1.38
3.	Underassessment of goods tax	07	0.15
	Review on "Enforcement Wing in Transport Department"	01	33.71
4.	Other irregularities	81	8.82
	Total	190	61.57

During the year 2004-05, the Department accepted underassessment etc. of Rs.25.15 crore involved in 115 cases out of which Rs.61.38 lakh has been recovered in 114 cases.

A few illustrative cases and one review on "Enforcement Wing in Transport Department" involving financial effect of Rs.37.13 crore are given in the succeeding paragraphs:

4.2 Review on Enforcement Wing in Transport Department

Highlights

- Non realisation of arrears amounting to Rs.533.93 crore due to inadequate follow up action. **[Para 4.2.6]**
- Loss of revenue amounting to Rs.24.34 crore due to non checking of vehicles plying without permits. **[Para 4.2.7]**
- Short compounding of offences amounting to Rs.8.97 crore. **[Para-4.2.8]**
- Loss of revenue amounting to Rs.34.15 lakh due to non-checking of vehicles plying without certificates of fitness. **[Para-4.2.9]**

Introduction

4.2.1 The Motor Vehicles Act, 1988 (MV Act), Uttar Pradesh Motor Vehicles Taxation Act, 1997 (UPMVT Act), UP Motor Vehicles Taxation Rules, 1998 (UPMVT Rules), Central Motor Vehicles Rules, 1989 (CMV Rules) and Uttar Pradesh Motor Yan Niyamawali 1998 (UPMYN) regulate the functioning of the Enforcement Wing in Transport Department.

The regulatory functions of the Enforcement Wing in the State comprise compliance to various provisions of MV Act and Rules made thereunder and checking of offences, such as plying of unregistered vehicles, plying vehicles without valid permits / driving licenses / fitness certificates etc. or violation of the conditions of Acts and Rules. It checks vehicles which do not comply with norms of pollution, evade taxes, ply without payment of taxes or which require payment of higher rate of taxes applicable as per Act. It also verifies vehicles

during the period when these are declared to be off road. Besides the work of compounding of offences punishable under MV Act, Enforcement Wing is also entrusted with the work of disposal of cases.

Organisational Setup

4.2.2 The overall responsibility for enforcement of Act, Rules and Regulations on vehicular traffic, rests with the Transport Commissioner (TC), Uttar Pradesh, Lucknow. There are 77 enforcement squads in the State attached to the headquarters office and 70 Regional Transport Officers (RTOs)/Asstt. Regional Transport Officers (ARTOs), under the control and supervision of an Additional TC (Enforcement) at the headquarters and six Deputy TCs at zonal level at Agra, Bareilly, Kanpur, Lucknow, Meerut and Varanasi.

Each enforcement squad consists of an ARTO (Enforcement), one Supervisor and three enforcement constables. Besides manning the check posts, the enforcement squads also check vehicles at any point on roads in the areas falling under their jurisdiction. Sometimes inter regional checking is also done by them.

Scope of audit

4.2.3 A review of the records in respect of Enforcement Wing maintained by the TC and 24 out of 70 RTOs/ARTOs for the period from 1999-2000 to 2003-04 was conducted between June 2004 and April 2005 with a view to examine the effectiveness of the Enforcement Wing in implementation of the various provisions of Acts and Rules with regards to regulation and control of traffic.

Audit findings as a result of review on the working of Enforcement Wing in Transport Department were reported in June 2005 with specific request for attending the meeting of Audit Review Committee for State Receipt (ARC SR) so that view point of the Government/Department was taken into account before finalising the review. The meeting of ARC (SR) was held on 2 August 2005 with the Government/Department. The meeting was attended by representatives of the Department and State Government. The views expressed by the members have been taken into consideration during finalisation of the review.

Audit Objectives

4.2.4 The review was conducted with a view to ascertain :

- leakage of revenue due to non compliance of various provisions of MV Act by Enforcement Wing and also due to any flaw/lacunae in rules and regulations and
- effective control of vehicular pollution.

