

CHAPTER-III: LAND REVENUE

3.1 Results of audit

Test check of the assessment records in the offices of the Collector/Deputy Collector/*Mamlatdar* and District Development Officer conducted during the year 2008-09 disclosed non/short recovery and loss of revenue amounting to Rs. 34.64 crore in 149 cases which broadly fall under the following categories.

(Rupees in crore)

Sr. no.	Category	No. of cases	Amount
1.	Non/short recovery of conversion tax	37	14.72
2.	Non/short recovery of occupancy price/premium price	23	13.53
3.	Non/short recovery of non-agriculture assessment, non/short levy of non-agriculture assessment at revised rate, non-raising non-agriculture assessment demand	16	0.48
4.	Other irregularities	73	5.91
Total		149	34.64

During the year 2008-09, the department accepted under assessment of Rs. 26.22 lakh in 14 cases and recovered Rs. 17.39 lakh in 12 cases including cases pertaining to earlier years.

A few illustrative audit observations involving Rs. 25.85 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of the records of various land revenue offices revealed several cases of non-compliance of the provisions of the Bombay Land Revenue Code, 1879, Gujarat Land Revenue Rules, 1972 and Government notifications 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 on the part of the departmental officers are pointed out in audit each year, however, not only do the irregularities persist, but these remain undetected till an audit is conducted in the next year. There is need for the Government to improve the internal control system and internal audit.

3.3 Short levy of premium price

The Government of Gujarat decided in July 1983 and September 1984 to permit the land holders holding the land under new and restricted tenure⁵⁹ to convert their land to old tenure⁶⁰ and to sell/transfer the same subject to payment of the premium computed on the difference between the estimated sale price of the land and the occupancy price recovered at the time of allotment of land at the prescribed rates. This was further subject to payment of the difference on the actual sale price. The premium recoverable is 70/50 *per cent* of the difference, if the land is held for more than 20 years and is permitted to be sold for non-agricultural or agricultural purpose respectively.

3.3.1 During test check of the cases finalised by the Collector, Ahmedabad for the year 2006-07 in February 2008, it was noticed that in 15 cases, the Ahmedabad Urban Development Authority (AUDA) deducted area of land measuring 1,39,283 square meters for development under the town planning scheme (TPS) finalised by the Government from the total area of land held by the occupants of land under new and restricted tenure. AUDA allotted the final plots alongwith prescribed form F⁶¹ and duly authorised and approved NA plan after deduction of specified area for development under TPS for which compensation was paid to the occupants of the land. While allowing conversion of the new and restricted tenure land in these cases, the Government considered the final plots only and recovered the premium thereon. Though the information of deduction of land by the AUDA from these land owners was available with the Government at the time of conversion, it did not take any action to ascertain the amount paid by the AUDA as compensation and levy premium on it. Thus, as against the premium of Rs. 32.53 crore recoverable in these cases, the authority recovered premium of Rs. 17.94 crore. This resulted in short levy of premium of Rs. 14.59 crore.

This was pointed out to the department (September 2008) and to the Government (April 2009); their replies have not been received (November 2009).

⁵⁹ New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the previous sanction of Collector.

⁶⁰ Old tenure means land deemed to have been purchased by a tenant on tillers' day, 1 April 1957 free of all encumbrances.

⁶¹ Form prescribed under Rule 21 and 35 of the Gujarat Town Planning and Urban Development Rules, 1979.

3.3.2 During test check of the records of four collector offices⁶² and Deputy Collector, Viramgam between February and April 2008, it was noticed that in 12 cases, land measuring 1.85 lakh square meters held under new and restricted tenure was allowed to be sold/transferred (between March 2005 and June 2007), but premium at the prescribed rate was either not recovered or was recovered on lower market value or at incorrect rates. This resulted in non/short recovery of premium of Rs. 3.32 crore.

After this was brought to the notice of the department (between July and September 2008), the department accepted the audit observations involving Rs. 11.21 lakh in two cases and recovered Rs. 11.16 lakh. A report on recovery of the balance amount and replies in the remaining cases have not been received (November 2009).

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

3.4 Non/short levy of conversion tax

Section 67A of the Bombay Land Revenue Code, 1879 provides for the levy of a conversion tax on change in the mode of use of the land from agricultural to non-agricultural purposes or from a non-agricultural purpose to another in respect of land situated in a city, town or village. Different rates of the conversion tax are prescribed for residential/charitable and industrial/other purposes, depending upon the population of the city/town/notified area/village. The conversion tax shall be paid in advance by a challan in the Government treasury.

