

CHAPTER IV STATE EXCISE

4.1 Tax administration

The State Excise, Entertainment and Luxury Tax Department functions under the administrative control of the Commissioner of Excise, Entertainment and Luxury tax for the administration of levy and collection of State Excise duties, Luxury, Entertainment and Betting taxes from hoteliers, cinema halls, cable service providers and from betting activities.

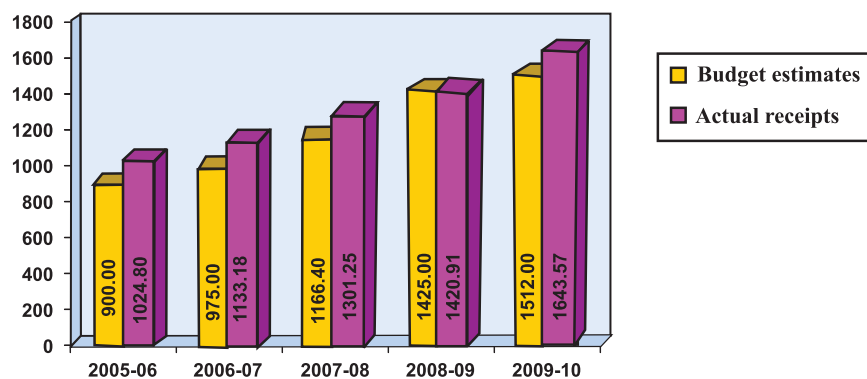
4.2 Trend of receipts

Actual receipts from taxes on State Excise, Entertainment and Betting tax during the years 2005-06 to 2009-10 along with the total tax/non-tax receipts during the same period are exhibited in the following table and graph:

(₹ in crore)

Head of the revenue	Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
State excise	2005-06	900.00	1024.80	(+) 124.80	(+) 13.87	8939.28	11.46
	2006-07	975.00	1133.18	(+) 158.18	(+) 16.22	10155.80	11.16
	2007-08	1166.40	1301.25	(+) 134.85	(+) 11.56	11782.80	11.04
	2008-09	1425.00	1420.91	(-) 4.09	(-) 0.29	12180.70	11.67
	2009-10	1512.00	1643.57	(+) 131.57	(+) 8.70	13447.86	12.22

TREND OF RECEIPTS



It is seen that the variation between BEs and actual receipts which was as high as 14 per cent during 2005-06 came down to 0.3 per cent during 2008-09.

4.3 Cost of collection

The gross collection in respect of State Excise, Luxury and Entertainment tax receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2008-09 are mentioned below:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
State Excise	2007-08	1301.25	6.53	0.50	3.66
	2008-09	1420.91	6.89	0.48	
	2009-10	1643.57	9.34	0.57	

From the above table it was evident that the percentage of expenditure on collection of State Excise, Luxury and Entertainment tax was however lower than the All India average percentage.

4.4 Revenue impact

During the last five years (including the current year's report), audit through its audit reports has pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 21.26 crore in nine paragraphs. Of these, the Department/Government has accepted audit observations in two paragraphs involving ₹ 14.27 lakh and have since recovered ₹ 14.27 lakh. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted	Amount recovered
	No.	Amount	Amount	Amount
2004-05	5	5.46	0.14	0.14
2005-06	2	14.80	0.00	0.00
2006-07	1	0.09	0.00	0.00
2007-08	Nil	0.00	0.00	0.00
2008-09	1	0.91	0.00	0.00
Total	9	21.26	0.14	0.14

Note: *Due to partial acceptance of paragraphs by the departments, the exact number of paragraphs including money value could not be ascertained.

4.5 Internal Audit

The Departments had no internal audit mechanism of their own. The Director of Audit of the Finance Department of Government of NCT of Delhi is entrusted with internal audit function for all the offices/Departments of Government of NCT of Delhi including Entertainment and Luxury tax Department etc.

The Directorate of Audit of the Finance Department has conducted the internal audit of the Entertainment and Luxury tax Department for the period 2007-08.