Financial Performance

4.2.5 Short achievement of targets by Enforcement Wing

As per UPMVT ACT where an officer has reason to believe that a transport vehicle has been used by a person without payment of tax, additional tax or penalty, he may seize and detain such vehicle and recover the dues. For the purpose physical and financial targets are fixed by the TC every year, which

are to be fulfilled by Enforcement Wing through challan of vehicles and realisation of compounding fee from offenders. The position of targets vis a vis achievements during the last five years are as under:

(Rupees in crore)

Year	Recovery of taxes		Compounding fee		Total		Percentage of recovery
	Target	Achievement	Target	Achievement	Target	Achievement	
1999-2000	26.19	20.38	96.36	22.18	122.55	42.56	35
2000-01	39.59	25.33	89.79	27.54	129.38	52.87	41
2001-02	47.21	25.46	29.28	23.52	76.49	48.98	64
2002-03	33.84	25.80	29.16	20.76	63.00	46.56	74
2003-04	30.90	29.77	24.18	25.09	55.08	54.86	100

The comparison between target and achievement revealed less recovery of taxes and compounding fees except during the year 2003-04 and percentage of recovery varied from 35 to 74 *per cent* of the targets fixed during the period from 1999-2000 to 2002-03. Targets were fixed on the lower side from 2001-02 onwards due to introduction of special token scheme in March 2001. The non-achievement of target was due to constraints of infrastructure and increase of responsibilities of the Enforcement Wing for increase in number of checking of vehicles.

4.2.6 Non recovery of arrears by the Enforcement Wing

As per UPMVT ACT, no vehicle with arrears of tax may be allowed to ply on the road. If such vehicle is detected being used, the ARTO (Enforcement) may seize, detain it and realise the arrears of taxes by selling the vehicle by public auction with the approval of TC. Further, the TC issued instructions in April 2001 that each enforcement squad should ensure realisation of 1/10th arrears of tax outstanding as on 1 April 2001 every month alongwith current dues in the next month in respect of such vehicles plying under its jurisdiction. The enforcement squad is required to submit progress report of recovery of arrears to TC every month.

Private Sector

- Test check of records of TC revealed that in respect of transport vehicles, other than Uttar Pradesh State Road Transport Corporation (UPSRTC), arrears of tax increased to Rs.22.91 crore as on 31 March 2004 as compared to opening balance of Rs.13.13 crore as on 1 April 2001 as shown under :

(Rupees in crore)

Year	Opening balance	Realised	Percentage outstanding	Addition	Closing balance
2001-02	13.13	7.39	56.05	10.37	16.11
2002-03	16.11	11.52	71.51	12.53	17.12
2003-04	17.12	10.26	59.93	16.05	22.91

As per the direction of TC, no arrear should remain outstanding after 2001-02 but enforcement squad could only recover the arrears ranging between 56 to 72 *per cent* during 2001-02 to 2003-04. The department also failed to recover the tax due pertaining to the current year.

After this was pointed out, the Department stated in August 2005 that Rs.12.83 crore had been recovered and the enforcement wing has been instructed to recover the balance amount.

UPSRTC

The position of arrears in respect of UPSRTC during the period from 2001-02 to 2003-04 was as under :

(Rupees in crores)

Year	Opening balance	Addition	Total	Arrears realised	Balance
2001-02	275.25	129.19	404.44	29.19	375.25
2002-03	375.25	142.97	518.22	50.01	468.21
2003-04	468.21	153.26	621.47	43.36	[§] 511.03

[§](Rs.67.09 crore pertains to Uttaranchal State)

The arrears of tax increased from Rs.275.25 crore during 2001-02 to Rs.511.03 crore in 2003-04 which was 185.60 *per cent* as compared to the year 2001-02.

After this was pointed out, Department replied in August 2005 that General Manager UPSRTC was being reminded time to time and again at Government level and demand notices were being issued by the concerned RTOs.

Audit findings

Non compliance to various provisions of Motor Vehicles Act

Non levy of taxes on vehicles plying without permit

4.2.7 Under MV Act, no vehicle owner shall use transport vehicle in a public place without proper permit. Under UPMVT Act, effective from 6 October 2001, no motor vehicle registered or adapted, to carry more than nine persons excluding the driver shall be kept for use without permit unless the vehicle owner has paid in addition to tax, an additional tax at the rate of 25 *per cent* of tax payable in respect of such vehicles. The RTOs/ARTOs provide a list of vehicles without permits to the concerned enforcement squad.

