

CHAPTER V MOTOR VEHICLES TAX

5.1 Results of audit

Test check of records relating to taxes on motor vehicles, conducted in audit during the year 2003-04, revealed non/short realisation of revenue amounting to Rs.7.61 crore in 91 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy/realisation of tax, fee, fine and penalty	79	7.43
2.	Loss of revenue	12	0.18
Total		91	7.61

During the course of the year 2003-04, the concerned Department accepted underassessments etc. of Rs.3.48 crore involved in 68 cases of which 60 cases involving Rs.3.14 crore had been pointed out in audit during the year 2003-04 and the rest in earlier years. An amount of Rs.4 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.5.56 crore highlighting important observations are given in the following paragraphs:

5.2 Loss of revenue due to delay in issue of notification relating to fees

The Government of India, Ministry of Road Transport and Highways by an amendment of the Central Motor Vehicles Rules, 1989 in notification dated 28 March 2001 enhanced the rates of fees for grant and renewal of certificate of fitness, driving/learners licence and registration to various types of motor vehicles from 28 March 2001.

A test check of records of six¹ Regional Transport Offices (RTOs) and Public Vehicles Department (PVD), Kolkata revealed that the RTOs actually started realisation of fees at revised rates from different dates between 25 June and 21 December 2001 as the State Government forwarded the said notification on or after 25 June 2001. The Transport Department delayed in circulation of the notification for realisation of fees at enhanced rates which resulted in short realisation of fees of Rs.1.24 crore in 84,594 cases between 28 March 2001 and 21 December 2001.

After this was pointed out, the Director, PVD, Kolkata stated in November 2002 that action would be taken to realise the dues while the other RTOs stated between May 2002 and November 2002 that due to non-receipt of the notification from the Department in time fees at enhanced rate could not be realised.

The cases were reported to Government between August 2002 and February 2003 followed by reminders issued up to July 2004; their reply has not been received (December 2004).

5.3 Short realisation of permit fees due to non-implementation of the State Government notification

The State Government in their notification dated 20 February 2003 enhanced the rates of fees for grant/renewal of various² kind of permits from 20 February 2003 by an amendment of the West Bengal Motor Vehicles Rules, 1989.

Scrutiny of records of three³ RTOs revealed between June and September 2003 that the RTOs issued 146 permanent permits, 507 temporary permits and

¹ Asansol, Barrackpore, Dakshin Dinajpore, Hooghly, Malda and South 24 Parganas

² Permanent permits, temporary permits, special permits

³ Burdwan, Durgapur and Purulia

147 special permits between 20 February 2003 and 13 March 2003 but had not realised permit fees at enhanced rate. This resulted in short realisation of permit fees of Rs.10.05 lakh.

After this was pointed out, the RTOs stated that the permit fees could not be realised at enhanced rates as the notification was not received in time, however, demand notices would be raised. Report on further development has not been received (December 2004).

The cases were reported to Government between June and November 2003 followed by reminders issued up to July 2004; their reply has not been received (December 2004).

5.4 Loss of revenue due to delay in issue of notification relating to fine

Government of India, Ministry of Surface Transport (GOI-MOST) in their notification dated 5 March 1997 directed all the State Governments to realise minimum fine of Rs.2,000 from each goods carriage detected while plying with load in excess of permissible load in addition to fine of Rs.1,000 per tonne of excess load in accordance with the provisions of the Motor Vehicles Act, 1988. This instruction was circulated by the Transport Department, Government of West Bengal to all the Regional Transport Offices in April 1997, but the notification was issued only on 23 April 2002 as required under Section 200(1) of the Act.

Scrutiny of records in five⁴ RTOs and PVD, Kolkata revealed between September 2002 and September 2003 that the Enforcement Authorities did not realise fine at the prescribed rate from 389 goods carriages detected plying with excess load between July 2000 and March 2002 as per the instructions circulated. Non-realisation was due to non-issue of notification in this regard by the State Government. This resulted in loss of revenue of Rs.7.78 lakh.

After this was pointed out, the Enforcement Authorities of four⁵ RTOs and PVD, Kolkata stated between December 2002 and April 2004 that minimum fine was not realised due to non-receipt of notification for such collection, while the Enforcement Authorities of Dakshin Dinajpur furnished no reply.

