

Executive Summary

Decrease in tax collection	In 2011-12 the collection of revenue from Electricity Taxes decreased by 40 <i>per cent</i> over the previous year.
Results of audit conducted by us in 2011-12	<p>In 2011-12 we test checked the records of 12 units and found underassessment of electricity tax, non-levy of interest and other observations amounting to ₹ 14.42 crore in 25 cases.</p> <p>The Department accepted under assessments and other deficiencies amounting to ₹ 34.48 crore in nine cases, out of which, ₹ 13.44 crore involved in three cases were pointed out during 2011-12 and the rest in earlier years. Out of the above, an amount of ₹ 1.67 lakh has been collected.</p>
What we have highlighted in this Chapter	<p>In this chapter we present illustrative cases of ₹ 34.46 crore selected from observations like non/short collection of electricity tax, 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 Audit 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 Audit.

CHAPTER V

OTHER TAX RECEIPTS

ELECTRICITY TAXES

5.1 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.

5.2 Trend of revenue

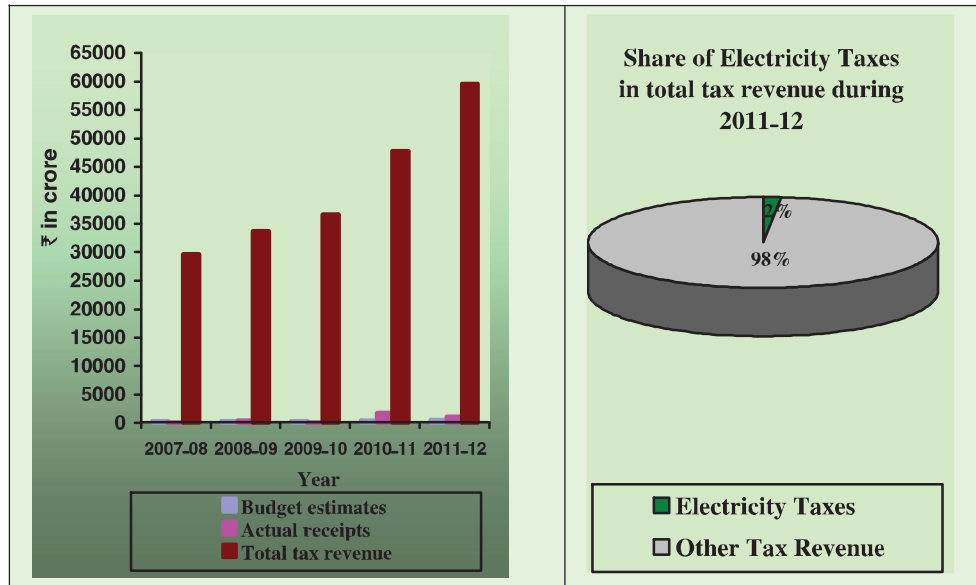
Actual receipts from electricity tax during the period from 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table:

(₹ 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
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
2011-12	532.03	1,040.20	(+) 508.17	(+) 95.52	59,517.66	2

The Department attributed the reasons for the decrease in the actuals 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 below:



In 2011-12 the collection of revenue from Electricity Taxes decreased by 40 per cent over the previous year. The Department attributed the reasons for the decrease in the actuals to non-receipt of payments from the erstwhile Tamil Nadu Electricity Board.

5.3 Arrears of revenue

The arrears of revenue as on 31 March 2012 though called for (July/December 2012) has not been furnished by the Department (December 2012).

5.4 Impact of Audit Reports

5.4.1 Revenue impact

We had pointed out three paragraphs on non levy of tax/interest with revenue implication of ₹ 270.78 crore through our Audit Report for the year 2010-11 and the Department/Government had accepted the audit observation in respect of one paragraph involving a money value of ₹10.71 crore and collected an amount of ₹ 5.00 lakh.

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.

5.5 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
2008-09	24	24	0	100
2009-10	24	24	0	100
2010-11	24	24	0	100
2011-12 (upto January 2012)	24	24	0	100

The Department stated that the internal audit is in progress for the months of February and March 2012. It also stated that there is no support staff for Audit wing and only one Chief Accountant's post is operated.

5.6 Results of audit

We test checked the records of 12 Departmental offices during the period from April 2011 to March 2012 which revealed under assessment of electricity tax, duty and other observations amounting to ₹ 1,442.33 lakh in 25 cases, which broadly fall under the following categories.

(₹ in lakh)			
Sl. No.	Category	No. of cases	Amount
1	Non levy/collection of electricity tax, duty and additional tax	11	1417.16
2	Non levy/collection of inspection fees, testing fees, fine and penalty	10	24.77
3	Non-renewal/collection of licence fees under Lift Act, 1997	4	0.40
Total		25	1442.33

During the course of the year 2011-12, the Department accepted under assessments and other deficiencies amounting to ₹ 34.48 crore in nine cases, out of which, ₹ 13.44 crore involved in three cases were pointed out during the year and the rest in earlier years. Out of this an amount of ₹ 1.67 lakh has been collected.

