

## CHAPTER VII ELECTRICITY DUTY, PROFESSIONS TAX AND OTHER TAX RECEIPTS

### 7.1 Results of audit

Test check of records in the offices dealing with assessment and collection of electricity duty, professions tax and other tax receipts conducted in audit during the year 2002-03, revealed underassessments/non-levy etc. of tax amounting to Rs.164.47 crore in 121 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
<b>A. ELECTRICITY DUTY</b>			
1	Non-assessment and non-realisation of electricity duty	10	142.22
2	Non-realisation of assessed electricity duty	6	1.24
3	Non-levy/non-payment of interest	1	0.02
4	Blockage of Government revenue	2	0.27
<b>Total:</b>		<b>19</b>	<b>143.75</b>
<b>B. PROFESSIONS TAX</b>			
1	Non-realisation of tax due to non-enrolment/irregular allowance	32	0.49
2	Non-realisation due to non-assessment	10	0.60
3	Non-imposition of penalty	3	0.06
4	Other irregularities	34	1.18
<b>Total:</b>		<b>79</b>	<b>2.33</b>
<b>C. OTHER TAX RECEIPTS</b>			
1	Amusement Tax	11	16.66
2	Agricultural Income Tax	7	1.70
3	Luxury Tax	5	0.03
<b>Total:</b>		<b>23</b>	<b>18.39</b>
<b>Grand Total:</b>		<b>121</b>	<b>164.47</b>

During the course of the year 2002-03, the concerned Department accepted underassessments etc. of Rs.6.49 crore in 78 cases of which 56 cases involving Rs.2.60 crore had been pointed out in audit during the year 2002-03 and the rest in earlier years. An amount of Rs.4.73 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.1.60 crore highlighting important observations are given in the following paragraphs:

## **A. ELECTRICITY DUTY**

### **7.2 Non-assessment and non-realisation of electricity duty**

Under section 3(1)(a) of the Bengal Electricity Duty Act, 1935 no electricity duty shall be payable by a person (other than the licensee) who generates energy from a diesel generating plant/set registered under section 7B of the Act for his own consumption for any industrial or manufacturing process. In cases where such generating set is not registered the owner thereof shall be liable to pay electricity duty under the Act. If someone defaults for any period, the Assessing Authority may ask him for production of necessary data and assess duty on the basis of the data furnished. In case of the same not being furnished, the Assessing Authority shall assess electricity duty on best judgement basis.

Scrutiny of records of three<sup>1</sup> District Collectors' offices revealed that owners of 30 unregistered private diesel generating sets generated and consumed electric energy for different consumption periods between January 1993 and March 2002. However, Electricity Duty of Rs.59.19 lakh was neither deposited by them nor was it demanded by the Collectors. This resulted in non-realisation of electricity duty of Rs.59.19 lakh.

On this being pointed out, the Collector of Bankura and Howrah accepted the audit observations. A demand of Rs.2.22 lakh was raised by District Collector, Bankura of which an amount of Rs.0.37 lakh was realised till June 2003 while the Collector of West Midnapore did not furnish reply till November 2003.

The cases were reported to Government between July 2002 and December 2002; their reply has not been received (November 2003).

### **7.3 Short realisation of electricity duty**

Under the provisions of the West Bengal Duty on Inter State River Valley Authority Act, 1973, a person who receives energy directly from an Inter State River Valley Authority for consumption, is required to pay electricity duty at

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<sup>1</sup> Bankura, Howrah and West Midnapore

prescribed rate on the net charge for energy consumed and to submit monthly return in prescribed form in the prescribed manner.

The Chittaranjan Locomotive Works receives energy from DVC for domestic consumption. The rate of electricity duty was revised with effect from 1 April 1993 from eight paise to 10 per cent per unit of the net charge of energy consumed from H.T. supply for domestic consumption.

Scrutiny of records of the Collector, Burdwan revealed that electricity duty was realised at pre-revised rates of eight paise per unit of the net charge of energy instead of 10 per cent from 1 April 1998 to 31 October 2000. This resulted in short realisation of Rs.22.54 lakh during the period from April 1998 to October 2000.

On this being pointed out, the Department stated in June 2002 that steps to recover the short payment of arrear electricity duty had been initiated.

The case was reported to Government in August 2002; their reply has not been received (November 2003).

#### **7.4 Non-levy of electricity duty on energy consumed in residential complexes of Government establishment**

Under section 3(3) of the Bengal Electricity Duty Act, 1935, electricity duty shall not be leviable on the units of energy consumed by any Government or Railway administration. However, electricity duty on the units of energy consumed in respect of premises used for residential purposes is leviable at the prescribed rates.