It was noticed that in 11 RTOs¹ and four ARTOs² 845 transport vehicles registered in the State were plying without obtaining permits during the period from October 2001 to March 2004. Though they had paid tax but additional tax as required was not paid by them. A list of such vehicles was provided by RTOs/ARTOs to Enforcement Wing but the vehicles were neither challaned nor additional tax realised. Thus, the Government was deprived of revenue amounting to Rs.24.34 crore as shown in Appendix-III.

After this was pointed out, the Department stated in August 2005 that a sum of Rs.21.10 lakh had been recovered and action to recover the balance amount was being taken.

Short compounding of offences

4.2.8 Under the MV Act, any person who drives a motor vehicle in a public place shall always carry on the vehicle a valid certificate "pollution under control" (PUC) and produce the same on demand by the checking officer. The vehicle, which violates the standards prescribed in relation to road safety, control of noise and air pollution shall be punishable in first offence with a fine of Rs.500 upto March 2000 and Rs.1,000 thereafter. Further CMV Rules provide that no motor vehicle shall be fitted with any multi toned horn giving an unduly harsh, shrill, loud or alarming noise.

¹ Agra, Allahabad, Aligarh, Bareilly, Faizabad, Ghaziabad, Jhansi, Kanpur nagar, Lucknow, Moradabad & Varanasi.
² Bulandshahar Etawah Ferozabad & Raibareli

- Test check of records of 12 RTOs¹ and two ARTOs² and TC office revealed that 74,544 vehicles which did not carry PUC certificates were challaned and compounded at the rate of Rs 50 by Enforcement Wing instead of Rs.1,000 per vehicle during the period between 1999-2000 to 2003-04. This resulted in loss of revenue amounting to Rs 7.06 crore as shown in Appendix-IV.

After this was pointed out in audit the Department stated in August 2005 that vehicle owners produced requisite certificates after they were challaned; as such fine at the rate of Rs.50 was levied. The reply is not tenable as the vehicles were not carrying the PUC at the time they were challaned and there is no provision in the act to produce the PUC at a later date. As such the offence was required to be compounded at the rate of Rs.1,000.

- In eight RTOs³ and three ARTOs⁴ 16,363 vehicles were challaned, which were fitted with pressure horns and compounded at the rate of Rs.50 instead of Rs.1,000 during the period 1999-2000 to 2003-04 by the Enforcement wing on the ground that pressure horns though fitted on the vehicles were not being used. This resulted in loss of revenue amounting to Rs.1.55 crore as shown in Appendix-IV.

The action of Enforcement Wing was incorrect as the rules clearly provide that vehicle should not be fitted with multi toned horn. It does not limit the use or non use.

- Under CMV Rules, vehicles covered by national permits shall have a minimum of two drivers. The Enforcement Wing, is required to challan such vehicles covered by national permits not having two drivers and to realise compounding fee at the rate of Rs.2,500 from each defaulting vehicle.

In three RTOs⁵ and three ARTOs⁶ 1,467 vehicles plying under national permits were challaned for the offence of one driver in place of two drivers during the period from April 1999 to 31 March 2004 but compounded by the Enforcement Wing at the rate of Rs.50 per offence instead of Rs.2,500. This resulted in loss of revenue of Rs.35.94 lakh as shown in Appendix-V.

Non enforcement of provisions of road safety

Loss due to non checking of vehicles plying without certificate of fitness

4.2.9 Under MV Act and Rules made thereunder, a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness. A fitness certificate granted in respect of newly registered transport vehicle is valid for two years and is required to be renewed every year thereafter. Plying a vehicle without certificate of fitness is compoundable at the rate of Rs.2,500 per offence. List of vehicles without fitness certificate is sent by the respective RTOs/ARTOs to Enforcement Wing from time to time.

Test check of the records of 12 RTOs⁷ and 5 ARTOs⁸ revealed that 13,915 vehicles were plying where the validity of fitness certificates had expired

¹ Agra, Aligarh, Bareilly, Faizabad, Ghaziabad, Gorakhpur, Jhansi, Kanpur nagar, Lucknow, Moradabad, Saharanpur & Varanasi.