The cases were reported to the Government between November 2002 and November 2003 followed by reminders issued up to July 2004; their reply has not been received (December 2004).

⁴ Alipurduar, Balurghat, Burdwan, Purulia and Siliguri.

⁵ Alipurduar, Burdwan, Purulia and Siliguri,

5.5 Non/short realisation of road tax, additional tax and penalty from different kinds of vehicles

The West Bengal Motor Vehicles (WBMV) Tax Act, 1979 and the West Bengal Additional Tax and One-time tax on Motor Vehicles Act, 1989 prescribe the rate of taxes on motor vehicles according to their use, seating capacity and weight, as the case may be. As per clarifications of the Government of West Bengal, Transport Department issued in December 1998 and August 1999 additional tax of 50 per cent of road tax is leviable on dumper and tipper. Both the Acts provide for levy of penalty of an amount equal to tax and additional tax in case of non-payment of such taxes beyond 75 days from the due date of payment.

Scrutiny of records of five⁶ RTOs and PVD Kolkata revealed that Taxing Officers did not levy and realise tax and additional tax or realised short thereof between April 1998 and March 2004 from different kinds of vehicles due to misclassification of vehicles and non-compliance of Government orders. This resulted in non/short realisation of tax, additional tax and penalty of Rs.20.90 lakh as detailed below:

<i>(Rupees in lakh)</i>			
Name of the Taxing Officer	Nature of observation	Period for which tax, additional tax and penalty involved (between)	Amount of non/short realisation of tax, additional tax and penalty
Alipurduar	In the case of six contract carriages additional tax of Rs.1.77 lakh were neither paid nor any demand was raised by the RTO. This attracted penalty of Rs.1.77 lakh for non-payment of additional tax	April 1998 and June 2003	3.55
Burdwan (28 buses of companies)	141 buses of companies were charged to tax and additional tax of Rs.4.02 lakh instead of Rs.6.03 lakh by incorrect classification as non-transport vehicles.	April 1998 and March 2004	2.01
Durgapur (113 buses of companies)		September 2001 and March 2004	
Durgapur (29 dumpers and 81 tippers)	In the case of 29 dumpers and 139 tippers additional tax of Rs.5.36 lakh was neither paid nor it was demanded by the RTOs. This attracted penalty of Rs.5.36 lakh for non-payment of additional tax	October 2000 and August 2003	10.72
Siliguri (12 tippers)		February 2001 and May 2002	
South 24 Parganas (46 tippers)		March 2001 and May 2002	
PVD, Kolkata (four tourist bus)	In the case of 10 buses of companies additional tax of Rs.0.78 lakh and penalty of Rs.0.78 lakh were neither assessed nor demanded. Besides, tax/additional tax of Rs.3.06 lakh were not realised from four tourist buses.	April 1998 and August 2002	4.62
PVD, Kolkata (10 buses of companies)		April 1998 and August 2002	
			20.90

⁶ Alipurduar, Burdwan, Durgapur, Siliguri and South 24 Parganas.

After this was pointed out, three⁷ Taxing Officers stated between June 2002 and September 2003 that demand notices had been/would be issued. Taxing Officer, Durgapur did not admit levy of tax on “Buses of Companies” for their purchase by individual while Taxing Officers, Durgapur and Siliguri stated that dumpers/tippers were not subject to levy of additional tax as per provision of the Act. The replies are not tenable as the purchase and registration of those buses were made in the name of Companies and dumper/tipper would attract additional tax as per orders of the State Government dated December 1998 and August 1999.

The cases were reported to Government between August 2002 and July 2003 followed by reminders issued upto July 2004. Their reply has not been received (December 2004).

5.6 Failure to follow the prescribed system in connection with traffic offences

5.6.1 Cases not referred to Court of Law/compounded but destroyed

As per provisions of the WBMV Rules, 1989, the Compounding Officer including the Police Officers not below the rank of Sub-Inspector shall compound the offence with the consent of the offender and issue notice for payment of compounded fine, within seven days from the date of the issue of the notice. In case of non-payment of tax within the said period, he shall refer the case to the Court of Law for the prosecution of the offender. However, no period has been prescribed for the prosecution in the Court of Law in the Act. An offence case register was required to be maintained under the Act.

