

## EXECUTIVE SUMMARY

<b>Tax collection</b>	In 2010-11 the collection from entertainment duty increased by 53.15 <i>per cent</i> over the previous year, which was attributed to realisation of entertainment duty from DTH services by the Government.
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of 20 units* relating to entertainment duty and found loss of revenue and other irregularities involving ₹ 1.92 crore in 2,949 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 70 lakh in 700 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 10 lakh was recovered in 398 cases during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present illustrative cases of ₹ 41.33 lakh selected from observations noticed during our test check of records relating to assessment and collection of entertainment duty in the office of the District Excise Officers (DEOs)/ Assistant Excise Commissioners (AECs), where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	The Department needs to initiate immediate action to recover the amount on account of non levy of entertainment tax, non levy of advertisement tax etc. pointed out by us, more so in those cases where it has accepted our contention.

\* The audit of entertainment duty is conducted in the District Excise Offices. The number of units audited has also been shown in chapter - III (State Excise).

## CHAPTER - VII ENTERTAINMENT DUTY

### 7.1 Results of audit

Test check of the records of 20 units<sup>1</sup> relating to entertainment duty revealed loss of revenue and other irregularities involving ₹ 1.92 crore in 2,949 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short deposit of entertainment duty by the proprietors of VCRs/Cable operators	441	0.13
2.	Non-realisation of entertainment duty	186	0.12
3.	Incorrect exemption from payment of entertainment duty	123	0.37
4.	Evasion of entertainment duty due to non-accountal of tickets	6	0.01
5	Other observations	2,193	1.29
<b>Total</b>		<b>2,949</b>	<b>1.92</b>

During the course of the year 2010-11, the Department accepted underassessment and other deficiencies of ₹ 70 lakh in 700 cases, which were pointed out in audit during the year 2010-11. An amount of ₹ 10 lakh was realised in 398 cases.

A few illustrative cases involving ₹ 41.33 lakh are mentioned in the following paragraphs.

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<sup>1</sup> The audit of entertainment duty is conducted in the District Excise Offices. The number of units audited has also been shown in chapter - III (State Excise).

## 7.2 Non-levy of penalty for breach of rules

The Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999 lay down that a proprietor of Cable Television Network (cable operator) shall submit every month (in the last three days of the month) a statement in Form (CT-5) on the basis of a prescribed register maintained by him along with the treasury challans for verification to the Assistant Excise Commissioner (AEC)/District Excise Officer (DEO). It further stipulates that a cable operator committing breach of rules shall be punishable with fine up to ₹ 5,000.

During test check of the records of cable operators of three DEOs<sup>2</sup> between June 2009 and July 2010 we observed that 129 cable operators did not submit the monthly statements between April 2008 and June 2010. Consequently, account of the entertainment duty (ED) payable by the cable operators remained unverified/unreconciled with the challans. However, the Department did not take

any action to call for the monthly statements and levy maximum penalty of ₹ 96.55 lakh on the cable operators responsible for non-submission of the monthly statements. This resulted in non-realisation of revenue of ₹ 96.55 lakh.

After we pointed this out, the Excise Commissioner stated (September 2011) that action to impose the penalty against the cable operators in Balaghat district had been taken. Penalty of ₹ 9,730 had been imposed on all the 102 cable operators in Chhindwara district. In regard to Sehore district, it was stated that the monthly returns (CT-5) of the objected period had been submitted by all the cable operators. They had deposited the amount of entertainment duty in due time and as such there was no loss to Government and penalty was not leviable. The reply in regard to Sehore district is not acceptable as the reply does not explain why action to levy penalty was not taken for non submission of returns (CT-5) in time.

We reported the matter to the Government between November 2010 and May 2011; their reply has not been received (March 2012).

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<sup>2</sup> District Excise Officer - Balaghat, Chhindwara and Sehore.

### 7.3 Non-levy of entertainment duty on cinema houses

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 provides that no entertainment duty shall be levied on prescribed amount\* collected by the proprietor from spectators provided that the adequate facilities are provided to spectators in cinema hall. The details of facilities provided and the amount spent thereon, certified by a Chartered Accountant (CA) shall be submitted by the proprietor of the cinema hall to the Collector of the district through the AEC/DEO latest by 30th June of the following financial year. If the Collector is not satisfied with the facilities provided, he may recover the duty in respect of the amount allowed for facilities from the proprietor of the cinema hall. As per orders of EC dated 30 June 2008, in case of non-submission of details of facilities and amount spent thereon certified by CA, the entertainment duty on full amount of ticket will be recovered from the proprietor of cinema hall.

