

## CHAPTER VII OTHER TAX RECEIPTS

### 7.1 Results of audit

Test check of the records of Agricultural Income Tax Officers, Profession Tax Officers and Officer-in-Charge, Electricity duty conducted during the year 2008-09 indicated non-levy/realisation etc. of revenue of Rs. 1.92 crore in 29 cases, which could be classified under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
<b>A. AMUSEMENT TAX</b>			
1.	Non-realisation of luxury tax	1	0.40
2.	Non-levy of entertainment tax	1	0.21
3.	Other irregularities	3	0.04
<b>Total</b>		<b>5</b>	<b>0.65</b>
<b>B. PROFESSION TAX</b>			
1.	Non-realisation of profession tax due to non-enrolment	9	0.24
2.	Non-realisation of profession tax from enrolled professionals/registered employers	4	0.06
3.	Other irregularities	4	0.10
<b>Total</b>		<b>17</b>	<b>0.40</b>
<b>C. ELECTRICITY DUTY</b>			
1.	Non-assessment/non-realisation of electricity duty	4	0.86
2.	Other irregularities	3	0.01
<b>Total</b>		<b>7</b>	<b>0.87</b>
<b>Grand total</b>		<b>29</b>	<b>1.92</b>

During the course of the year 2008-09, the departments concerned accepted underassessment and other deficiencies in 22 cases involving Rs. 2.19 crore of which 18 cases involving Rs. 1.13 crore were pointed out in audit during the year 2008-09 and the rest in the earlier years. An amount of Rs. 3.38 lakh involved in four cases was realised at the instance of audit during the year 2008-09.

A few illustrative audit observations involving Rs. 1.47 crore are mentioned in the succeeding paragraphs.



## **7.2 Audit observations**

*Scrutiny of the records in the offices of Agricultural Income Tax Officers, Profession Tax Officers and Officer-in-Charge, Electricity duty indicated non-levy of luxury tax, non-realisation of entertainment tax, profession tax and non-assessment of electricity duty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit repeatedly but not only do these persist; these also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.*

### **A. AMUSEMENT TAX**

#### **7.3 Non-levy of luxury tax on banquet hall charges**

Under the provisions of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax (WBELT) Act, 1972, a luxury tax is to be charged, levied and paid to the State Government by the proprietor of every hotel in which there is provision of luxury i.e. airconditioning. Such tax is calculated at the rate of 10 *per cent* of the daily charges realised or realisable for an occupied room provided with luxury.

Scrutiny of the assessment records of hotels under the Agricultural Income Tax Officer (AITO), Kolkata in October 2008 indicated that three hotels viz. 'Taj Bengal', 'The Oberoi Grand' and 'The Park' received Rs. 4 crore as rental/hire charges for banquet halls provided with luxury as reflected in their annual accounts for the years 2004-05 and 2005-06. But the assessing authority (AA) while assessing luxury tax between February and March 2008, did not include rental/hire charges for banquet halls which resulted in non-levy of luxury tax of Rs. 39.95 lakh.

After this was pointed out, the department stated (August 2009) that the luxury tax could not be levied on the daily charges for banquet hall as this was not supported by the Act and Rules in force prior to April 2008. The reply is untenable as the Government had agreed with the audit contention and had issued notification in March 2008 through which banquet hall had been brought under the purview of luxury tax. Further, the concerned AA while completing the assessments between February 2000 and February 2004 for the years 1999-2000 and 2001-02 duly levied luxury tax on hire/rental charges of banquet halls of two other hotels.

The case was forwarded to the Government in December 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

#### **7.4 Non-realisation of entertainment tax on horse racing**

Under the Bengal Amusement Tax Act, entertainment tax shall be charged at the rate of 60 *per cent* on all payments for admission to horse racing for entertainment. Further, the Act defines 'admission' as admission as a spectator, an audience and also a participant.



