

CHAPTER IV - LAND REVENUE

4.1 Results of audit

Test check of the records relating to land revenue conducted during the year 2008-09, indicated non-levy/short levy of land revenue and loss of revenue etc. amounting to Rs. 188.48 crore in 402 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Non-levy/short levy of education cess etc.	91	144.19
2.	Non-levy/short levy of occupancy price/rent etc.	104	15.69
3.	Non-levy/short levy/incorrect levy of NAA, ZP/VP cess, conversion tax and royalty	137	14.91
4.	Non-levy/short levy/incorrect levy of increase of land revenue	26	12.50
5.	Short levy of measurement fees, sanad fees etc.	44	1.19
Total		402	188.48

In response to the observation made in the local audit reports during the year 2008-09 as well as during earlier years, the department accepted and recovered underassessments and other deficiencies involving Rs. 16.33 crore in 582 cases pertaining to earlier years.

Two audit observations involving Rs. 140.50 crore are included in the succeeding paragraphs.

4.2 Audit observations

Scrutiny of records of the various land records and land revenue offices revealed several cases of non-compliance of the provisions of the Maharashtra Land Revenue Code, 1966 (MLR Code), Government notifications/instructions and other cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out in audit every year, but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need on the part of Government to improve the internal control system so that recurrence of such cases can be avoided.

4.3 Short realisation of the premium

Incorrect application of the market rate resulted in short realisation of the premium of Rs. 138.93 crore.

Under the provisions of the Bombay Stamp Act 1958, market value in relation to any property which is the subject matter of any instrument means the price which such property would have fetched if sold in the open market on the date of execution of the instrument. Subsequently, the Government (May 2006) had also decided to apply the ready reckoner rates for the market valuation in the pending cases of land revenue.

Scrutiny of the records of the Collector, Mumbai Suburban District (MSD) revealed that the Government (April 1971) had granted a lease of land admeasuring 80,800 square metres situated at Bandra to the Indian Film Combine Private Limited (lessee) initially for the purpose of a drive-in theatre for a period of 99 years which was further renewable by 99 years on the same terms and conditions. Further, the Government (July 1999) on the request of the lessee had permitted commercial development (including office use) of 40,400 square metres (50 per cent of 80,800) of land. As per the terms and conditions laid down in the Government Memorandum (July 1999), the lessee was to pay the premium on the basis of the current market value and the market rate was to be decided by the Town Planning and Valuation Department (TPVD). The Assistant Director, TPVD, Mumbai (March 2001) had decided the market rate of Rs. 44,000 per square metre. Further, the TPVD had apportioned 25 per cent of the market rate of Rs. 44,000 per square metre i.e. Rs. 11,000 per square metre as the Government share and 75 per cent i.e. Rs. 33,000 per square metre as the lessee's share.

Based on the market rate of Rs. 44,000 per square metre, the premium recoverable for 40,400 square metres of land works out to Rs. 177.76 crore. However, it was observed (June 2008) in audit that no initial demand was made for the recovery of the premium due to a difference of opinion between the Collector (MSD), Mumbai and the TPVD on whether the premium should be computed at the market rate of Rs 44,000 or at the rate of Rs. 11,000 fixed as the Government share. The matter was referred to the Government (August 2001) by the Collector (MSD), Mumbai seeking its guidance in respect of the rate to be adopted for the recovery of the premium. Meanwhile, the lessee on

his own accord had paid Rs. 38.83 crore as premium (Rs. 5 crore in January 2002 and Rs. 33.83 crore in November 2005) at the rate of Rs. 11,000 per square metre. The Collector (MSD) directed (August 2006) the lessee to make a temporary deposit of Rs. 50 crore. Being aggrieved, the latter appealed to the Revenue Minister (October 2006 and January 2007) for a stay of the demand made by the Collector (MSD) as well as for the final determination of the premium payable by the lessee. The stay was granted by the Government in November 2007. Thereafter, the Revenue Minister in exercise of his powers under Section 257 of the Maharashtra Land Revenue Code, 1966, decided (November 2007) to adopt the rate of Rs. 11,000 per square metre. In the proceedings the Revenue Minister had observed that considering the market value of land at 112 times the monthly rent realised as provided in the ready reckoner applicable to tenanted property, the valuation would be Rs 28.32 lakh only. After application of the rate fixed by the TPVD, the premium worked out to Rs. 38.83 crore which was higher. Accordingly, the Revenue Minister decided to apply the rate of Rs. 11,000 per square metre for recovery of the premium. The application of incorrect rate thus conferred undue benefit to the lessee and resulted in short realisation of the premium by Rs. 138.93 crore.

