

CHAPTER - VII

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases of ₹ 32.30 lakh selected from observations noticed during our test check of records relating to assessment and collection of Entertainment Duty.</p> <p>In this Chapter we also present illustrative cases involving an amount of ₹ 35 lakh selected from observations noticed during our test check of records relating to short/non recovery of electricity duty/penalty.</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>
Tax collection	<p>In 2011-12 the collection from Taxes and Duties on Electricity increased by 20.12 <i>per cent</i> over the previous year which was attributed to the receipt of arrears pending with M.P. <i>Vidyut Vitaran</i> Companies.</p>
Position of observations pointed out by us in earlier years	<p>During the period from 2006-07 to 2010-11, through our Inspection Reports we had pointed out non/short levy, non/short realisation, underassessment of electricity duty etc., with revenue implication of ₹ 1,963.31 crore in 7,44,491 cases. Of these, the Department/Government had accepted audit observations in 74,071 cases involving ₹ 1,166.97 crore and had since recovered ₹ 1,145.67 crore in 191 cases. The recovery position as compared to acceptance of objections in the year 2009-10 was 99.41 per cent whereas in the other years, it was extremely low ranging from zero per cent to 15.67 per cent.</p>
Results of audit conducted by us in 2011-12	<p>We test checked the records of 20 units* relating to Entertainment Duty during the year 2011-12 and found loss of revenue and other irregularities involving ₹ 50 lakh in 993 cases. The State Excise Department accepted underassessment and other deficiencies of ₹ 32 lakh in 215 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 9 lakh was recovered in 33 cases during the year 2011-12.</p>

* 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).

We also test checked the records of seven units relating to Taxes and Duties on Electricity and found underassessment of electricity duty and other irregularities involving ₹ 25.42 crore in 3,94,942 cases. Out of these, the Department accepted underassessment and other deficiencies in 60 cases of ₹ 21.30 crore.

Our conclusion

The Department needs to initiate immediate action to recover the amount on account of non/short levy of Entertainment Duty, non-realisation of inspection fee, non/short recovery of duty and penalty etc. pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER – VII OTHER TAX RECEIPTS

A ENTERTAINMENT DUTY

7.1 Tax administration

Levy and Collection of Entertainment Duty was administered by the State Excise Department till 31 March 2011. The Excise Commissioner is the head of the Department and is assisted by Additional Excise Commissioners, Deputy Excise Commissioners, Assistant Excise Commissioners and District Excise Officers, both at the headquarters at Gwalior and in the districts. In the districts, the Collector is head of the Excise administration.

Since 1 April 2011, levy and collection of Entertainment Duty is being administered by the Commercial Taxes Department of the Government of Madhya Pradesh.

Entertainment Duty is collected under the provisions of the following Acts and Rules and notifications issued thereunder:

- The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936
- The Madhya Pradesh Entertainment Duty and Advertisement Tax Rules, 1942
- The Madhya Pradesh Cinemas (Regulation) Act, 1952
- The Madhya Pradesh Cinemas Regulation (Advertising Vans) Rules, 1960.
- The Madhya Pradesh Cinemas (Regulation) Rules, 1972
- The Madhya Pradesh Cinemas (Exhibition of Films by Video Cassette Recorder) Licensing Rules, 1983
- The Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999

7.2 Results of audit

Test check of the records of 20 units¹ relating to Entertainment Duty during the period 2011-12 revealed loss of revenue and other irregularities involving ₹ 50 lakh in 993 cases which fall under the following categories:

¹ 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).

(₹ in lakh)

Sl. No.	Category	Number of cases	Amount
1.	Non/short deposit of entertainment duty by the proprietors of VCRs/Cable operators	124	4.00
2.	Non-realisation of entertainment duty	34	3.00
3.	Evasion of entertainment duty due to non-accounting of tickets	31	1.00
4.	Other observations	804	42.00
Total		993	50.00

During the course of the year 2011-12, the Department accepted underassessment and other deficiencies of ₹ 32 lakh in 215 cases, which were pointed out in audit during the year 2011-12. An amount of ₹ 9 lakh was realised in 33 cases pointed out during the year 2011-12.

A few illustrative cases involving ₹ 32.30 lakh are mentioned in the following paragraphs.