Scrutiny of the Profit & Loss Account of Royal Calcutta Turf Club (RCTC) in October 2008 indicated that the club received Rs. 15.65 lakh as entry money during 2006-2007, on which entertainment tax was not paid by the club. The AITO, Kolkata also did not levy and demand entertainment tax. This resulted in non-realisation of the entertainment tax of Rs. 9.39 lakh.

After the case was pointed out, the department stated (August 2009) that the owners of the horses or the horse riders took part in the competition after depositing entry fee which was not chargeable to entertainment tax as they were providers of the entertainment. The reply is not tenable as the admission to take part in the horse racing either as spectator or participant is taxable under the Act. Further, the entire amount of Rs. 15.65 lakh of entry fee can not be received from owners of horses or horse riders.

The case was forwarded to the Government in December 2008 followed by reminder issued upto June 2009; their reply has not been received (October 2009).

## **B. PROFESSION TAX**

### **7.5 Non-realisation of profession 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. There is no provision of cross verification in the Act.

Cross verification of the records of seven licence issuing offices<sup>1</sup> with those of three unit offices<sup>2</sup> of profession tax conducted in audit between June and November 2008 indicated that 474 professionals, traders, etc. failed to apply for enrolment under the Act and continued with their professions during the period between April 2003 and March 2008 without payment of tax. Absence of provision for cross-verification in the Act resulted in non-realisation of profession tax of Rs. 14.62 lakh.

After the cases were pointed out, two Profession Tax Officers (PTOs)<sup>3</sup> admitted between August and November 2008, the audit observations in respect of 451 professionals, traders etc. involving Rs. 13.67 lakh. Report regarding their enrolment as well as realisation of tax has not been received (August 2009). In respect of the remaining 23 professionals, traders etc. involving Rs. 95,000, the reply furnished by the PTO, West Bengal, Central Unit-VII, Baruipur, did not touch upon the issue raised by audit.

The cases were forwarded to the Government between July and December 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

<sup>1</sup> Chief Medical Officer Health, South 24-parganas; District Magistrate, Coochbehar; Asansol Municipal Corporation and Coochbehar Municipality, RTO, Coochbehar and SEs, Asansol and Coochbehar.

<sup>2</sup> PTOs Central Unit-VII, Baruipur; North Unit-IV, Coochbehar and West Unit-III, Asansol.

<sup>3</sup> PTOs North Unit-IV, Coochbehar and West Unit-III, Asansol.



## **C. ELECTRICITY DUTY**

### **7.6 Non-assessment and non-realisation of electricity duty**

Under the provisions of the West Bengal Duty on Inter-State River Valley Authority Act, 1973 and rules framed thereunder, a person who receives electricity directly from an inter-state river valley authority, is required to pay electricity duty and submit returns in prescribed forms. The assessing authority may assess the electricity duty to the best of his judgment in case the data necessary for assessment is not furnished within one month from the date of notice. The rate of electricity duty payable for domestic consumption is 10 *per cent* of the net charge of energy consumed.

Scrutiny of the records of the Officer-in-Charge, Electricity Duty under the Collector, Burdwan in March 2009 indicated that the Chittaranjan Locomotive Works (CLW), which receives electricity from the Damodar Valley Corporation (DVC), had neither furnished returns nor paid electricity duty for the consumption period from August 2003 to March 2008. The collector neither took action to obtain the data for assessment of electricity duty nor did he assess the duty to the best of his judgment. This resulted in non-assessment and non-realisation of electricity duty of Rs. 83.06 lakh<sup>4</sup>.

After the case was pointed out, the department stated (August 2009) that the Collector, Burdwan has served demand notice upon CLW for realisation of electricity duty. A report on realisation has not been received (October 2009).

The case was forwarded to the Government in February, 2007 followed by reminders issued upto June, 2009; their reply has not been received (October 2009).

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<sup>4</sup> Calculated on the basis of average monthly consumption of electricity of 8.93 lakh units per month for 56 months from August 2003 to March 2008 at net unit charge of Rs. 1.66 per unit.