On this being pointed out, the department stated (July 2009) that the Revenue Minister decided to recover the premium at the rate of Rs. 11,000 per square metre as recommended by the TPVD on the basis of the Supreme Court judgment in the case of Sharatchandra Chimanlal and others vs. the State of Gujarat. The Government to whom the matter was referred stated (November 2009) that the value of Rs. 44,000 per square metre determined by the TVPD was the value that the land would have had if it was vacant and unencumbered and that the value of the land encumbered with the lease was Rs. 11,000 per square metre. This is the rate at which the government was entitled to charge the premium. It also stated that the principle set out in the Supreme Court judgment in the case of Sharatchandra Chimanlal and others vs. the State of Gujarat dealt with the valuation of the land with leasehold rights and laid down that the interest of the lessor in property encumbered by a long lease was 25 per cent and that of the lessee was 75 per cent (which is the principle being followed by the TVPD).

The reply is not tenable as the instructions of the ready reckoner are applicable to tenanted property only and cannot be applied for valuation of this leasehold land. The Supreme Court judgment quoted also does not apply to the present case. In the case of Sharatchandra Chimanlal and others vs. the State of Gujarat the land in question belonged to a private person who had given it on permanent lease to another person. On acquiring the land for public purpose, the Government paid its full value. Since the land was already on permanent lease to another person, the question arose about the manner in which the compensation paid should be shared between the original owner of the land and the lessee holding permanent lease. The Supreme Court decided the apportionment of the compensation paid between the landlord and the permanent lessee in the ratio of 25:75 respectively. In the present case, the Government already possesses the land and it has also not been given on permanent lease. It is not a case of land acquisition but pertains to the issue of change in use of land only. Thus, the question of apportionment does not

apply in this case and the premium should have been collected at the full market rate of Rs. 44,000 per square metre.

4.4 Non-recovery of balance auction money

Non-recovery of balance amount from original bidder has resulted in non-realisation of revenue of Rs. 1.57 crore.

As per resolution issued in September 2003 and subsequent guidelines issued in November 2008 by the Government for disposal of rights for removal of sand by auction, the highest bidder, whose bid is accepted, is required to deposit 25 per cent of the bid money on the day of the auction. The balance auction money is to be paid in one installment within 15 days of auction. If the agreement is not executed within the prescribed time, the area is to be re-auctioned and the amount deposited by the bidder is forfeited. In case of any deficit in re-auction, the deficit amount was to be recovered from the original bidder as arrears of Land Revenue.

During test check of record in three District Collectorate¹ between August 2006 and July 2008 it was noticed that auction for the period between 2004-05 and 2006-07 in respect of 25 sand ghats were conducted for Rs. 2.33 crore. The highest bidders paid Rs. 0.76 crore at the time of auction. As highest bidders neither execute/signed agreement, nor paid balance of the bid, the Collector concerned took action to re-auction the said sand ghats at the cost of highest/original bidder, but no bid was received in re-auction. This has resulted in non-recovery of balance auction money of Rs. 1.57 crore though recoverable.

On this being pointed out, Collector, Pune (December 2008) stated that amount credited at the time of auction was forfeited and Government has not permitted issue of temporary permission. However, demand notices were issued to the defaulter. Collector, Beed (January 2009) stated that amount of Rs. 42.03 lakh credited by bidders with his office but did not clarify whether the said amount was forfeited to Government. SDO, Partur, District Jalna (May 2009) accepted the omission and stated that the recovery was in progress. Further report has not been received (November 2009).

The fact remains that the balance amount from original bidder is recoverable as arrears of Land Revenue, action for which has not yet been initiated.

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

¹ Beed, Jalna and Pune