

CHAPTER VI
STAMP DUTY AND REGISTRATION FEES, ELECTRICITY
DUTY AND OTHER TAX RECEIPTS

6.1 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 2003-04, revealed underassessments/non-levy etc. of tax amounting to Rs.566.20 crore in 179 cases, which broadly fall under the following categories :

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
	A. STAMP DUTY AND REGISTRATION FEES		
1.	Non-realisation of deficit Stamp Duty and Registration Fees	25	3.93
2.	Blockage of Government Revenues	25	8.46
3.	Deficiencies in sale of stamps	1	548.40
4.	Others	25	0.43
	Total	76	561.22
	B. ELECTRICITY DUTY		
1.	Non-assessment and non-realisation of electricity duty	4	0.43
2.	Non-realisation of assessed electricity duty	3	0.04
3.	Others	3	0.04
	Total	10	0.51
	C. OTHER TAX RECEIPTS		
1	Professions Tax	77	1.62
2	Amusement Tax	14	2.82
3.	Agricultural Income Tax	2	0.03
	Total	93	4.47
	Grand Total	179	566.20

During the course of the year 2003-04, the concerned department accepted underassessments etc. of Rs.6.64 crore in 75 cases of which 55 cases involving Rs.5.89 crore had been pointed out in audit during the year 2003-04 and the rest in earlier years. An amount of Rs.88.33 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.3.23 crore highlighting important observations are given in the following paragraphs:

A. STAMP DUTY AND REGISTRATION FEE

6.2 Deficiencies in sale of stamps

6.2.1 Introduction

Levy and collection of Stamp Duty on different instruments are regulated by the Indian Stamp Act, 1899 as amended from time to time for its application in West Bengal and Rules framed thereunder.

There are two types of Stamps which are in vogue, i.e. judicial stamps and non-judicial stamps. The judicial stamps, governed by the Court fees Act, 1870, and the non-judicial stamps, governed by the Indian Stamp Act, 1899 are used for payment of duty on various kinds of instruments mentioned in the Schedule to those Acts, which are executed and registered under the Registration Act, 1908.

All kinds of stamps including postal stamps are printed and supplied by the Controller of Stamps, Central Stamp Depot(CSD) at Nasik and Hyderabad. These are brought to the Reserve State Stamp Store(RSSS), Kolkata as per indent of the State. The printing, supply, distribution and sale of stamps are governed by the Rules for Supply and Distribution of Stamps of the Government of India read with Supplementary Rules framed by the Government of West Bengal in April 1992.

6.2.2 Forecasting

As per Supplementary Rules for the supply and distribution of stamps notified in April 1992 by Finance Department, the treasury officers shall send not later than the 31 May every year, their forecasts of the non-postal stamps required by them during the ensuing financial year to the Finance Department indicating the actual issues during each of the preceding three years, the average annual consumption based on the issues of the preceding three years, the balance in hand on 1 April, the estimated issues for the current financial year and the forecast of stamps which the CSD will be required to supply during the ensuing year. A consolidated forecast shall be sent to the Controller of Stamps, Nasik by the Secretary, Finance Department.

During the course of audit it was noticed that no treasury was sending forecast to the Finance Department and no consolidated forecast was sent to the CSD, Nasik during 1993-94 to 2002-03 by the Department.

6.2.3 Supply, Receipt and Stock

The RSSS, Kolkata under the Collector of Stamp Revenue, Kolkata is to receive supply of stamps from the India Security Press (ISP), Nasik Road, Mumbai and Security Printing Press (SPP), Hyderabad. Stamps are brought by the representatives of the Collectorate from the ISP in Railway Wagon escorted by armed police of the State while those received from the SPP are in covered container despatched by the Press with Police escort.

Rules for the WRSSS, Kolkata provides that an "Invoice Register of Stamps" for stamps received from the ISP and SPP should be maintained in prescribed form showing number and date of indent, date of receipt, Invoice number and date etc. by the Collector of Stamp Revenue, Kolkata. When supply against an indent is received partially, the details of the short supply should be noted in the remarks column.

