

CHAPTER-VII : OTHER TAX AND NON-TAX RECEIPTS

7.1 Results of audit

We reported short levy, excess grant of refund, loss of revenue etc., amounting to ₹ 343.99 crore in 3,993 cases as mentioned below, on the basis of test check of the records relating to entertainment duty, electricity duty, state education *cess*, employment guarantee *cess*, tax on buildings (with larger residential premises), repair *cess* and profession tax conducted during the year 2010-11:

(₹ in crore)

Sl. No.	Nature of receipts	No. of cases	Amount
1.	Non/short recovery of electricity duty, inspection fees and excess refund	1,076	252.44
2.	State education <i>cess</i> and employment guarantee <i>cess</i>	220	45.35
3.	Entertainment duty	1,134	3.68
4.	Tax on buildings (with larger residential premises)	477	1.24
5.	Profession tax	1,044	0.88
6.	Repair <i>cess</i>	15	0.04
7.	Other Receipts	27	40.36
	Total	3,993	343.99

In response to our observations made in the local audit reports during the year 2010-11 as well as during earlier years, the concerned Departments accepted underassessment, short levy, etc. and recovered ₹ 259.21 crore in 1,368 cases of which 244 cases involving ₹ 37.05 lakh related to 2010-11 and the rest to earlier years.

A few audit observations involving ₹ 2.06 crore are included in the succeeding paragraphs, against which ₹ 21.86 lakh had been recovered upto May 2011.

SECTION A ENTERTAINMENTS DUTY

7.2 Audit observations

During scrutiny of records in the offices of the Dy. Collectors/Resident Deputy Collectors/Taluka Magistrates/Entertainment Duty Officers, we noticed cases of non-observance of provisions of the Acts and Rules as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. The Government may evolve a suitable mechanism so that mistakes can be avoided, detected and corrected.

7.3 Non/short recovery of entertainment duty

The Bombay Entertainments Duty (BED) Act, 1923, provides for levy and collection of entertainment duty (ED) from cable operators at the prescribed rates. The Entertainment Duty Officers did not take any action for recovery of ED from the cable operators which resulted in non-realisation of entertainment duty of ₹1.76 crore.

7.3.1 Non/short recovery of entertainment duty from cable operators

Deputy Collectors (DCs)/Resident Deputy Collectors (RDCs)/Taluka Magistrates (TMs)/ Entertainment Duty Officers (EDOs)

Under Section 3(4) of the BED Act, 1923, ED was payable by the cable operators at flat rates of ₹ 30, ₹ 20 or ₹ 10 per television set per month with effect from 1 April 2000 depending on whether the area is a municipal corporation (MC), A and B class municipality or other area. The rates were revised to ₹ 45, ₹ 30 or ₹ 15 per television set per month with effect from June 2006. These cable operators are required to file monthly returns in form 'E' alongwith the payment of ED with the Collector. ED is payable on or before the 10th of the subsequent month to which it relates. Interest at the rate of 18 per cent per annum for the first 30 days and 24 per cent thereafter is to be levied in case of default in payment.

During test check of recovery registers of 17 units¹ in seven districts², between January 2009 and September 2010, we noticed that ED amounting to ₹ 1.72 crore was not paid by 435 registered cable operators. However, 10 registered cable operators had not paid ED amounting to ₹ 4.39 lakh for part of the periods

¹ Deputy Collectors: Mumbai-Zone VI, VIII and X; Resident Deputy Collectors: Akola, Amravati, Chandrapur, Gondia and Nashik; Entertainment Duty Officers: Zone B, M and O Pune and Taluka Magistrate: Andheri-Zone I, II and IV; Borivali- Zone V; Mulund-Zone IX and X: at Mumbai.

² Akola, Amravati, Chandrapur, Gondia, Mumbai, Nashik and Pune.

between April 2007 and March 2010. These cable operators had not paid/submitted the returns in Form 'E'. The concerned officers had neither kept track non-receipt of returns in form 'E' nor reviewed the recovery register. Due to this no demand notices for recovery of ED from cable operators were made by the concerned DCs, RDCs, EDOs and TMs. This resulted in non-recovery of ED aggregating ₹ 1.76 crore from 445 cable operators. Besides, interest at the prescribed rates was also leviable.

