

CHAPTER-3: Other Taxes and Non-Tax Receipts

3.1 Results of audit

Test check of the records relating to the luxury tax, entertainment & betting tax, stamp duty, non-tax receipt etc., during the year 2008-09 revealed loss of revenue/short/non-levy of tax and other irregularities involving Rs. 35.98 crore in 368 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
A	Non-tax receipt		
1.	Non-recovery of interest and penal interest	1	20.17
B	Stamp duty		
2.	Short payment of stamp duty	301	2.07
C	Luxury Tax		
3.	Non-levy of luxury tax on banquet/conference halls	4	0.91
D	Others	62	12.83
Total		368	35.98

During the year 2008-09, the department accepted non-recovery of interest of Rs. 20.17 crore in one case which was pointed out in 2008-09.

Few illustrative audit observations involving Rs. 23.16 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of the records in the Department of Power, Commissioner of Excise, Entertainment and Betting Tax and Sub-Registrar offices relating to revenue receipt revealed several cases of non-observance of the provision of Acts/Rules resulting in non-recovery of interest, short-payment of stamp duty and luxury tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided, detected and corrected.

3.3 Non-recovery of interest and penal interest

The Government of National Capital Territory of Delhi sanctions loans to various bodies to carry out various plan schemes. The loans are provided for a period of 15 years repayable in equal installments along with the interest @ 11.5 per cent per annum (13 per cent per annum for loans sanctioned in 2002-03) on yearly basis beginning from the first anniversary of drawal of loan. In case principal or interest is not paid by the due date, penal interest @ 2.75 per cent per annum on the outstanding dues are chargeable over and above the normal rate of interest.

The Department of Power released loan of Rs. 168.22 crore to M/s Indraprastha Power Generation Company Limited (IPGCL) during the period from 2002-03 to 2006-07 in five instalments for renovation and modification of the power stations, overhauling of gas turbines, refurbishment of the waste heat recovery unit modules etc. Though the company has paid instalments of principal due for the years 2007-08 and 2008-09 (up to 31st December 2008) it had defaulted in payment of interest and penal interest, which works out to Rs. 19.46 crore and Rs. 0.71 crore respectively. Thus, failure to take action to recover the interest due and impose penal interest resulted in non-realisation of interest receipts of Rs. 20.17 crore.

The Management of the company confirmed the facts and stated (April 2009) that it had taken a number of steps to settle the arrears once its financial position improves.

The matter was reported to the department and the Government in June 2009, their reply has not been received. (December 2009).

3.4 Short levy of stamp duty due to undervaluation

Under the Indian Stamp Act 1899 and the Delhi Stamp (Prevention of undervaluation of instruments) Rules 2007, the Government may, from time to time, notify the minimum rates for valuation of land through a notification in the Official Gazette, for various districts/areas forming part of the district, on the recommendation of the Deputy Commissioner concerned or otherwise. In pursuance of above powers, the Government notified (July 2007) locality-wise minimum circle rates for valuation of land and immovable properties for the purpose of working out stamp duty payable on registration under the provision of the Indian Stamp Act, 1899. These rates were applicable with effect from 18th July 2007.

Test check of the records of the office of four sub-registrars⁴⁷ during the period from April 2008 to March 2009 indicated that in 301 cases while registering sale deed, agreement to sell, general power of attorney with consideration etc., of land, flats and other properties, during the period from 18th July 2007 to 6th September 2007, the sub-registrars, did not take into account the notified circle rates for valuation of properties. This resulted in undervaluation of properties registered during the above period with consequent short levy of stamp duty of Rs. 2.07 crore.

After the cases were pointed out, the department stated (October 2009) that the matter had been referred to the Collector of Stamps for appropriate action.

The matter was reported to the Government (June 2009); their reply has not been received (December 2009).

3.5 Non-levy of luxury tax on banquet/conference halls

Delhi Luxury Tax Act, stipulates that the luxury tax shall be levied on the turnover of receipts of a hotel at the notified rate not exceeding 15 per cent. Where charges are levied otherwise than on daily basis, then charges for determining the tax liability shall be computed proportionately for a day and per room based on the total period of occupation of accommodation. Any delay in payment of tax attracts simple interest at the rate of two per cent of the amount of such tax for each month after the last day by which the tax should have been paid.