7.3 Short-levy of entertainment duty

According to the notification issued by the State Government dated 5 May 2008, the rate of entertainment duty at 20 per cent of the amount collected in respect of every payment for admission to an entertainment other than Cinema, Video Cassette Recorder and Cable Service was prescribed.

We observed (November 2010) from the monthly returns submitted by the proprietors of various entertainments in the office of the Assistant Excise Commissioner (AEC), Indore that an amount of ₹ 2.14 crore was collected from spectators for

admission to the Video Game Arcade operated by Galaxy Entertainment Corporation Limited (GECL) situated in Treasure Island Multiplex, Indore during the period from 7 August 2009 to 31 October 2010, on which entertainment duty of ₹ 35.67 lakh² was payable. It was however seen that entertainment duty of ₹ 12.54 lakh only was paid by the proprietor by availing exemption granted by the State Government on 4 September 2006 to Treasure Island Multiplex Complex from payment of entertainment duty. We observed that the exemption was not admissible as entertainment duty on entertainment provided in Video Game Arcade was introduced in May 2008. Therefore, action to recover the balance amount of duty of ₹ 23.13 lakh was required to be taken. No action was however taken by the Department.

We further observed in January 2012 that an amount of entertainment duty of ₹ 4.12 lakh was paid on the collected amount of ₹ 49.43 lakh for the subsequent period from November 2010 to March 2011 against the payable amount of ₹ 8.24 lakh³. The Department did not take any action to recover the balance amount of ₹ 4.12 lakh. This resulted in short realisation of revenue aggregating to ₹ 27.25 lakh.

After we pointed out the cases, the AEC stated (January 2012) that notice to deposit the entertainment duty of ₹ 23.13 lakh had been issued to the proprietor in September 2011. He further stated that action would be taken according to rules to recover the remaining amount of ₹ 4.12 lakh. Further report has not been received (March 2013).

We reported the matter to the Department and the Government (April 2012); their replies have not been received (March 2013).

² Entertainment duty payable = Sale value of tickets * Rate of duty / (100 + Rate of duty) = ₹ 214 lakh × 20 ÷ 120 = ₹ 35.67 lakh

³ ₹ 49.43 lakh × 20 ÷ 120 = ₹ 8.24 lakh

7.4 Non-levy of entertainment duty on cinema houses

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 provides that where cinematographic exhibitions are carried out in a cinema hall, no duty shall be levied on an amount not exceeding ₹ two per ticket charged on account of facilities provided to persons admitted in the cinema hall. The details of facilities provided and the amount spent thereon certified by a chartered accountant (CA) shall be presented 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 the orders of the 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 the full amount of ticket will be recovered from the proprietor of the cinema hall.

We observed (between May and November 2011) from the returns submitted by the proprietors of cinema houses to AECs, Bhopal, Sagar and District Excise Officer (DEO) Shivpuri that proprietors of 17 cinema houses collected ₹ 24.50 lakh between April 2009 and March 2011 from sale of tickets for providing facilities to spectators in the cinema houses. Although details of facilities provided in the cinema hall and the accounts of expenditure thereof certified by the CA were not submitted (till date of audit) by the proprietors of these cinema houses to the Collectors through the

AEC/DEO, the concerned AEC/DEO did not initiate action to levy entertainment duty on the amount collected for providing facilities to the spectators. This resulted in non realisation of entertainment duty of ₹ 5.05 lakh.

After we pointed out the cases, AEC, Bhopal and Sagar stated (September and November 2011) that the matter would be brought to the notice of the Commercial Taxes Department, while DEO Shivpuri stated (May 2011) that action would be taken as per rule. Their replies do not explain why action was not taken to recover the entertainment duty in case of non receipt of duly certified accounts of the expenditure within the prescribed period. Further reports have not been received (March 2013).

We reported the matter to the Department and the Government between July and December 2011; their replies have not been received (March 2013).

B. TAXES AND DUTIES ON ELECTRICITY

7.5 Tax administration

The Energy Department is headed by the Secretary at the Government level and the Chief Electrical Inspector (CEI) of the Department is entrusted with the function of collection of taxes and duties on electricity. The CEI is assisted by two Superintending Engineers {(SE Electrical/Safety)/(E/S)}, seven Divisional Electrical Inspectors (DEI, E/S) at the district level and 34 Assistant Electrical Inspectors at the sub-divisional level for conducting inspection of electrical installations. They are responsible for ensuring correctness of levy and collection of electricity duty, cess and inspection fees in respect of captive and non-captive consumers of electricity and electrical installations respectively.

