

CHAPTER VI OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records of amusement tax, stamp duty and registration fees, profession tax and electricity duty conducted in audit during the year revealed non-levy/realisation etc. of revenue of Rs. 14.17 crore in 59 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
A. AMUSEMENT TAX			
1.	Non/short realisation of revenue	4	0.14
2.	Other irregularities	6	1.32
Total		10	1.46
B. STAMP DUTY AND REGISTRATION FEES			
1.	Blockage of Government revenue	2	1.01
2.	Non-realisation of deficit stamp duty and registration fees	1	0.27
3.	Other irregularities	18	7.05
Total		21	8.33
C. PROFESSION TAX			
1.	Non-realisation of profession tax due to non-enrolment	6	0.11
2.	Non-realisation of profession tax from enrolled professionals/registered employers	5	0.46
3.	Other irregularities	10	1.37
Total		21	1.94
D. ELECTRICITY DUTY			
1.	Non/short raising of demand	2	2.37
2.	Non-assessment/realisation of electricity duty	2	0.05
3.	Other irregularities	3	0.02
Total		7	2.44
Grand total		59	14.17

During the course of the year, the departments concerned accepted audit observations of Rs. 3.78 crore in 32 cases, of which 29 cases involving Rs. 3.77 crore were pointed out in audit during the year 2007-08 and the rest in earlier years. An amount of Rs. 12.31 lakh was realised in eight cases during the year 2007-08.

A few illustrative cases involving Rs. 2.21 crore are mentioned in the following paragraphs.

A. Amusement Tax

6.2 Non-realisation of entertainment tax on horse racing

Under the Bengal Amusement Tax Act, 1922, entertainment tax shall be charged at the rate of 60 *per cent* on all payments for admission to horse racing for entertainment. Under the Act 'admission' means admission as a spectator, an audience and also as a participant.

Scrutiny of the records of Royal Calcutta Turf Club under the Agricultural Income Tax Office (AITO), Kolkata in January 2008 revealed that the club received Rs. 37.15 lakh as entry money, entrance fee and subscription during 2005-06. But the club neither paid the entertainment tax nor was any demand raised by the assessing authority (AA) for payment of tax. This resulted in non-realisation of entertainment tax of Rs. 22.29 lakh.

After the case was pointed out, the local office stated in January 2008 that entertainment tax was payable by the people who were entertained after admission to the race course and not by the owners of the horses or the horse-riders who took part in the competition after depositing entry fee which was not chargeable for entertainment tax as they were providers of the entertainment. It was also stated that entrance fee and subscription were payable by the members of the club for being and remaining members irrespective of their taking part in the entertainment. The reply is not tenable as all payments including those for admission to take part in the horse racing either as a spectator or a participant are taxable as per the Act.

The case was reported to the Government in February 2008, followed by reminder issued in June 2008; their reply has not been received (September 2008).

6.3 Non-levy of luxury tax on banquet hall charges

Under the provisions of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, a luxury tax is to be charged, levied and paid to the State Government by the proprietor of every hotel in which there is provision of luxury i.e. airconditioning. Such tax is calculated at the rate of 10 *per cent* of the daily charges realised or realisable for an occupied room provided with luxury. The Government by a notification issued in April 1997 clarified that the daily charge for an occupied room would cover the charge for lodging only.

Scrutiny of the records of two star hotels under the AITO, Kolkata in January 2008 revealed that the hotels received Rs. 1.70 crore as rental/hire charges for banquet halls provided with luxury as reflected in their annual accounts for the year 2004-05. But the AA while assessing luxury tax in January 2007, did not include rental/hire charges for banquet halls which resulted in non-levy of luxury tax of Rs. 16.97 lakh.

After the cases were pointed out, the department in January 2008 stated that for the occupation of banquet hall was for a purpose completely different from lodging and hence luxury tax was not charged. The reply is not tenable as hire/rental charge for banquet hall is for temporary accommodation which

means lodging and is subject to tax under the provisions of the Act. Further, the same AA while completing the assessments between February 2000 and February 2004 for the years 1999-2000 and 2001-02 had levied luxury tax on hire/rental charges of banquet halls of two other hotels.