After we pointed out these cases, between February 2009 and October 2010, the Department accepted the observations and recovered ED amounting to ₹ 21.86 lakh from 75 cable operators, between March 2009 and December 2010. A report on recovery of the balance amount has not been received (February 2012).

The Dy. Collector (Entertainment Duty), Mumbai City stated (June 2011) that on the basis of the audit observations the prescribed returns (Form 'E') were called for from the cable operators and payment of ED was demanded. This clearly indicates that the control mechanism was weak as action was not taken till it was pointed out by us.

The Government in response to our letters in May 2011 and June 2011 on this issue stated (July 2011), that all the Divisional Commissioners had been instructed to ensure that demand notices for recovery of ED are made and also initiate action to institute a mechanism to ensure that recoveries are effected.

SECTION B ELECTRICITY DUTY

7.4 Electricity Duty

Non-observance of the provisions of the Bombay Electricity Duty Act, 1958, resulted in non-remittance of electricity duty and non-levy of interest of ₹5.45 crore on delayed remittance of electricity duty.

7.4.1 Non-levy of interest on delayed remittance of electricity duty

Chief Engineer (Electrical), Chembur, Mumbai and Electrical Inspector (EI) (Duty) Mumbai Central, Mumbai

Under Section 4 of the Bombay Electricity Duty Act read with Rule 2 of the Bombay Electricity Rules, 1962, every licensee who supplies electricity to consumers is required to collect duty from the consumers and pay it to the State Government on or before the last date of the succeeding calendar month in which the bills are raised. Further, as per Section 8 of the said Act, in case of default, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment. The Government/private companies are required to submit monthly and quarterly returns giving details of payment made into the treasury and outstanding dues to the EIs who in turn is required to submit the return to the Superintendent Engineer and therefrom to the Chief Engineer (Electrical), Mumbai. The Department keeps a watch on recovery of dues through these returns.

During test check of the records of the unit in October 2010, we noticed that between April 2009 and March 2010, the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected electricity duty aggregating ₹1,476.68 crore from the consumers, out of which ₹482.46 crore collected in April 2009, September to December 2009 and February 2010 were remitted into the Government treasury after delays ranging from one to 38 days. Interest amounting to ₹5.45 crore on the

delayed payment of electricity duty was neither levied nor demanded by the Chief Engineer (Electrical), Mumbai from MSEDCL. Failure of the office of the Chief Engineer (Electrical) to scrutinise the returns to detect delayed remittance of electricity duty resulted in non-levy of interest amounting to ₹5.45 crore.

After we pointed out the matter in October 2010, the Chief Engineer, Electrical, Mumbai stated (October 2011) that MSEDCL has been informed to pay the interest on delayed remittance and also intimated the Energy Department about the recoverable amount in September 2011. Further progress in the matter is awaited (February 2012).

We reported the matter to the Government/Department in June 2011; their reply is awaited (February 2012).

7.4.2 Non-remittance of electricity duty

During test check of the records in November 2010, we noticed from the return 'C' submitted by M/s. Tata Power Company Ltd. (TPCL) to the EI, for the quarter ending January to March 2010, that out of electricity duty of ₹ 32.37 crore collected during the said quarter (aggregating to ₹ 41.99 crore after considering the unpaid amount of the earlier quarter), only ₹ 25 crore was paid. This resulted in non-payment of electricity duty of ₹ 16.99 crore. The matter regarding non-payment of electricity duty was not taken up with TPCL by the EI, Mumbai. Further, interest at prescribed rates are also leviable.

After we pointed out the case in June 2011, the Chief Engineer (Electrical) Mumbai stated that the concerned EI, Mumbai had issued letters to TPCL in January and February 2011. In response to these letters TPCL reported (June 2011) that the outstanding electricity duty is ₹ 9.32 crore instead of ₹ 16.99 crore. The TPCL had also furnished the details in August 2011 but the same did not tally with the records of EI, Mumbai, hence, the records have been called for from TPCL for verification, a report of which was awaited (February 2012).