During test check of the records of six collector offices⁶³/Deputy Collector, Ahmedabad and three district development offices⁶⁴ between October 2007 and May 2008, it was noticed that in 166 cases relating to the period 2005-06 and 2006-07, though the conversion tax for change in mode of use of 38.07 lakh square metres of land was leviable, the departmental officials either did not levy the tax or levied it at incorrect rate. This resulted in non/short levy of the conversion tax amounting to Rs. 3.64 crore.

After this was brought to the notice of department (between June and September 2008), the department accepted the audit observations involving Rs. 9.72 lakh in seven cases and recovered Rs. 1.87 lakh in three cases. Report on recovery of the balance amount and replies in the remaining cases have not been received (November 2009).

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

3.5 Non-levy of service charges

Section 46(2) of the Bombay Stamp Act, 1958 as applicable to Gujarat, provides that all duties, penalties, interest and other dues required to be paid under the Act may be recovered by the collector as arrears of the land revenue. Further, Rule 117C of the Gujarat Land Revenue Rules, 1972 provides for the

⁶² Ahmedabad, Bharuch, Mehsana and Navsari.

⁶³ Ahmedabad, Amreli, Gandhinagar, Jamnagar, Mehsana and Narmada.

⁶⁴ Mehsana, Narmada and Surat.

levy of service charges at the rate of five *per cent* on the recovery made as arrears of the land revenue.

During test check of the records of nine deputy collectors, Valuation of Property (VoP)⁶⁵ between September 2006 and July 2008, it was noticed that the *Mamlatdars* (Recovery) had realised Rs. 60.54 crore in 74,906 cases during the period 2005-06 to 2007-08 as arrears of the land revenue from the defaulters, but did not levy the service charges. This resulted in non-levy of the service charge of Rs. 3.03 crore.

After this was brought to the notice of the department (between March 2007 and December 2008), the department accepted the audit observations and stated that all the deputy collectors had been instructed to take action for recovery. A report on recovery has not been received (November 2009).

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

3.6 Non/short realisation of non-agricultural assessment

Bombay Land Revenue Code, 1879 and the Rules made thereunder provides for levy of non-agricultural assessment (NAA) on land used for non-agricultural purposes at the rates prescribed in the notification issued by the Government from time to time. Different rates depending on the use of the land are prescribed for each class of city/town/village. The Government vide notification of August 2003 revised the rates of NAA and classified the areas in three categories i.e. A, B & C for the levy of NAA. The Code provides for issue of a demand notice and distraint and sale of defaulter's movable/immovable property for recovery of arrears of the land revenue.

During test check of the records of four collector offices⁶⁶, Deputy Collector, Ahmedabad and three district development offices⁶⁷ between October 2007 and May 2008, it was noticed that in 127 cases, on land measuring 61.50 lakh square meters used for non-agricultural purposes during the period 2002-03 and 2006-07, the departmental officials either did not realise NAA or realised it at incorrect rates. This resulted in non/short realisation of NAA of Rs. 98.61 lakh.

After this was brought to the notice of the department (between June and September 2008), the department accepted and recovered Rs. 76,548 in one case. Replies in the remaining cases have not been received (November 2009).

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

3.7 Non-realisation of penalty

The Bombay Land Revenue Code, 1879 (Code) and the Rules made thereunder provide that agricultural land cannot be used for non-agricultural purposes without prior permission of the collector. The Code also provides for

⁶⁵ Bhavnagar, Godhra, Jamnagar, Kheda at Nadiad, Surat I, II, Surendranagar, Vadodara I and Valsad.

⁶⁶ Amreli, Gandhinagar, Narmada and Surendranagar.

⁶⁷ Ahmedabad, Surat and Surendranagar.

eviction of the encroacher on its detection by the revenue authorities. In case of unauthorised non-agricultural use, a fine not exceeding 40 times the amount of non-agricultural assessment is leviable. In August 1980, the Government had prescribed the amount of fine to be levied for different types of unauthorised use of land.

During test check of the records of the Deputy Collector (NA), Ahmedabad in February 2008, it was noticed that in 19 cases, the revenue authorities detected unauthorised use of land measuring 1.16 lakh square meters and levied penalty of Rs. 28.80 lakh. The Collector had also ordered (between August 2006 and June 2007) to evict the occupiers to make the land open. The concerned officials, however, failed to recover the penalty and evict the unauthorised occupiers. This resulted in non-realisation of penalty of Rs. 28.80 lakh, in addition to the continued unauthorised occupation on 1.16 lakh square meters of land.

This was brought to the notice of the department (July 2008) and to the Government (April 2009); their replies have not been received (November 2009).