² Etawah & Ferozabad.

³ Agra, Aligarh, Faizabad, Ghaziabad, Gorakhpur, Lucknow, Saharanpur & Varanasi.

⁴ Etawah, Ferozabad, Raibareli

⁵ Meerut, Mirzapur & Saharanpur

⁶ Etawah Ferozabad, Jaunpur

⁷ Agra, Bareilly, Faizabad, Ghaziabad, Gonda, Gorakhpur, Jhansi, Kanpur nagar, Lucknow, Moradabad, Saharanpur & Varanasi.

⁸ Bahraich, Bulandshahar, Etawah, Ferozabad & Jaunpur

during 1999-2000 to 2003-04. Out of these vehicles, test check of 1,366 vehicles revealed that Enforcement Wing did not challan and compound any of the vehicles. Thus, the Government was deprived of revenue of Rs.34.15 lakh as shown in Appendix-VI. Besides, plying of such vehicles whose roadworthiness had not been certified was hazardous to life and property of other innocent road users.

After this was pointed out in audit, Department stated in August 2005 that list of vehicles is handed over to Enforcement Wing from time to time, but did not accept the objection on the ground that audit indicated the number of vehicles without fitness on the basis of registration. The reply of the department is not tenable because the information of these vehicles where fitness has expired was supplied by the RTOs/ ARTOs to the concerned Enforcement Wing.

Loss of revenue due to non registration of forwarding / travel agents

4.2.10 Under the MV Act, no person shall engage himself as an agent or a canvasser, in the sale of tickets for travel by public service vehicle or otherwise, soliciting customers of such vehicles or as an agent in the business of collecting, forwarding or distributing goods unless he obtains a licence from the competent authority on payment of fee at prescribed rates. Such licence is required to be renewed after five years.

Test check of records of four¹ RTOs and ARTO, Jaunpur revealed that as per survey conducted in December 1999 by the Department, 552 forwarding agents were carrying on their business from the year 1999-2000 without obtaining licences. The Department did not register them. Thereafter, the Enforcement Wing did not conduct any survey. This resulted in loss of revenue of Rs.5.52 lakh on account of licence fee as shown in Appendix-VII.

After this was pointed out, the Department stated in August 2005 that necessary instructions have been issued to concerned RTOs/Enforcement Wing to register to such agents.

Non verification of vehicles surrendered under off road declaration

4.2.11 Under UPMVT Act, read with Rules made thereunder, if any owner of a vehicle does not intend to use the vehicle for a period of more than one month, he will surrender the certificate of registration, token and permit etc. of the vehicle to the Department and declare the place of keeping the vehicle during the period of non use. If the vehicle is not found on the place declared it will be deemed that the vehicle is plying on road and taxes are leviable thereon. The Enforcement Wing was required to conduct spot verification of 15 *per cent* of such vehicles upto the year 2000-01 and 100 *per cent* thereafter.

A test check of the records of 10 RTOs² and four ARTOs³ revealed that 32,759 vehicles were surrendered during 1999-2000 to 2003-04 out of which spot verification of 24,456 vehicles was required to be conducted against which only 4,673 vehicles were checked which was merely 14.26 *per cent* of total vehicles surrendered as per details given in Appendix-VIII.

In five RTOs⁴ and three ARTOs⁵ no verification of surrendered vehicles was done by the Enforcement Wing.

¹ Azamgarh, Meerut, Mirzapur and Saharanpur

² Agra, Allahabad, Azamgarh, Bareilly, Faizabad, Ghaziabad, Jhansi, Kanpur nagar, Meerut, Moradabad, Varanasi

³ Bulandshahar, Etawah, Ferozabad, Raibareli

⁴ Allahabad, Bareilly, Faizabad, Ghaziabad, Kanpurnagar

⁵ Bulandshahar, Firozabad, Raibareli

Excess collection of tax

4.2.12 Under UPMVT Act, no transport vehicle shall ply in State under a temporary permit granted by an authority having jurisdiction outside the State unless tax at the appropriate rate is paid. In such cases the tax is payable for any two weeks or part thereof and shall be 2/13th of the rate specified in the Act.