Scrutiny of records revealed in April 2004 that no record was maintained in the RSSS, Kolkata. In the absence of the same cross- reference could not be made between the receipt of stamps from the ISP and SSP against the concerned indent. This indicated that internal control was not properly exercised.

6.2.4 Detection of fake stamps

Under the provision of the Government of Bengal Rules, every licensed vendor at the time of sale of stamps shall write on the back of every stamp, the serial number, the date of sale, the name and residence of the purchaser and the value of stamp in the vernacular language etc. He shall also make corresponding entries in a register and shall submit the register at the end of every month to the district officer, or sub-divisional officer, for examination and deposit in his office. Similarly the treasuries at the time of sale of stamps to private parties also keep record of the serial number, the name of purchaser with address, denominations, date of sale etc. in the Issue Register and note the same on the back of stamp paper sold from the Treasury.

There is, however, no provision in the Act/Rule for reconciliation between the issue of stamps and its utilisation. The registering authorities are also not authorised to verify the genuineness of stamp papers used for preparation of documents and presented for registration.

It was noticed that the registers submitted by the licensed stamp vendors were not examined by the District Offices/Sub-divisional officers/Treasury officers and the following irregularities were noticed.

- **Stamps sold from Treasury**

Cross-verification of records of six¹ Registration Offices of two² districts with the issue register of Kolkata Collectorate Treasury revealed that in 25 cases involving stamps valued at Rs.10.78 lakh registered during the period 1999-2000 to 2002-03, the name of purchaser, denomination of stamps etc. as noted on the back of the stamp paper did not tally with the records of the treasury although the serial no. and date of sale of stamps were the same. Thus, the source of purchase of stamps was doubtful and could not be ascertained in audit.

- **Absence of provision for renewal of Vendors' licence**

As per the Government of Bengal Rules framed under the Indian Stamp Act a person licenced by the district officer, shall sell to the public such stamps as are indicated in his licences. The licence shall be revocable at any time by the licencing authority. There is, however, no provision for periodical renewal of the licences issued to stamp vendors.

Scrutiny of records of 10 district offices revealed that most of the licences were issued even more than 30 years ago. In the district of North 24 Parganas, five persons who received regular supply of stamps from treasury and sold them to public, were not in the list of licensed vendors. In the absence of the renewal provision, proper monitoring of the licensee could not be exercised by the district officers. The possible misuse of licence can not be ruled out.

¹ ARA-I, II & III/Kolkata, ADSR and DSR-I & II/North 24 Parganas.

² Kolkata and North 24 Parganas.

- **Non-inspection of vendors' accounts**

Treasury Rules provide that district officer or any officer duly authorised by him at any time shall inspect stamp vendors accounts and registers to examine the store of stamps in his possession.

In five³ districts, it was noticed that no surprise check or inspection of vendor's accounts/stock of stamps was conducted either by the district officer or any other officer authorised by him.

- **Non-maintenance of vendor's register**

The West Bengal Stamp Rules, 1994, provided that a register of Stamp Vendors' licence in prescribed form shall be maintained in Stamp Department of the district.

Scrutiny of records revealed between February and April 2004 that in eight⁴ districts no register of Stamp Vendors' licence was maintained by the collectors and as such the information about the stamp vendors was also not available from the Collectorates. Thus there was lack of coordination between the licensing authority and the treasury officer issuing the stamp to vendors to ascertain the exact number of authorised vendors operating within his jurisdiction.

6.3 Blockage of Revenue due to non-realisation of stamp duty and registration fees

Under the Indian Stamp Act, 1899 as applicable in West Bengal read with departmental circulars 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 documents presented for registration, he is authorised to register such document provisionally. Thereafter, he is required to ascertain the market value of the property and issue notice to the executant for payment of deficit stamp duty and registration fees, if any, within 30 days from the date of presentation. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/Deputy Inspector General of

³ Darjeeling, Howrah, Jalpaiguri, North 24 Parganas and South 24 Parganas.

