

CHAPTER VI
OTHER TAX RECEIPTS

Executive Summary

Multiple increase in tax collection	In 2010-11 the collection of revenue from Electricity Taxes increased by 46 times over the previous year which was attributed by the Department to remittance of ₹ 1,602.84 crore of electricity tax pertaining to earlier years by Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) in March 2011.
Internal audit	Internal audit is regularly conducted by the Department and was in progress for the year 2010-11.
Results of audit conducted by us in 2010-11	<p>In 2010-11 we test checked the records of 11 units and found underassessment of electricity tax, non-levy of interest and other observations amounting to ₹ 375.27 crore in 20 cases.</p> <p>The Department accepted underassessments and other deficiencies amounting to ₹ 1.05 crore in 16 cases, out of which, ₹ 95.92 lakh involved in five cases were pointed out during 2010-11 and the rest in earlier years. Out of the above, an amount of ₹ 9.04 lakh has been collected.</p>
What we have highlighted in this Chapter	<p>In this chapter we present illustrative cases of ₹ 270.73 crore selected from observations like non/short collection of electricity tax, short adjustment of interest, etc. noticed during our test check of records in the Electrical Inspectors' offices, where we found that the provisions of the Act/Rules were not observed.</p> <p>It is pertinent to mention that though similar omissions have been pointed out by us in earlier years, the Department had not taken corrective action despite the fact that these mistakes were apparent from the records made available to us.</p>
Our conclusion	The Department needs to initiate action to recover the non/short levies pointed out by us.

CHAPTER VI
OTHER TAX RECEIPTS
ELECTRICITY TAXES

6.1 Tax administration

The Chief Electrical Inspector, who also acts as the Director of Electricity Tax administers the Tamil Nadu Tax on Consumption or Sale of Electricity Act 2003 and the Rules made thereunder. He is assisted by Senior Electrical Inspectors and Electrical Inspectors, Chief Accountants, Administrative Officers and Superintendents. The overall control is vested with the Secretary to the Government, Energy Department.

6.2 Trend of receipts

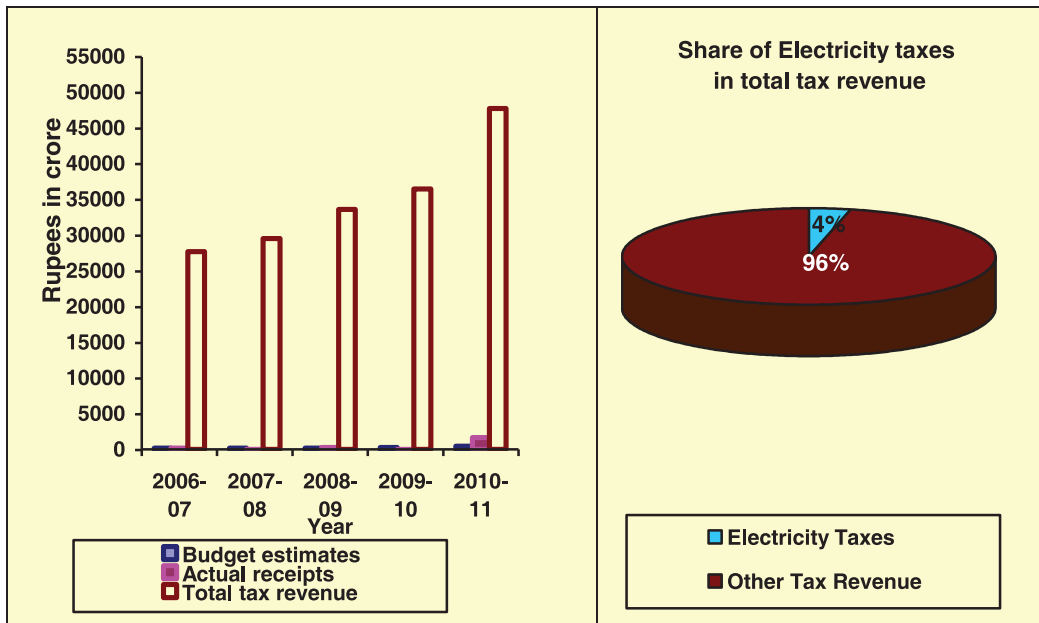
Actual receipts from electricity tax during the period from 2006-07 to 2010-11 along with the total tax receipts during the same period are exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actuals	Variation excess (+)/ short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	250.00	266.40	(+) 16.40	(+) 6.56	27,771.15	1
2007-08	250.00	37.21	(-) 212.78	(-) 85.11	29,619.10	---
2008-09	250.09	355.69	(+) 105.60	(+) 42.22	33,684.37	1
2009-10	361.78	37.06	(-) 324.72	(-) 89.76	36,546.66	---
2010-11	528.73	1,745.43	(+) 1,216.70	(+) 230.12	47,782.17	4

The Department attributed the reasons for the decrease in the actuals due to non-receipt of payments from the erstwhile Tamil Nadu Electricity Board and for the increase in actual receipts over the estimates in the year 2010-11, to remittance of a sum of ₹ 1,602.84 crore made by Tamil Nadu Generation and Distribution Corporation Limited towards electricity tax in March 2011 for the dues from November 2006 to April 2010.