It is pertinent to mention here that though 23 months have elapsed since the quarterly returns were received and eight months have passed since audit brought this matter to the notice of the Department, the exact amount of electricity duty due to be paid by TPCL was not known. Failure to verify the returns submitted by the Company by the concerned EI had resulted in this situation.

We reported the matter to the Government in June 2011; their reply is awaited (February 2012).

7.5 Tax on sale of electricity

Non-observance of the provisions of the Maharashtra Tax on Sale of Electricity (TOS) Act, 1963, resulted in non-levy of interest of ₹ 1.09 crore of tax on sale of electricity.

7.5.1 Non-levy of interest on delayed remittance of tax on sale of electricity

Chief Engineer (Electrical), Chembur, Mumbai

Under Section 3 and 4 of the Maharashtra Tax on Sale of Electricity Act, 1963, every bulk licensee shall pay tax on or before the last date of the succeeding calendar month in respect of all his sales of energy in bulk. Further, in case of failure to pay the tax on sale of electricity collected by the due date, interest at the rate of 18 per cent per annum for the first three months at 24 per cent per annum thereafter is chargeable on the amount of tax for remaining unpaid till the date of payment.

During test check of the records of the unit in October 2010, we noticed that between April 2009 and March 2010, the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected tax on sale of electricity aggregating ₹ 258.02 crore from the consumers,

out of which ₹ 86.83 crore collected in April 2009, September to December 2009 and February 2010 were remitted into the Government treasury after delays ranging from one to 38 days. Interest amounting to ₹ 1.09 crore on the delayed payment of tax on sale of electricity duty was neither levied nor demanded by the Chief Engineer (Electrical), Mumbai from MSEDCL.

After we pointed out the matter in October 2010, the Chief Engineer, Electrical, Mumbai stated that the interest on delayed payment of tax on sale of electricity would be recovered. Further reply is awaited (February 2012).

We reported the matter to the Government in June 2011, their reply is awaited (February 2012).

7.6 Non-recovery of inspection fees

Electrical Inspectors (EI) at Bandra (East), Mumbai, Beed, Chandrapur, Hingoli, Latur, Parbhani and Solapur

Under Rule 4 of the Indian Electricity Rules (IER), 1956, Inspection fees are required to be paid by the consumers prior to or at the time of or within 10 days from the date of Inspection, examination, or test of electrical installations. As per notification No. IEA-2008/CR-79/NRG-4 dated 4.2.2010, the fee payable for inspection, examination or test of any electrical installation, appliance or apparatus, etc. should be paid prior to or at the time of or within 20 days from the date of such inspection. If for any reason the fee is not paid by the consumer upto or within 20 days from the date of inspection, examination or test, the EI may direct the licensee to disconnect the supply to the installation of such consumer or recover the same along with the energy bills. The position of recovery of inspection fees are watched through quarterly returns sent by the EIs to the Superintending Engineer (SE) and therefrom to the Chief Engineer.

During test check of the records of seven offices in seven³ districts, between July 2010 and December 2010, we noticed that inspection fees aggregating ₹ 30.26 lakh for the inspection of electrical installation carried out during 2009-10 were not paid by 134 consumers. The Electrical Inspectors had not recovered the amount from the consumers. Failure of the Department to periodically review the register to detect non-payment of inspection fees by the consumers and ineffective monitoring at the level of SE and CE resulted in non-realisation of inspection fees amounting

to ₹ 30.26 lakh.

After we pointed out these cases, the EIs accepted the observation and stated that the recovery would be made. A report on recovery is awaited (February 2012).

Similar observation was made in para 6.10 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 wherein the

³ Beed, Chandrapur, Hingoli, Latur, Mumbai, Parbhani and Solapur.

Chief Engineer (Electrical) had stated that the recoveries were being watched through the returns submitted by the EIs as well as the instructions given by the Superintendent Engineer in the review meeting as well as inspection of the offices of the EIs. A recommendation was also given to devise a suitable mechanism to strengthen the existing system to ensure that inspection fees are recovered in time. However, recovery process continues to be slow.

We reported the matter to the Government in April 2010 and January 2011, their reply is awaited (February 2012).

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