

CHAPTER VII OTHER TAX RECEIPTS

7.1 Results of audit

Test check of records of the department of Commercial tax, Excise and Electrical Inspectorate conducted during 2008-09 revealed short levy of luxury tax, non/short levy of tax/fees/duty and other deficiencies amounting to Rs. 53.78 crore in 89 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
A. Luxury Tax			
1.	Short levy of luxury tax	2	0.13
B. State Excise			
2.	Loss due to non-levy of import fee	13	30.00
3.	Non/short levy of gallonage fee	17	21.02
4.	Blocking up of revenue due to non/short levy of excise duty	4	1.13
5.	Non-remittance of additional security	2	0.80
6.	Non/short levy of cost of establishment	22	0.21
7.	Loss of revenue due to short collection of interest	3	0.15
8.	Other lapses	15	0.06
C. Taxes and Duties on Electricity			
9.	Non/short levy of tax	7	0.21
10.	Other lapses	4	0.07
Total		89	53.78

During the year 2008-09, the concerned departments accepted underassessment and other deficiencies of Rs. 32.32 crore involved in 41 cases. The department recovered Rs. 4.57 lakh in 11 cases of which two cases involving Rs. 2.42 lakh were pointed out during 2008-09.

After the issue of draft paragraphs, the Electrical Inspectorate recovered an amount of Rs. 2.21 lakh in one case in full.

A few audit observations involving Rs. 52.21 lakh are mentioned in the succeeding paragraphs.

7.2 Audit observations

Scrutiny of records of various Commercial Tax Offices, State Excise Offices and Electrical Inspectorate revealed several cases of non-compliance of the provisions of the Kerala Tax on Luxuries Act, 1976, Kerala Rectified Spirit Rules, 1972 and Kerala Electricity Duty Act, 1963 and other cases 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 CTOs/Excise Officer/Chief Electrical Inspector are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for Government to improve the internal control system.

A. LUXURY TAX

7.3 Short levy of luxury tax

Luxury tax on services like ayurveda, travel, trekking etc., though leviable under the Kerala Taxes on Luxuries Act, was not levied on two hotels.

Under the Kerala Tax on Luxuries Act, every amenity and service provided in the hotel that ministers comfort are exigible to luxury tax.

During scrutiny of the records in two CTOs¹ between January 2008 and March 2008, it was noticed that while finalising the assessments of two hotels for the years 2003-04 and 2002-03 to 2004-05 between June 2006 and November 2006 respectively, the assessing authorities did not levy tax on the income amounting to Rs. 2.49 crore, derived from services such as ayurveda, travel and trekking charges, activity charges, health club, beauty parlour etc., provided in the hotels. This resulted in short levy of tax of Rs. 24.36 lakh.

After the matter was reported to the department in March and April 2008 and Government in August 2008, the Government stated in December 2008 that in one case² the assessments for the years 2003-04 and 2004-05 were revised with an additional demand of Rs. 13.80 lakh and that for the year 2002-03 had been cancelled as it had become time barred. The additional demand created was advised for revenue recovery.

In the other case³, the AA stated in January 2008 that the income received for other amenities relates to those received from agencies for providing the facilities available in the hotel for their tourists in the package tours and was not within the ambit of Luxury Tax Act. However, on verification of records of the concerned unit, it was noticed that the assessment has been revised in February 2009 in the lines of audit observation and additional demand of Rs. 12.82 lakh raised.

A report on recovery in the former case and a reply of the Government confirming reassessment in the latter had not been received (September 2009).

¹ Works contracts and Luxury tax (WC & LT), Ernakulam and Kattapana.

² WC & LT, Kattapana

³ WC & LT, Ernakulam

B. STATE EXCISE

7.4 Loss of revenue due to non-realisation of gallonage fee

Gallonage fees was not levied on excess allowance of transit/godown wastage.

Under Rule 14 of the Kerala Rectified Spirit Rules, 1972, gallonage fee shall be collected on rectified spirit issued from a distillery at the rate in force at the time of such issue. Rule 55 of the Distillery & Warehouse Rules envisages that no wastage would be allowed on spirits after they have been bottled and as per Section 17 and 18 of the *Abkari* Act, duty includes excise duty and gallonage fee.

During scrutiny of the records in eight⁴ distilleries between August 2008 and February 2009 it was noticed that 2.66 lakh bulk litres of Indian made foreign liquor and beer was allowed as transit wastage and storage wastage, for which there was no provision. Though excise duty was paid on the above quantity, gallonage fee was not levied. The gallonage fee leviable at the rate of Rs. 6.75 per bulk litres worked out to Rs. 17.93 lakh.

After the case was pointed out, it was stated (May 2009) that the difference in stock of Indian made foreign liquor/beer would be reconciled and the gallonage fee would be realised at the earliest. Further developments have not been reported (September 2009).

The case was reported to the Government in February 2009; their reply has not been received (September 2009).

C. TAXES AND DUTIES ON ELECTRICITY

7.5 Excess transmission loss

Though two licensees availed excess transmission loss, the department did not raise demand for recovery of duty.

Under the Kerala Electricity Duty Act, 1963, every licensee is liable to pay the duty calculated at the rate specified against that class worked out on the basis of energy purchased from Kerala State Electricity Board after deducting the quantum of transmission loss allowable to the licensees. Transmission loss allowable in these cases were eight *per cent*.

During scrutiny of records in the office of chief electrical inspector, Thiruvananthapuram, in January 2009, it was noticed that during the year 2007-08, two licensees had availed transmission loss of 16.5 *per cent* and 11.36 *per cent*. This was in excess of the allowable limit of eight *per cent* by 8.5 *per cent* and 3.36 *per cent*. This resulted in short levy of electricity duty of Rs. 7.02 lakh.

After the case was pointed out, the chief electrical inspector stated in May 2009 that the arrear bill on the excess claim of transmission loss had been demanded. A report on recovery has not been received (September 2009).

⁴ Alappuzha, Aluva, Kottayam, Nedumangad, Palakkad, Pathanamthitta, Thiruvalla and Tripunithura.

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

7.6 Non-levy of interest

For belated payment of electricity duty, interest of Rs. 2.90 lakh though leviable, was not levied.

Under the Kerala Electricity Duty Rule, 1963, every licensee is liable to pay duty payable under the Act for each month before the expiry of the next month, failing which, interest at the rate of 18 *per cent* shall be levied for such belated payment.

During scrutiny of records in the office of the chief electrical inspector, Thiruvananthapuram in January 2009, it was noticed that during the year 2007-08, interest was not levied on the belated payment of electricity duty by a licensee. This resulted in non-levy of interest of Rs. 2.90 lakh.

After the case was pointed out, the chief electrical inspector stated in May 2009 that interest of Rs. 2.90 lakh has been demanded. A report on recovery has not been received (September 2009).

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