A bar chart of budget estimates, actual receipts and total receipts and a pie chart depicting the position of electricity tax receipts in the total tax receipts are given in the following page:



In 2010-11 the collection of revenue from Electricity Taxes increased by 46 times over the previous year

6.3 Arrears of revenue

The arrears of revenue as on 31 March 2011 though called for (July/December 2011) has not been furnished by the Department (December 2011).

6.4 Impact of Audit Reports

6.4.1 Revenue impact

We had pointed out one paragraph on non levy of tax with revenue implication of ₹ 1.02 crore through our Audit Report for the year 2005-06 and the Department/Government had accepted the audit observation. The amount is yet to be recovered.

The Government may institute a mechanism to monitor the position of recoveries pointed out in the Audit Reports and take necessary steps for early collection.

6.5 Working of internal audit wing

The details of the number of offices due for internal audit and those completed, as furnished by the Department, are given in the following table:

Year	Number of offices due	Number of offices completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
Upto 2007-08	30	30	0	100
2008-09 & 2009-10	24	24	0	100
2010-11	24	10	14	41.67

The Department stated that the internal audit is in progress for the year 2010-11. It also stated that there is no support staff for Audit wing and only one Chief Accountant's post is operated.

6.6 Results of Audit

We test checked the records of 11 Departmental offices during the period from April 2010 to March 2011 and found underassessment of electricity tax/duty and other observations amounting to ₹ 375.27 crore in 20 cases, which broadly fall under the following categories.

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non-levy/collection of electricity tax, duty and additional tax	6	32.30
2	Non-levy/collection of inspection fees, testing fees, fine and penalty	4	0.12
3	Non-renewal/collection of licence fees under Lift Act, 1997	2	0.01
4	Non-collection of interest for belated payment of electricity tax	3	318.79
5	Short collection/payment of tax due to incorrect availment of exemption	3	24.04
6	Other observations	2	0.01
Total		20	375.27

During the course of the year 2010-11, the Department accepted under assessments and other deficiencies amounting to ₹ 1.05 crore in 16 cases, out of which ₹ 95.92 lakh involved in five cases were pointed out during the year and the rest in earlier years. Out of the above an amount of ₹ 9.04 lakh has been collected.

We observed from test check of the records in the office of the Electrical Inspector, Salem during January 2011 that a company paid electricity tax of ₹ 2.93 crore belatedly. The delay in depositing the tax ranged between one to three months, for which interest of ₹ 4.79 lakh was not demanded. After we pointed this out, the Government replied (July 2011) that the entire amount has been collected.

A few illustrative cases involving ₹ 270.73 crore are mentioned in the following paragraphs:

6.7 Audit observations

We test checked the records in the offices of the Energy Department relating to revenue received from electricity duty/ tax, etc. and noticed several cases of non-observance of the provisions of the Act/Rules resulting in non/short levy of tax and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by us. Although such omissions are pointed out every year, the irregularities continue to persist and remain undetected till the next audit is conducted.

6.8 Non-compliance of the provisions of the Act/Rules

The provisions of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 and the Rules made thereunder require payment of electricity tax at the time of sale or consumption of electricity as per the rates provided in the Act.

We noticed non-compliance of the provisions of the Act/Rules in some cases as mentioned in paragraphs 6.8.1 to 6.8.3 which resulted in non/short realisation of ₹ 270.73 crore.

6.8.1 Non-levy of electricity tax

As per Section 3 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, every licensee and every person other than a licensee, shall pay every month to the Government, a tax on the electricity sold or consumed during the previous month.

The Government by an order dated 13 June 2003 had notified the rate of tax on the electricity sold by the licensees other than captive generating plants as five per cent on the net charge*.

We observed during test check of the returns filed by a company in the office of the Electrical Inspector, Cuddalore (August 2010) that the company sold 8.53 crore units of electricity to four textile mills during the period between May 2007 and March 2010. Electricity tax, though leviable on this sale, was not levied treating the sale made to the textile mills as exempt. As sale made to textile mills has not been specifically exempted, the exemption allowed was not in order. This resulted in non-

collection of electricity tax of ₹ 85.32 lakh.

* Section 2 (12) of the Act defines the “net charges” as the amount of gross charge that remains after deduction therefrom of any rebate referred to in clause (7) of this section or refund of fuel surcharge or other surcharge, if any. However, the terms “energy charges”, “net charges, gross charges and other charges” were replaced with a single term “consumption charge” in June 2003.