The Department follows the under mentioned Acts and Rules and notifications issued thereunder:

- Indian Electricity (IE) Act, 1910 (amended in 2003);
- Indian Electricity (IE) Rules, 1956 ;
- Madhya Pradesh Electricity Duty (MPED) Act, 1949 and the Rules framed thereunder, and
- Madhya Pradesh *Upkar Adhiniyam*, 1981.

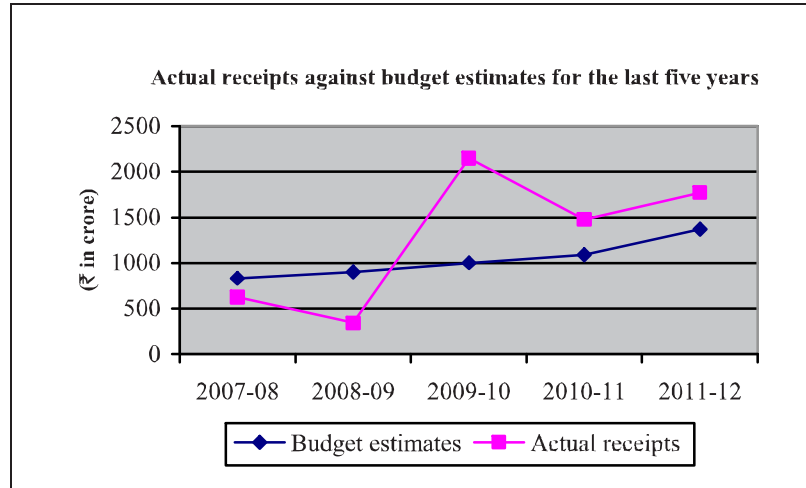
7.6 Trend of receipts

Actual receipts from Taxes and Duties on Electricity during the period 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
2007-08	832.00	626.08	(-) 205.92	(-) 24.75	12,017.64	5.21
2008-09	900.00	343.06	(-) 556.94	(-) 61.88	13,613.50	2.52
2009-10	1,000.00	2,146.49	(+) 1,146.49	(+) 114.65	17,272.77	12.43
2010-11	1,090.00	1,476.32	(+) 386.32	(+) 35.44	21,419.33	6.89
2011-12	1,370.00	1,773.32	(+) 403.32	(+) 29.44	26,973.44	6.57

(Source: Budget Estimates and Finance Accounts of the Government of Madhya Pradesh)



In 2011-12, the collection from Taxes and Duties on Electricity increased by 20.12 per cent over the previous year, which was attributed by the Department to the receipt of arrears pending with M.P. Vidyut Vitaran Companies.

7.7 Working of internal audit wing

The Department reported (August 2012) that the internal audit wing has not been established.

7.8 Impact of audit

7.8.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs, we had pointed out non/short levy, non/short realisation, underassessment of electricity duty etc., with revenue implication of ₹ 1,963.31 crore in 7,44,491 cases. Of these, the Department/Government had accepted audit observations in 74,071 cases involving ₹ 1,166.97 crore and had since recovered ₹ 1,145.67 crore (as on 30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	3	3,506	1.53	2,693	0.10	Nil	Nil	Nil
2007-08	6	1,83,618	17.25	55,288	5.58	Nil	Nil	Nil
2008-09	4	2,27,987	8.36	15,600	7.21	1	1.13	15.67
2009-10	8	90,515	1,683.49	261	1,151.13	96	1,144.39	99.41
2010-11	5	2,38,865	252.68	229	2.95	94	0.15	5.08
Total		7,44,491	1,963.31	74,071	1,166.97	191	1,145.67	

The recovery position as compared to acceptance of objections in the year 2009-10 was 99.41 *per cent* whereas in the other years, it was extremely low ranging from zero *per cent* to 15.67 *per cent*.

