

CHAPTER-V

EXECUTIVE SUMMARY

Revenue Impact of the Audit Reports	During the years 2007-08 and 2011-12, we had pointed out non/short levy, non/short realisation of revenue etc. with revenue implication of ₹ 3.71 crore in three paragraphs. Of these, the Government/Department had accepted audit observations in two paragraphs involving ₹ 3.44 crore and had since recovered ₹ 22 lakh in one paragraph.
Results of audit	<p>Our test check of records of Chief Electrical Inspector to Government of Karnataka during the year 2011-12 disclosed underassessment of revenue amounting to ₹ 3.59 crore in eight cases.</p> <p>During the year 2011-12, the Department accepted underassessments of tax of to ₹ 3.25 crore in two cases.</p>
What we have highlighted in this Chapter	<p>Non-levy of electricity tax on auxiliary consumption and incorrect adjustment of payment leading to short demand of interest amounted to ₹ 3.49 crore.</p> <p style="text-align: right;">(Paragraph 5.6 and 5.7)</p>

CHAPTER-V: ELECTRICITY TAX

5.1 Tax Administration

The Karnataka Electricity (Taxation on Consumption) Act, 1959 and Rules made thereunder govern the levy and collection of electricity tax in Karnataka. The Electricity Supply Companies (ESCOMs) have been authorised to collect tax on such units of electricity supplied by them to consumers. Besides, the Electrical Inspectorate collects tax on such energy consumed by a non-licensee from its own generation or supply made by it to others.

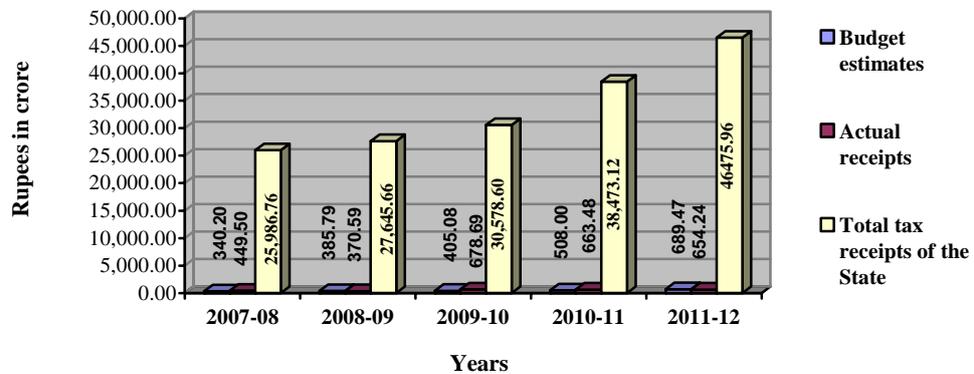
5.2 Trend of Receipts

Budget Estimates (BEs) and actual receipts from electricity tax during the years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and graph.

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation excess(+) / shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	340.20	449.50	(+) 109.30	(+) 32.13	25,986.76	1.73
2008-09	385.79	370.59	(-) 0.20	(-) 3.94	27,645.66	1.34
2009-10	405.08	678.69	(+) 273.61	(+) 67.54	30,578.60	2.22
2010-11	508.00	663.48	(+) 155.48	(+) 30.61	38,473.12	1.72
2011-12	689.47	654.24	(-)35.23	(-)5.10	46,475.96	1.41

Graph 1 : Budget estimates, Actual receipts and Total tax receipts



5.3 Impact of Audit Reports

During the years 2007-08 and 2011-12, through our Audit Reports, we had pointed out non/ short levy, non/short realisation of revenue etc, with revenue implication of ₹ 3.71 crore in three paragraphs. Of these, the Government/ Department had accepted the audit observation in two paragraphs involving ₹ 3.44 crore and had since recovered ₹ 22 lakh in one paragraph.

The position is shown in the following table :

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Recovery effected	
	Number	Amount	Number	Amount ¹	Number	Amount
2007-08	1	0.22	1	0.22	1	0.22
2011-12	2	3.49	1	3.22	-	-
Total	3	3.71	2	3.44	1	0.22

5.4 Results of Audit

Our test check of records of the Chief Electrical Inspector to Government of Karnataka during the year 2011-12 disclosed underassessment of revenue amounting to ₹ 3.59 crore in eight cases under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non-levy of electricity tax on auxiliary consumption	1	3.23
2.	Incorrect adjustment of payments leading to short demand of tax	4	0.27
3.	Loss of revenue due to non-inclusion of auxiliary consumption	2	0.06
4.	Short levy of interest	1	0.03
	Total	8	3.59

During the year 2011-12, the department accepted underassessment of ₹ 3.25 crore in two cases.

A few illustrative audit observations involving ₹ 3.49 crore are mentioned in the succeeding paragraphs.

5.5 Non-observance of provisions of the Act/Rules

The Karnataka Electricity (Taxation on Consumption) (KETC) Act, 1959 as amended by KETC (Amendment) Act, 1979 provides as under:

- *Section 7 for recovery of any sum due on account of electricity tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears, and thereupon interest at the rate of 15 per cent per annum payable on such sum; and the sum, together with any interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue.*
- *By a notification dated 1 October 1986, the Government levied electricity tax of 5 paise per unit on the licensees or other persons who consume energy generated by themselves in generating station or sub-station (auxiliary consumption) of workshops or colonies situated within the premises of such generating station or sub-station.*

¹ Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.