4.6 Results of audit

Test check of records relating to Excise duty and Luxury, Entertainment and Betting tax conducted during the year 2009-10 revealed loss of revenue, short levy of tax and other irregularities involving ₹ 18.41 lakh in 10 cases which fall under the following categories:

(₹ in lakh)

Sl. No.	Categories	No. of paras	Amount
Luxury, Entertainment & Betting Tax			
1.	Non-recovery of additional luxury tax and interest	1	12.34
2.	Non-levy of interest on delay in remission of entertainment tax	1	2.46
3.	Others	8	3.61
Total		10	18.41

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 43.75 lakh in 34 cases which were pointed out in audit during the year 2009-10. An amount of ₹ 31.42 lakh was realised in 31 cases during the year 2009-10.

Two illustrative audit observations involving ₹ 14.80 lakh are mentioned in the succeeding paragraphs.

4.7 Audit observations

During scrutiny of records in the Commissioner of Excise, Entertainment and luxury Tax and relating to revenue receipt, we observed several cases of non-observance of provisions of Acts/ Rules resulting in non-recovery of interest on delay in payment of luxury tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions each year, but not only do the irregularities persist but these remain undetected till an audit is conducted. There is, therefore, a need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

4.8 Non-recovery of additional luxury tax and interest

The Delhi Luxury Tax Act 1996 stipulates that the amount of tax due from the hotelier shall be assessed separately for each year during which he is so liable. If the Commissioner is satisfied that the returns filed by the hotelier are correct and complete, he shall assess the amount of tax on the basis of returns filed by him. Additional demands, if any, raise as a result of such assessments are to be paid into Government treasury within a period of thirty days from the date of assessment order. In case the additional demand is not paid within the stipulated period of 30 days, simple interest at the rate of 2 *per cent* of the amount of tax of each month after the last date by which he should have paid tax is levied. If it remains unpaid, it is recoverable as an arrear of land revenue. Further, Section 20 of DLT Act provides for recovery of luxury tax as arrear of land revenue.

We noticed during the test check of the records of O/o the Commissioner of Excise, Entertainment & Luxury Tax between April 2009 and March 2010 that the additional demand of tax for ₹ 9.42 lakh raised during the period from 18th December 2008 to 3rd August 2009 against three hotels was not recovered so far. In addition to tax, interest of ₹ 2.92 lakh for delay in payment of tax for period ranging from 271 to 499 days was also leviable.

After the case was pointed out, the Department has raised the claim for same. However, the hoteliers have gone on appeal against the claims raised (October 2010).

4.9 Non-levy of interest on delay in remission of entertainment tax to Government Account

Rule 25(1) of Delhi Entertainment and Betting Tax rules, 1997 stipulate that a “proprietor of every entertainment shall deposit the amount of tax into Government account within four days from the last date of each week” and Section 40 of the Delhi Entertainment and Betting Tax Act, 1996 provides that “if any proprietor fails to pay tax due as required under the provisions of this Act or Rules made thereunder, he shall in addition to tax (including any penalty) due, be liable to pay simple interest on the amount so due at 1.5 *per cent* per month from the date immediately following the last date of payment of tax for a period of one month, and at 2 *per cent* per month thereafter so long as he continues to make default in such payment”.

We noticed during the test check of the records of the office of the Commissioner of Excise, Entertainment & Luxury Tax between April 2009 and March 2010 that out of 52 returns there was delay in 35 returns in depositing Entertainment Tax into the Government account ranging from 13 to 118 days. Failure to take action to recover the interest due resulted in non-realisation of interest receipt of ₹ 2.46 lakh.

We reported the matter to the Department and the Government in June 2010 but have not received any reply (December, 2010).

New Delhi
Dated:

(RAJVIR SINGH)
Accountant General (Audit), Delhi

Countersigned

New Delhi
Dated:

(VINOD RAI)
Comptroller and Auditor General of India