Scrutiny of records of the Collector of West Midnapore revealed that electricity duty amounting to Rs.26.00 lakh payable by the South Eastern Railway for their residential complexes at Kharagpur, Dantan and Gidhni for consumption of energy between April 2001 and March 2002 was neither assessed nor realised. This resulted in non-levy of electricity duty of Rs.26.00 lakh.

On this being pointed out, the Collector, West Midnapore stated in June 2003 that action would be taken for assessment and realisation of electricity duty. Report on further development had not been received till November 2003.

The case was reported to Government in August 2002; their reply has not been received (November 2003).

## **B. PROFESSIONS TAX**

### **7.5 Non-realisation of professions tax due to non-enrolment**

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.

Cross verification of records of the District Collectors, District/Sub-Divisional Controllers of Food and Supplies, the Chief Medical Officer of Health of the district concerned and Head Post Offices of the districts with the records of nine<sup>2</sup> Range/Unit offices of Professions Tax revealed that 114 nursing homes and pathological laboratories, 233 licensed money lenders, 316 owners of STD/ISD/PCO Booths, 53 fish merchants, 20 owner of rice mills, 10 kerosene oil agents and 76 owners of foreign liquor shop, country spirit shop, pachwai shop, Rum and Beer shop and 76 cable TV operators were not enrolled from different dates between 1995-96 and 2001-02. This resulted in non-realisation of professions tax of Rs.29.86 lakh upto March 2002.

On this being pointed out, the Assessing Authorities of eight units accepted the audit observations between March and December 2002 and realised Rs.2.16 lakh out of Rs.18.96 lakh in June 2003 while the Assessing Authority of Central Unit IV did not furnish any specific reply till November 2003.

The cases were reported to Government between May 2002 and January 2003; their reply has not been received (November 2003).

### **7.6 Non-realisation of professions tax from enrolled certificate holders**

Under Section 8 of the West Bengal State Tax on Professions, Trades, Callings & Employments Act, 1979, an enrolled certificate holder who secures an enrolment certificate from the competent Profession Tax Officer is liable to pay professions tax at the prescribed rate as specified in their certificate of enrolment/registration.

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<sup>2</sup> Central Unit-II, Central Unit-III, Central Unit-IV, Central Unit-VII, , North Unit-III, North Unit-IV, South Unit-III, South Unit-IV, West Unit – V.

Any such person who stands enrolled before the commencement of the year will pay tax before the 30<sup>th</sup> day of September each year.

Scrutiny of enrolment case records and registers of four<sup>3</sup> Range/Unit Offices revealed that 95 persons/employers who stood enrolled/registered between August 1979 and February 2000 had not paid professions tax for different periods between 1994-95 and 2001-02 but no demand for payment of arrear tax for the default period was raised against the persons/employers. This resulted in non-realisation of tax for Rs.16.28 lakh.

On this being pointed out, the Assessing Authorities accepted the audit observations and stated in June 2003 that action for recovery would be taken. Report on further development had not been received till November 2003.

The cases were reported to Government between April 2002 and September 2002; their reply has not been received (November 2003).

## **C. OTHER TAX RECEIPTS**

### **7.7 Non-assessment and non-levy of luxury tax on Banquet Hall charges**

The West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, provides that luxury tax shall be charged, levied and paid to the State Government by the proprietor of every hotel liable to pay it. 'Hotel' means a building or part of a building or any place where any activity or business is carried on in providing lodging and boarding or any kind of accommodation, with or without supply of food, drinks or refreshments, to the members of the public on payment or for any consideration with the object of making profit.

Scrutiny of the assessment case records of a hotel in Kolkata for the year 1996-97 revealed that the Assessing Authority assessed in March 1999, luxury tax on Rs.7.07 crore instead of total receipt of Rs.7.57 crore on account of room and banquet charges leaving out Rs.49.60 lakh being the banquet hall charges. This resulted in non-levy of luxury tax of Rs.6.20 lakh.

On this being pointed out, the Assessing Authority stated that banquet charges received by the hotel could not be treated as charges for lodging as such luxury

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<sup>3</sup> Central Unit- I, Central Unit- II and South Unit-I and West Range.

*Audit Report (Revenue Receipts) for the year ended 31 March 2003*

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tax is not payable. The reply is not tenable as banquet hall provides accommodation for sumptuous feast to the members of the public on payment or for consideration and as such it comes within the definition of hotel under the Act 1972 as such luxury tax is payable on it.

The case was reported to Government in May 2002; their reply has not been received (November 2003).