After we pointed this out to the Department in May/September 2010 and to the Government in May 2010/January 2011, the Government replied (July 2011) that the licensee had remitted a sum of ₹ 5.00 lakh in November 2010 and had obtained an interim stay, for collection of the balance tax, from the Hon'ble High Court of Madras. We await further report (December 2011).

6.8.2 Non-collection of electricity tax

As per Section 3 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, every licensee and every person other than a licensee shall pay every month to the Government, a tax on the electricity sold or consumed during the previous month.

The Government vide order issued on 13 June 2003 notified the rate of tax on electricity as 10 paise per unit, consumed by a person other than a licensee.

6.8.2.1 We observed during test check of the records in the offices of the Electrical Inspectors, Salem and Virudhunagar (January 2011) that three licensees⁵⁹ having captive power generating plants (CPP) for captive consumption and supply to their sister concerns, had not paid tax for the period from April 2005 to August 2008 (excluding the period from March 2008 to May 2008). In the absence of any exemption granted for this period, the companies were

liable to pay the tax on the units generated and consumed during this period. The Department, however, did not take action to collect the electricity tax payable by the companies. This resulted in non-collection of electricity tax of ₹ 9.77 crore. Besides, interest is also leviable.

⁵⁹ M/s.JSW Steel Ltd., Salem(East), M/s.Arkay Energy (Rameswaram) Ltd. and M/s. Sai Regency Power Corporation (P) Ltd., Kalugoorani, Rameswaram.

After we pointed this out to the Department in September 2010 and the Government in March 2011, the Government stated (July 2011) that demand notices have been issued in all the cases. We await further report (December 2011).

As per Section 3 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, every licensee and every person other than the licensee shall pay every month to the Government a tax on the electricity sold or consumed at the rate specified.

According to Rule 3 of the Electricity Rules 2005, notified by the Government of India (June 2005), a 'captive generating' plant should captively consume not less than 51 *per cent* of the aggregate electricity generated in such plant, determined on annual basis. In case the minimum percentage of captive use was not complied with in any year, the entire electricity generated should be treated as if it was a supply of electricity by a generating company. The Government of Tamil Nadu, in June 2003, had notified that the rate of tax on the electricity sold by the licensees shall be five *per cent* on the net charge.

6.8.2.2 We observed during test check of the records in the offices of the Electrical Inspector, Salem during January 2011 that a licensee having a captive generating plant had consumed 46.80 lakh units out of 8,600 lakh units generated during 2009-10 which worked out to 0.54 *per cent* only. However, the Department had collected electricity tax at the rate of 10 paise per unit instead of at the prescribed rate of five *per cent* on the net charge. This resulted in short collection of ₹ 8.19 lakh.

After we pointed this out to the Department in February 2011 and the Government in March 2011, the Government

replied (July 2011) that demand notices have been issued (May 2011). We are awaiting further reports (December 2011).

6.8.3 Short adjustment of interest

According to Section 3 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, every licensee and every person other than a licensee shall pay every month to the Government, a tax on the electricity sold or consumed during the previous month at the prescribed rate.

According to Section 7 of the Act *ibid* read with Rule 7 of the Tamil Nadu Tax on Consumption or Sale of Electricity Rules, 2003, the unpaid electricity tax shall be deemed to be in arrears and interest at 12 *per cent* per annum is leviable for each calendar month of delay.

We observed during test check of the records in the office of the Chief Electrical Inspector (CEI), Chennai in May 2010, that Tamil Nadu Electricity Board (TNEB) had collected electricity tax from consumers and such collections made from November 2006 onwards were not remitted into Government account on the grounds of poor ways and means position. As the TNEB did not remit the tax collected, they were liable to pay interest.

We reported the case to the Department and the Government in May 2010. The Government by an order of December 2010 sanctioned conversion of electricity tax of ₹ 1,122.84 crore for the period from November 2006 to March 2009 as equity share capital. An amount of ₹ 112.29 crore towards penal interest was also adjusted as equity share capital to TNEB. Since the GO adjusting the electricity tax payable by the TNEB was issued in December 2010, interest is leviable upto that period. However, it is seen that though an amount of ₹ 372.32 crore (calculated upto November 2010⁶⁰) was payable as interest for the belated payment/adjustment of electricity tax relating to the period from November 2006 to March 2009, a sum of ₹ 112.29 crore only was adjusted towards interest. Thus, interest amounting to ₹ 260.03 crore was omitted to be collected/adjusted.

⁶⁰ Interest is leviable for each calendar month of delay and hence interest was calculated upto November 2010.

We brought the matter to the notice of the Government again in December 2010. We are awaiting their reply (December 2011).