• Police Department

As per the information furnished by the Commissioner of Police, Kolkata 4,32,635 offence cases were detected between April 1998 and June 2000 but not compounded by the police officers. No effort was made to refer those cases for prosecution in a Court of Law. In addition 3,41,682 cases detected between July 2000 and March 2003 though compounded were destroyed without realisation of fine, under the order of the Deputy Commissioner of Police, Traffic even without making entries of details thereof as ordered by the said authority leaving no scope for their prosecution in a Court of Law. Besides, in South 24 Parganas, 1,592 cases were detected between April 1998

⁷ Alipurduar, PVD (Kolkata), South 24 Parganas (Alipur)

and March 2003 and compounded but not referred to the Court of Law for prosecution due to non-recovery of composition money of Rs.63 lakh. These resulted in non-realisation of fine of Rs.2.56 crore as detailed below:

(Rupees in crore)

Name of the office	Periods involved	Cases compounded but not referred to Court for recovery of fine		Cases neither compounded nor referred to Court		Cases compounded but documents/papers destroyed without recovery of fine		Non-realisation/ loss of revenue
		No. of cases	Fine involved	No. of cases	Minimum fine @ Rs.25 per case	No. of cases	Minimum fine @ Rs.25 per case	
The Commissioner of Police, Kolkata	April 1998 to June 2000	--	--	4,32,635	1.08	--	--	1.08
The Commissioner of Police, Kolkata	July 2000 to March 2003	--	--	--	--	3,41,682	0.85	0.85
Superintendent of Police, South 24 Parganas	April 1998 to March 2003	1,592	0.63	--	--	--	--	0.63
		1,592	0.63	4,32,635	1.08	3,41,682	0.85	2.56

After this was pointed out in December 2003, the Commissioner of Police, Kolkata confirmed the fact of destruction of the records without prosecution in Court of Law. As to the reasons for non-referring the cases to Court of Law both the authorities furnished no reply (December 2004).

• **Transport Department**

Scrutiny of records in six⁸ RTOs revealed that the Compounding Officers did not prosecute the offending owners/drivers of motor vehicles for their failure to pay compounded fines of Rs.12.14 lakh after expiry of the period of notices in 346 offence cases detected between November 1998 and February 2003. This resulted in non-realisation of fine of Rs.12.14 lakh.

After this was pointed out, three⁹ Compounding Officers admitted between September 2002 and September 2003 the fact of non-reference of offence cases to the Courts of Law. However, steps taken for prosecution of the offence cases were not intimated. The remaining Compounding Officers furnished no specific reply (December 2004).

The cases were reported to Government between November 2002 and November 2003 followed by the reminders issued up to July 2004; their reply has not been received (December 2004).

⁸ Dakshin Dinajpur - 42; Hooghly – 55; Howrah – 26; Jalpaiguri – 72 Malda-109and Siliguri - 42

⁹ Dakshin Dinajpur, Hooghly and Jalpaiguri.

5.6.2 Loss due to delay in enforcing compounding of traffic offence

Scrutiny of records of the offices of Superintendents of Police (SP), Burdwan, Darjeeling and North 24 Parganas, revealed that not even a single case of offence was detected during the periods varying between April 1998 and February 2003.

The inaction on the part of police authorities in compounding the traffic offence cases resulted in loss of Rs.1.25 crore based on average monthly realisation in each district since the date of enforcement of the provisions of the Act as shown below:

(Rupees in crore)

Name of the district	Month from which compounding of traffic offence commenced	Average traffic offence cases detected per month	Amount realised per month on average (Rs. in lakh)	Periods involved	Amount of unrealised revenue
Darjeeling	March 2003	800	1.03	April 1998 to February 2003 (59 months)	0.61
North 24 Parganas	April 1999	1,226	4.90	April 1998 to March 1999 (12 months)	0.59
Burdwan	November 1999	80	0.28	April 1998 to October 1999 (19 months)	0.05
Total:					1.25

After this was pointed out, all the SPs admitted between December 2003 and February 2004 the delay in implementing the scheme and stated that system of compounding of traffic offence was enforced from different dates between April 1999 and March 2003.

The cases were reported to the Government in May 2004; their reply has not been received (December 2004).