The cases were reported to the Government in February 2008, followed by reminder issued in June 2008; their reply has not been received (September 2008).

B. Stamp Duty and Registration Fees

6.4 Non-realisation of deficit stamp duty and registration fees

Under the Indian Stamp Act, 1899 as applicable in West Bengal read with the departmental circular issued in July 1998, where the registering authority has reason to believe that market value of the property has not been truly set forth in the document presented for registration, he is authorised to register such document provisionally, ascertain the market value of the property thereafter and issue notice to the executants directing them to pay the deficit stamp duty and registration fees within 30 days from the date of receipt of such notice. In case of non-payment within the stipulated period, the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) within 15 days for determination of the market value of the property and deficit stamp duty and registration fees.

6.4.1 Scrutiny of the records of eight¹ Additional District Sub-Registrars (ADSRs) in four² districts between December 2006 and July 2007 revealed that 413 documents presented for registration between April 2002 and March 2007 were registered provisionally due to undervaluation of the properties. In all the cases the market value of the property was subsequently determined, but demand notices were not issued to the executants for payment of the deficit stamp duty and registration fees. This resulted in non-realisation of revenue of Rs. 91.13 lakh (stamp duty: Rs. 76.90 lakh and registration fees: Rs. 14.23 lakh).

After the cases were pointed out, ADSRs, Sutahata, Jhargram and Baruipur in 143 cases involving Rs. 35.54 lakh stated between December 2006 and July 2007 that demand notices were being issued. In case of ADSRs, Bhatar, Burdwan (Sadar), Mankar, Paschim Medinipur and Sonarpur in 270 cases involving Rs. 55.59 lakh, reply has not been received (September 2008).

6.4.2 Scrutiny of the records of five³ ADSRs in three⁴ districts between December 2006 and January 2007 revealed that 208 documents presented for registration between January 2002 and March 2006 were registered provisionally and stamp duty of Rs. 11.48 lakh was levied on the consideration of Rs. 2.74 crore set forth in the instruments. The market value of the properties were subsequently assessed by the registering authorities as

¹ ADSR, Baruipur; ADSR, Bhatar; ADSR, Burdwan (Sadar); ADSR, Jhargram; ADSR, Mankar; ADSR, Paschim Medinipur; ADSR, Sonarpur and ADSR, Sutahata.

² Burdwan, Paschim Medinipur, Purba Medinipur and South 24 Parganas.

³ ADSR, Asansol; ADSR, Durgapur; ADSR, Jhargram; ADSR, Sutahata and ADSR, Tamluk.

⁴ Burdwan, Paschim Medinipur and Purba Medinipur.

Rs. 10.72 crore and notices for payment of deficit stamp duty and registration fees were issued. Though the executants did not pay the dues within the time limit, neither any action was taken by the registering authorities (RA) to recover the dues nor were the cases referred to the Collector/DIGR within the stipulated period of 15 days for further action. This resulted in non-realisation of revenue of Rs. 51.13 lakh (stamp duty: Rs. 42.65 lakh and registration fees: Rs. 8.48 lakh).

After the cases were pointed out, the RAs of Jhargram, Sutahata and Tamluk stated in December 2006 that the cases were being sent to the Collector/DIGR while the RAs, Durgapur and Asansol did not furnish reply (September 2008).

The cases were reported to the Government between January and August 2007, followed by reminders issued upto June 2008; their reply has not been received (September 2008).

6.5 Non-realisation of stamp duty and registration fees

Under the provisions of the West Bengal Land and Land Reforms Manual, 1991, settlement of land for non-agricultural purposes should be made under a registered lease deed. As per the Indian Stamp Act, the stamp duty and registration fees required for execution of such deed should be borne by the lessee.

Scrutiny of the records of three⁵ District Land and Land Reforms (DL and LR) offices between January 2006 and March 2007 revealed that in three cases, 15.03 acres of non-agricultural land had been settled on long term lease basis as per the Government orders issued between December 2001 and December 2005. However, the lease deeds were not registered till the date of audit which resulted in non-realisation of stamp duty and registration fees of Rs. 5.52 lakh⁶.