Test check of the records of RTOs, Agra, Ghaziabad, Jhansi, and Varanasi revealed that tax of Rs.71.59 lakh was collected at check posts in excess due from vehicles of other states entering the State during the period from 2001-02 to 2003-04 as per details given below :

(Rupees in lakh)

Sl. No.	RTO	Tax realised	Tax actually due	Excess realised
1.	Agra	195.37	180.90	14.47
2.	Ghaziabad	207.26	191.91	15.35
3.	Jhansi	179.69	166.38	13.31
4.	Varanasi	265.59	237.13	28.46
	Total	847.91	776.32	71.59

Internal Control

4.2.13 The Enforcement Wing has not prepared any Manual which may provide for proper framework through which enforcement of various provisions of Rules/Acts could be ensured by them. The duties and powers of Enforcement Wing are not clearly defined anywhere to fix accountability of the officials. This had an adverse impact on the efficiency of the Enforcement Wing.

No internal control device was adopted to ensure that prescribed records are maintained and kept in safe custody by Enforcement Wing as the records pertaining to ARTO (Enforcement), Farukhabad were found missing.

Department stated that internal control shall be strengthened as soon as proposal to increase manpower is accepted by Government. Comments on missing records were assured to be sent after obtaining explanation from the concerned office.

Recommendations

4.2.14 The Government may consider taking following measures to improve the efficiency and effectiveness of the Enforcement Wing :

- the Enforcement Wing should act upon the information available with it.
- a manual for the Transport Department may be prepared defining clearly the duties and responsibilities of the Enforcement Wing.

Conclusion

4.2.15 Enforcement Wing did not take adequate action in promptly implementing the information available. Manual was not prepared to define clearly the duties and powers of Enforcement Wing and for enforcement of provisions of Motor Vehicles Act more effectively. The failure of the Enforcement Wing in enforcement of various rules and regulations resulted in loss of revenue of Rs.33.71 crore.

The review was sent to the Department/Government in June 2005, their replies have not been received (August 2005).

4.3 Short realisation of additional tax

Under the UPMVT Act, additional tax in respect of three wheeler vehicles with seating capacity of more than six persons, excluding driver was chargeable at the rate of Rs.675 from November 1998, Rs.742 from March 2000 and Rs.2,000 from 6 October 2001 onwards per quarter respectively.

R&D Division of M/s Scooters India Ltd., Lucknow, (manufacturer and seller of Vikram 750 D, three wheelers) had confirmed that three wheeler was designed to have seating capacity of more than six persons excluding driver.

Test check of records of ARTOs, Mathura and Ballia, revealed in May and November 2003 that, in the case of 697 Vikram three wheelers, with seating capacity of more than six persons excluding driver (as certified by the manufacturer) additional tax was charged during the period from April 1999 to October 2003 at incorrect rates based on seating capacity of less than six persons excluding driver. This resulted in short-realisation of additional tax amounting to Rs.38.07 lakh.

The matter was reported to Department and Government between October 2003 and March 2004; their replies have not been received (August 2005).

4.4 Loss of revenue due to incorrect fixation of seating capacity

UPMV Rules provide that seating capacity of the vehicle shall be determined by reducing the difference between gross vehicle weight and unladen weight by 90 kgs. and dividing it by 150. The result thus obtained shall represent the maximum seating capacity of the vehicle on which tax / additional tax shall be computed.

As per records of five RTOs¹ and three ARTOs², it was observed that 1,741 stage carriages were registered by the RTOs/ARTOs with less seating capacity in violation of the provisions of rules and tax realised accordingly. This resulted in loss of additional tax of Rs.3.04 crore during the period between November 2002 to March 2004 as shown in Appendix-IX.

Department stated in August 2005 that while calculating seating capacity, as per Rule 139, unladen weight of the vehicle having 205" wheel base cannot be less than 7,200 kgs. and therefore calculation of department was correct. The reply is not tenable because as per registration and fitness certificates of the vehicles the unladen weight shown varied between 6,080 kgs. and 7,200 kgs. so treating 7,200 kgs. as unladen weight for every vehicle was not correct.

The matter was reported to Government in June 2005; their reply was awaited (August 2005).

¹ Saharanpur, Meerut, Mirzapur, Azamgarh, Gonda

² Farrukhabad, Bahraich, Jaunpur