7.8.2 Position of Audit Reports

In the Audit Reports 2006-07 to 2010-11, we had pointed out cases of loss of revenue due to non-imposition of duty and penalty on electrical installations, loss of revenue due to lack of provision for security deposit, short levy/recovery of duty due to application of incorrect rate etc. with revenue implication of ₹ 569.82 crore. The Department accepted four paragraphs involving ₹ 549.35 crore and recovered ₹ 84 lakh against two paragraphs as shown in the following table:

(₹ in crore)

Year of Audit Report	No. of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31.03.12
2006-07	1	Nil	Nil	Nil	Nil	Nil
2007-08	4	1.94	1	0.41	1	0.008
2008-09	2	1.80	1	0.83	1	0.83
2009-10	1 (Performance Audit)	562.60	1 (Performance Audit)	547.64	Nil	Nil
2010-11	3	3.48	1	0.47	Nil	Nil
Total	11	569.82	4	549.35	2	0.84

The recovery position as compared to accepted cases was either nil or extremely low except during the year 2008-09.

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

7.9 Results of audit

Test check of the records of seven units relating to Taxes and Duties on Electricity during the year 2011-12 revealed underassessment of electricity duty and other irregularities involving ₹ 25.42 crore in 3,94,942 cases which can broadly be classified under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to non-inspection of electrical installation	2,83,299	1.54
2.	Other observations	1,11,643	23.88
Total		3,94,942	25.42

During the course of the year, the Department accepted underassessment and other deficiencies in 60 cases of ₹ 21.30 crore out of the cases pointed out in audit during the year 2011-12.

A few illustrative audit observations involving an amount of ₹ 35 lakh are mentioned in the following paragraphs.

7.10 Short realisation of electricity duty

As defined in the MPED Act, 1949 "Mines" include the premises or machinery situated in or adjacent to a mine and used for crushing, processing, treating or transportation of materials. The Act provides for levy of duty at the rate of 40 *per cent* on the amount of energy consumed in mines, other than captive mines of cement industry.

We observed (March 2012) during test check of the ledgers in the office of the DEI (E/S), Gwalior that in case of seven consumers engaged in mining activities between March 2009 and February 2010, duty was incorrectly levied at rates ranging from 3.5 *per cent* to eight *per cent*

applicable for industrial purposes against the rates of 40 *per cent* leviable for mining activities. This resulted in short realisation of duty of ₹ 35 lakh.

After we pointed out the cases, the Government accepted the audit observation and stated (January 2013) that instructions for raising demand of ₹ 35 lakh had been issued.

7.11 Follow-up action on inspections

Under Rule 141 of the IE Rules, 1956, if the owner of an electrical installation commits breach of any provision of the rule, he shall be liable to pay a penalty of up to ₹ 300 for each breach and if the breach continues, he shall be further liable to pay a penalty of up to ₹ 50 per day till the breach persists. Further, as per instructions of February 1987 of the Energy Department, (issued on the basis of advice of the Legal Department), penalty can be imposed by the court only after the case has been instituted in the court.

We observed (between January 2012 and March 2012) during test check of records of inspection reports relating to inspections conducted by five units⁴ that while carrying out inspection of medium and high voltage electrical installations during 2009-10 and 2010-11, the inspectors detected breach of various

provisions of the rules regarding general safety requirements in all the 48,025 installations inspected out of the 1,50,477 installations due for inspection. The inspection reports were issued to the consumers and the Madhya Pradesh *Vidyut Vitaran* (MPVV) Companies with instructions to rectify the breaches and report compliance. We, however, found that the compliance reports either from the consumers or from the MPVV Companies were not available on record.

A similar para (para no. 8.3 of the Audit Report of 2007-08) was settled by the Public Accounts Committee (PAC) on the basis of oral explanations given by

⁴ CEI (E/S), Bhopal, DCEI (E/S), Jabalpur, DEI (E/S), Chhindwara, Gwalior and Rewa

the Department that penalty was not being levied as breaches noticed during inspections were subsequently rectified by the consumers. The Department further explained to the PAC that it allows a period of one month for rectification of the breaches. Citing the PAC decision, the Department requested (January 2013) that the present audit observation be settled as the issue involved was similar.

In the absence of records evidencing compliance, we could not obtain assurance that the Department was monitoring compliance and taking necessary action in cases where rectification had not been completed within the one month period allowed.