After the cases were pointed out, the district authorities stated between January 2006 and March 2007 that action would be taken to register the lease deeds. Further developments in these cases have not been reported (September 2008).

The cases were reported to the Government between May 2006 and May 2007, followed by reminders issued upto December 2007; their reply has not been received (September 2008).

C. Profession Tax

6.6 Non-realisation of profession tax due to non-enrolment of dealers

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, every person coming under the purview of the Act shall be liable to be enrolled and pay tax at the prescribed rates.

⁵ Darjeeling, Hooghly and Murshidabad.

⁶ Stamp duty: Rs. 4.83 lakh and registration fees: Rs. 69,729.

Cross verification of the records of 10 licence issuing offices⁷ with those of four unit offices⁸ of profession tax conducted between December 2006 and June 2007 revealed that 501⁹ professionals, traders etc. failed to apply for enrolment/registration under the Act and continued with their professions during the period from 2002-03 to 2006-07 without payment of tax. No action was initiated by the profession tax officers (PTOs) to enroll those professionals/traders and recover tax at the prescribed rates. This resulted in non-realisation of profession tax of Rs. 27.09 lakh.

After the cases were pointed out, three¹⁰ PTOs admitted the audit observations in 346 cases involving Rs. 16.73 lakh. A report on recovery in these cases and replies of two¹¹ PTOs in the remaining 155 cases involving Rs. 10.36 lakh have not been received.

The cases were reported to the Government between February and July 2007, followed by reminders issued upto June 2008; their reply has not been received (September 2008).

D. Electricity Duty

6.7 Non-realisation of interest for delayed payment of electricity duty

Under the provisions of the West Bengal Duty on Inter State River Valley Authority Act, 1973 as amended with effect from April 2003, where the Inter State River Valley Authority or the licensee or the person liable to pay electricity duty fails to pay electricity duty by the prescribed date, such authority or licensee or person shall be liable to pay a simple interest at the rate of one *per cent* for each English calendar month of default upon the duty remaining unpaid at the end of each month of default.

Scrutiny of the records of the District Collector, Burdwan in December 2006 revealed that two licensees¹² deposited electricity duty of Rs. 22.54 lakh on 10 occasions between March 2005 and September 2006 which were due between July 2001 and October 2003. For delay in payment of duty ranging between 23 and 41 months, interest of Rs. 7.10 lakh though leviable was not levied. This resulted in non-realisation of revenue of Rs. 7.10 lakh.

After the cases were pointed out, the department in June 2008 stated in respect of one case involving Rs. 6 lakh that the demand for payment of interest had

⁷ Assistant Commissioner, Commercial Taxes - Asansol and Medinipur; Additional Chief Medical Officer, Health - Asansol; ARTO - Asansol; Chief Medical Officer, Health - Paschim Medinipur; District Magistrates - Burdwan and Howrah; Municipal Corporation - Asansol; Superintendent of Excise - Asansol and North 24 Parganas.

⁸ PTOs, West Bengal, Central Unit - V, Barasat, North 24 Parganas; South Unit - I, Howrah, South Unit - III, Medinipur and West Unit - III, Asansol, Burdwan.

⁹ Motor training schools - 9, licensed foreign liquor vendors - 62, computer training centres - 14, beauty parlours - 15, licensed country liquor vendors - 40, money lenders - 44, licensed stamp vendors - 45, pathological laboratories - 55, dealers - 62; nursing homes - 72, licensed *pachwai* vendors - 83.

¹⁰ PTOs, West Bengal, Central Unit - V, Barasat, South Unit - I, Howrah and West Unit - III, Asansol.

¹¹ PTOs, West Bengal, South Unit - III, Medinipur and West Unit - III, Asansol.

¹² Bharat Aluminium Co. Ltd. and Chittaranjan Locomotive Works.

Audit Report (Revenue Receipts) for the year ended 31 March 2008

been raised by the Collector, Burdwan against which the firm had prayed for waiver. In the remaining case involving Rs. 1.10 lakh, it was stated that the Collector, Burdwan had been requested to initiate certificate case for recovery of interest payable by the firm. A report on further development has not been received (September 2008).

The cases were reported to the Government in February 2007, followed by reminders issued upto June 2008; their reply has not been received (September 2008).