Test check of the records of the office of Commissioner of Excise, Luxury and Entertainment Tax for the assessment year 2007-08 indicated that while finalising the assessment of four hotels during the period from November 2008 to February 2009 the assessing officer did not include rent/hire charges of Rs. 5.73 crore for banquet/conference halls in their receipts for the levy of luxury tax. This resulted in short collection of tax to the extent of Rs. 90.98 lakh including interest of Rs. 19.36 lakh for delay in payment of tax by these hotels.

After the cases were pointed out, the department stated (October 2009) that as per Section 2(I) of the Luxury Tax Act, luxury provided in a hotel means accommodation and other services provided in a hotel, the rate or charges for which including the charges for air-conditioning, telephone, radio, music, extra beds and the like, is Rs. 500/- per room per day or more. It was further stated that as there was no reference or mention of banquet/conference hall in this section and as such luxury tax is not leviable on banquet/conference hall.

⁴⁷ Sub-Registrars of Geeta Colony, Mehrauli, Kashmiri Gate and Seelampur-IV.

The reply furnished by the department is not tenable because as per definition accommodation (every type) given by the hoteliers on rent/hire for more than Rs. 500/- per day is covered under the definition of the luxury tax.

The matter was reported to the Government (June 2009); their reply has not been received (December 2009).

New Delhi

Dated:

(RAJVIR SINGH)

Accountant General (Audit), Delhi

Countersigned

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Dated:

(VINOD RAI)

Comptroller and Auditor General of India

Annexure I

(Refer to paragraph no .2.3.4)

The probability proportional to size (PPS) sampling was done in the following manner:

Step - 1. Ward wise output tax was obtained and cumulative tax was calculated using CAATs.

Step - 2. The cumulative range thus obtained was reduced to 7698 of which 80 numbers were randomly selected.

Step - 3. These selected numbers were placed within this reduced range and accordingly 13 wards were selected for scrutiny as detailed below:

Sl. No.	Ward	Output Tax	Cumulative	Reduced Cumulative	Random numbers placed in the range
1	Ward 32	454534015	28233979056	282	1
2	Ward 45	1357175831	35348040213	353	1
3	Ward 62	2119043007	47043379782	470	2
4	Ward 64	16351269742	69653397873	697	1
5	Ward 71	4205896310	80839400883	808	1
6	Ward 77	3724795685	94615672845	946	2
7	Ward 82	160330180260	254945853105	2549	18
8	Ward 84	3314174271	261142310327	2611	1
9	Ward 96	482475020855	757972409890	7580	49
10	Ward 98	1010935631	759851671745	7599	1
11	Ward 99	1663774082	764349646160	7643	1
12	Ward 104	827963378	768162539304	7682	1
13	Ward 106	511914330	769818942172	7698	1
Total					80

Annexure II

(Refer to paragraph no .2.3.8)

Description		Number of cases/ records
Blanks / incompleteness in the database		
1.	The business and registration status	2
2.	category of complaints	22
3.	indent status of forms	135
4.	utilisation number of forms	305
5.	details of documents received with applications	772
Duplicate entries in the database		
6.	business status for registered dealers	6
7.	application number for forms requested by dealers	70
8.	utilisation number for forms utilised by dealers	480
9.	request number of forms requested by dealers	9
Gaps in the continuity of sequence numbers		
10.	issue number of forms issued	2329
11.	indent request number of forms indented for	2
12.	utilisation number of forms utilised	357
13.	issue number of forms issued from inventory	29
14.	receipt number for documents received at front office	10000+
Mismatch between relations		
15.	between the sureties given by dealers and their master data available in the database	514
16.	the applications submitted by dealers for registration and applications processed by the department	530
17.	the details of interstate trade given in Form DVAT 16 for VAT and that given in Form 1 for CST	10750
18.	dealers who have submitted utilisation account for forms and dealers who have been issued forms	21642
19.	serial number of forms available with the ward and serial number of forms issued to ward	63
20.	document description given on receipts and its master data	228163
21.	dealers whose refund order was generated and dealers whose refund was processed	98
Other inconsistencies		
22.	refunds were processed without marking them as refund cases	20198
23.	refund cases processed without marking them for assessment	358136