During test check of the returns submitted by cinema houses of four AECs<sup>3</sup> and nine DEOs<sup>4</sup> between March 2009 and December 2010, we observed that 58 proprietors of cinema houses collected ₹ 85.80 lakh for providing facilities to the spectators between April 2007 and March 2010 on sale of tickets. Though the details of facilities provided in the cinema halls and accounts of expenditure thereof certified by the CA were not submitted by the proprietors to the AEC/DEO for forwarding to the Collectors, no action was taken by the Department for levy of entertainment duty of ₹ 20.24 lakh. Further, we observed from the records of AEC, Sagar that a proprietor of a cinema house collected ₹ 12.19 lakh for providing facilities to the spectators which included the amount of previous years brought

forward in 2009-10 (₹ 11.01 lakh) and during the year (₹ 1.18 lakh). Of this, he spent ₹ 79,000 in the year 2009-10 and the balance amount of ₹ 11.40 lakh could not be spent as the cinema house was closed from 1 July 2009. As such the entertainment duty of ₹ 3.80 lakh on this amount was recoverable from the proprietor of the cinema house but no action was taken by the Department to recover the same. This resulted in non-realisation of entertainment duty of ₹ 24.04 lakh.

After we pointed this out to the Department and the Government between December 2010 and March 2011, the EC stated (between March and May 2011) that AEC, Sagar had recovered ₹ 3.80 lakh. Further, 21 operators of cinema houses of five districts<sup>5</sup> had submitted the details of facilities provided and the amount spent thereon duly certified by the CA for the year 2008-09 and 2009-10. DEO, Vidisha stated (August 2010) that action would be taken as per rule by receiving the statement, and other AECs and DEOs

\* Not exceeding ₹ 2 per ticket.

<sup>3</sup> Gwalior, Jabalpur, Indore and Ujjain.

<sup>4</sup> Chhindwara, Dhar, Hoshangabad, Khandwa, Khargone, Morena, Narsinghpur, Satna, and Vidisha.

<sup>5</sup> Chhindwara, Gwalior, Khargone, Narsinghpur and Ujjain.

stated between February and December 2010 that returns were being received from the proprietors of the cinema halls. The replies do not explain why action was not taken to recover the entertainment duty in case of non-receipt of duly audited details within the prescribed period. Further reports have not been received (March 2012).

#### **7.4 Non-recovery of entertainment duty from cable operators**

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 and Madhya Pradesh Cable Television network (Exhibition) Rules, 1999 provide that every proprietor of cable television network and hotel or lodging houses providing entertainment through cable service shall pay entertainment duty within seven days from the last day of the month.

During test check of the demand and collection register of cable operators of six AECs<sup>6</sup> and eight DEOs<sup>7</sup> between March 2010 and February 2011 we observed that entertainment duty of ₹ 17.29 lakh was not deposited by 574 cable operators and 11 proprietors of hotels or lodging houses providing entertainment through cable service

between April 2009 and January 2011. The Department also did not take any action for recovery of the dues. This resulted in non-realisation of duty of ₹ 17.29 lakh.

After we pointed this out, the EC stated (between March and May 2011) that ₹ 8.74 lakh had been recovered from 270 cable operators of eight districts<sup>8</sup>. Other AECs and DEOs stated between March 2010 and February 2011 that action for recovery was being taken. Further replies have not been received (March 2012).

We reported the matter to the EC and Government between December 2010 and May 2011; their replies except that of EC in respect of eight districts have not been received (March 2012).

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<sup>6</sup> Assistant Excise Commissioner - Bhopal, Gwalior, Indore, Jabalpur, Sagar and Ujjain.

<sup>7</sup> District Excise Officer - Chhindwara, Hoshangabad, Katni, Khandwa, Khargone, Neemuch, Satna and Vidisha.

<sup>8</sup> Bhopal, Chhindwara, Gwalior, Katni, Neemuch, Sagar, Ujjain and Vidisha.

## 7.5 Non-levy of advertisement tax

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 provides that every proprietor of an entertainment shall pay advertisement tax on every advertisement exhibited at a rate not exceeding ₹ 50 per month.

During test check of the records of five AECs<sup>9</sup> and nine DEOs<sup>10</sup> between March 2010 and February 2011, we observed that advertisement tax of ₹ 9.99 lakh from 1,740 cable operators and four proprietors of video operators for the period from April 2008 to

November 2010 was neither paid by them, nor was it assessed and recovered by the Department. This resulted in non-levy and realisation of advertisement tax of ₹ 9.99 lakh.

After we pointed out the cases, the EC stated in May 2011 that although advertisement tax on cable operators was not leviable under the provisions of the Act, a letter had been issued (between August 2009 and April 2011) to the Administration Department to apprise of the comments of the Law Department and on the receipt of their comments necessary action would be taken. The reply is not acceptable as the provisions under the Act do not preclude cable operators/video operators exhibiting advertisements from liability of paying tax. Moreover, the Department is recovering the advertisement tax in six districts<sup>11</sup>. Further reply has not been received (March 2012).

We reported the matter to the Government between December 2010 and May 2011; their reply has not been received (March 2012).

<sup>9</sup> Assistant Excise Commissioners - Bhopal, Indore, Jabalpur, Raisen and Sagar.

<sup>10</sup> District Excise Officer - Chhindwara, Hoshangabad, Katni, Khandwa, Khargone, Morena, Neemuch, Satna and Vidisha.

<sup>11</sup> Anuppur, Dhar, Mandla, Shahdol, Shajapur and Shivpuri.