- *By a notification dated 30 March 2001, Article 32(c) of the Karnataka Financial Code (KFC), according to which the amount received/recovered towards the arrears of revenue/tax due to the Government shall be first adjusted towards penalty, balance, if any, towards the outstanding interest on the tax/revenue. After such adjustment, the balance amount is to be adjusted towards tax / revenue.*

We noticed in two offices that the above provisions were not fully followed by the concerned authorities. This resulted in a number of discrepancies which led to non/short realisation of Government revenue amounting to ₹ 3.49 crore.

5.6 Non-levy of electricity tax on auxiliary consumption⁴

As per Para 3.50 of the Public Works and Electricity Department Electrical Inspectorate-Departmental Code, Volume-2 (Manual for tax on electricity consumption) 1982, the non-licensees have to pay tax on the electrical energy generated and consumed by them directly as also on the losses (if any) and on the auxiliary consumption, to the Government. Under Notification No. PWD 224 PPC 85 dated 1 October 1986, the Government has levied electricity tax at the rate of five paise per unit of energy generated and consumed by licensees³ or other persons in generating stations or sub-stations (auxiliary consumption) or workshops or colonies situated within the premises of such generating stations or sub-stations. Further, as per Notification No. PWD 301 EIG 78 dated 24 October 1978, interest at the rate of 15 per cent per annum is chargeable on recovery of arrears of electricity tax.

We noticed from test check of records in the office of the Deputy Chief Electrical Inspector, Bellary in respect of a non-licensee² (M/s Bellary Thermal Power Station), electricity tax on auxiliary consumption amounting to ₹ 2.66 crore for

² **Non-licensee** as defined in Karnataka Electricity (Taxation of Consumption) Rules, 1959 means a person not being a licensee, who generates energy for his own consumption or supplies the same to any other person free of charge and as per Rule 3(2) every non -licensee shall in respect energy consumed by himself or supplied by him, pay or collect and pay as the case may be, to the State Government, the electricity tax at the appropriate rates by crediting the amount of tax in respect of every calendar month into a Government Treasury within a period of thirty days from the end of that month.

³ **Licensee** as defined under Section 2(38) of Karnataka Electricity Act, 2003 (Central Act) means a licence granted under Section 14 of this Act by the appropriate Commission to any person

- (a) to transmit electricity as a transmission licensee; or
- (b) to distribute electricity as a distribution licensee; or
- (c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence.

⁴ **Auxiliary consumption** as per notification No PWD 224 PPC 85 dated 1 October 1986 means licensee or other persons who consume energy generated by himself in generating stations or sub-stations.

Captive consumption as per notification No DE 210 EEB 95 dated 18 June 1997 means self consumption.

the period March 2009 to March 2012 was not levied and collected. Interest leviable on this amount up to March 2012 worked out to ₹ 56 lakh. This resulted in non-levy of electricity tax and interest of ₹ 3.22 crore.

After we reported the case in May 2012, the Government (Energy Department) stated (October 2012) that a demand notice for ₹ 3.31 crore towards electricity tax on auxiliary consumption including interest has been issued to M/s BTPS in September 2012 by the Chief Electrical Officer to Government.

5.7 Incorrect adjustment of payments leading to short demand of interest

As per the provision of Article 32(c) of Karnataka Financial Code (KFC), 1958 (Volume-I) inserted vide Notification No. FD 11 TFC 2000 dated 30 March 2001, the amount received/recovered towards the arrears of tax/revenue due to Government shall be adjusted first towards penalty, balance if any, towards the outstanding interest on the tax/revenue and after such adjustment the balance amount be adjusted towards tax/revenue.

Therefore, payment received towards arrears of electricity tax has to be adjusted first towards interest on electricity tax arrears and thereafter the balance amount, if any, has to be adjusted towards electricity tax.

We noticed (May 2012) from statements of tax of three non-licensees, M/s Biocon India Limited, M/s Reid & Taylor and M/s TVS Motor Co. Ltd in the office of the Chief Electrical Inspector that they had not paid electricity tax amounting to ₹ 1.15 crore for the period from October/ November/ December 2003 to June 2004 and that they paid an amount of ₹ 1.14 crore in September / October 2010 i.e. after more than six years. For the period of

delay in payment, the department had also computed interest of ₹ 1.12 crore calculated at the rate of 15 per cent per annum till the date of payment.

We noticed that on payment of ₹ 1.14 crore, the department incorrectly adjusted the entire amount towards arrears of tax instead of interest. In terms of Article 32(c), the department should have first adjusted an amount of ₹ 1.12 crore towards interest and the balance ₹ 2 lakh towards tax. On correct adjustment, the principal amount still remaining unpaid as on 31 March 2012 would be ₹ 1.13 crore. The irregular priority in adjustment of receipts resulted in short demand of interest of ₹ 26.62 lakh upto 31 March 2012.

This was brought to the notice of the Chief Electrical Inspector to Government in May 2012. In reply, the department stated (October 2012) that there was no provision under Section 4(1) of the Karnataka Electricity (Taxation on Consumption) Act, 1959 that amount received at first instance should be adjusted towards interest and that a proposal for amendment to the Act was addressed to Government. The Government also endorsed the said reply of the Department in November 2012.

The reply is not acceptable as Section 4(1) specifies recourses available to Government to recover the taxes from the supply companies/non-licensees. It does not specify the manner of adjustments of payments received. It is in the interest of the Government to adopt the manner of adjustments of arrear receipts as specified in the KFC.

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