⁴ Darjeeling, Howrah, Jalpaiguri, Kolkata, North 24 Parganas, Paschim Medinipur, Purba Medinipur and South 24 Parganas.

Registration within 15 days for determination of market value of the property and collection of deficit stamp duty and registration fees.

Scrutiny of records of two⁵ Registration Offices revealed that 110 documents presented for registration between November 2002 and March 2003 had been kept pending in the local offices even after ascertaining market value of the property of the documents. No notice was, however, issued by the registering authorities to the executants for payment of deficit stamp duty and registration fees. This resulted in blockage of revenue of Rs.19.36 lakh

After this was pointed out, the Registration Officers accepted audit observation and stated between December 2003 and January 2004 that action was being taken to dispose of the pending cases/to refer the cases to the higher authorities.

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

B. ELECTRICITY DUTY

6.4 Non-assessment and non-realisation of electricity duty

Under 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 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 shall assess electricity duty on the basis of his best judgement.

Scrutiny of records of the office of District Collector, Paschim Mednipur revealed that owners of two unregistered diesel generating sets generated and consumed electricity for different consumption periods between January 2000 and March 2003. However, electricity duty of Rs.15.62 lakh was not demanded by the Collector and thereby remained unrealised. This resulted in non-realisation of revenue of Rs.15.62 lakh.

⁵ ADSR Ranihati, Sadar Murshidabad.

This was pointed out in audit in June 2003 to the Collector, Paschim Mednipur. The case was reported to Government in July 2003 followed by reminders issued up to July 2004; their reply has not been received (December 2004).

C. OTHER TAX RECEIPTS

6.5 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. In the event any person failing to get himself enrolled and pay tax for any period the prescribed authority shall determine to the best of his judgement the amount of tax for such period. The amount of tax shall be paid by such person and by such date as specified in the notice.

Cross verification of records of six⁶ Unit offices of Profession Tax with the records of nine⁷ offices revealed that 115 owners of nursing homes/pathological laboratories, 180 licensed money lenders, 294 owners of STD/ISD/PCO Booths, 115 foreign/country liquor vendors, 162 Cable TV operators, 34 LPG/Kerosene oil dealers, 59 Rice Mill owners, 40 owners of Computer Training Centres, 32 owners of Video Hall/Parlours, 89 dealers, 15 owners of Beauty Parlours, 11 social function hall owners and 51 small saving agents were not enrolled between 1998-99 and 2002-03. No notice was served to the defaulters by Profession Tax Officers. This resulted in non-realisation of professions tax of Rs.52.07 lakh.

After this was pointed out between March 2003 and December 2003 the Profession Tax Officer (PTO) North Unit-II, Jalpaiguri realised Rs.1.52 lakh out of Rs 10.50 lakh up to December 2004, while other PTOs did not furnish any reply (December 2004).

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

⁶ Central Unit - VIII, North Unit-II, West Unit - I, II, III & IV

⁷ Collectors, Sub-Divisional Officers, Deputy Controller of Food and Supply, Chief Medical Officer of Health of districts concerned, Superintendent of Excise, Asstt. Commissioner of Commercial Taxes, Municipal Corporation, Telephone Exchange and Head Post Office

6.6 Non-levy of fine for exhibition of cinematograph without valid licence

Under the West Bengal Cinemas Regulations Act, 1954, no person shall give a public exhibition by means of a Cinematograph elsewhere than in a place in respect of which a licence has been granted. For contravention of the provisions of the Act he shall be punishable with fine which may extend to Rs.1,000 and in the case of continuing offence, with a further fine which may extend to Rs.100 for each day during which the offence continues.

Scrutiny of records of the Commissioner of Police, Kolkata revealed that the owners of 66 Cinema Halls in Kolkata continued public exhibition of cinematograph without valid licence for a period varying between two and 21 years attracting fine of Rs.2.25 crore till March 2003. The licensing authority, however, did not take any action to impose fine for contravening the provisions of the Act.

After this was pointed out between November 2003 and March 2004 the local office stated between November 2003 and March 2004 that the matter was being referred to the Government.

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