A few illustrative cases involving ₹ 34.46 crore are mentioned in the following paragraphs:

5.7 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.

5.8 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 5.8.1 and 5.8.2 which resulted in non/short realisation of ₹ 34.46 crore.

5.8.1 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 notified vide order G.O.Ms.No.51, Energy (B1) dated 13 June 2003 the rate of tax on electricity sold by the licensees who are captive generating plants as five *per cent* of the “consumption charge⁵⁰”. As per the Proviso to Section 3 of the Act, no tax shall be payable on the sale of electricity to the Tamil Nadu Electricity Board (Board).

5.8.1.1 We observed during test check of the records in the offices of the Electrical Inspector, Namakkal and Trichy that 10 licensees⁵¹ sold 48.17 crore units of electricity to third parties/companies for the period from January 2009 to March 2011 at various rates. The total value of electricity sold worked out to ₹ 245.60 crore on which electricity tax at five *per cent* is leviable. However, electricity tax was not paid by the above licensees and the Department has also not demanded the tax. This

⁵⁰ Consumption charge means the amount charged by a licensee for the supply of electricity to a consumer before deduction of rebate, if any, allowed by the licensee for payment on or before such date as may be specified by the licensee.

⁵¹ M/s Dalmia Cements (Bharat) Ltd., Dalmiapuram, M/s Chettinad Cement Corporation Limited, (Chennai and Puliur), M/s Shree Ambica Sugars Ltd, M/s Auro Mira Bio Energy Pudukottai India Ltd, M/s Kothari Sugars & Chemicals Ltd., M/s EID Parry India Limited, (Pudukottai and Pugalur), M/s Shriram Non-Conventional Energy Ltd. and M/s TNPL, Kagithapuram,

resulted in non collection of electricity tax to the extent of ₹ 12.28 crore for the years 2009-10 and 2010-11.

After we pointed this out (September/October 2011), the Department raised demand of ₹ 11.53 crore in respect of nine licensees between October 2011 and August 2012. We are awaiting further report (December 2012).

The matter was reported to the Government (between November 2011 and March 2012). The Government in reply (April 2012) stated that one of the licensees viz., M/s Auro Mira Bio Energy Pudukkottai India Limited had filed a writ petition and obtained interim injunction for a period of eight weeks on 17 June 2011 for the demand raised. This was extended for a further period of three weeks from 15 December 2011. However, the Honourable High Court of Madras dismissed (June 2012) all the writ petitions filed by the licensees. We are awaiting further report (December 2012).

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 notified in GO Ms.No.51, Energy (B1) dated 13 June 2003, the rate of tax on electricity sold by the licensees who are captive generating plants as five *per cent* of the "consumption charge". As per the Proviso to Section 3 of the Act, no tax shall be payable on the sale of electricity to the Tamil Nadu Electricity Board (Board).

According to Section 3(b) of the said Act read with the G.O stated above, every licensee shall pay every month to the Government in the prescribed manner a tax on the Electricity captively consumed during the previous month at the rate of 10 paise per unit.

5.8.1.2 We noticed in the office of the Electrical Inspector, Trichy, that a licensee sold 12.33 crore units of electricity to 13 companies from April 2006 to August 2008 and April 2009 to August 2010 and paid electricity tax of ₹1.01 crore at 10 paise per unit on 10.09 crore units, as if the electricity was captively consumed. Further, the licensee did not pay electricity tax on 2.24 crore units sold to these companies for the period from September 2008 to March 2009 and from September 2010 to March 2011 but claimed exemption from payment of tax citing two Government Orders (GOs)⁵². However, the exemption granted in the two GOs are applicable only for own consumption of electricity by captive power generating plants and not for sale of electricity by

such plants. As such, the licensee was liable to pay electricity tax of ₹ 2.16 crore for the above periods at five *per cent* of the consumption charges against

⁵² G.O.Ms No.106 dated 4.9.2008 and G.O.Ms No.85 dated 9.9.2010

which only an amount of ₹1.01 crore was paid. The Department also has not raised demand for the correct amount of tax. This resulted in non/short collection of tax amounting to ₹ 1.15 crore.

After we pointed this out (September 2011), the Department replied that the licensee would be addressed to remit the electricity tax as pointed out by audit. We are awaiting further reply (December 2012).

We reported the matter to the Government (January/May 2012). We are awaiting their reply (December 2012).

5.8.2 Non-collection of electricity tax on captive consumption

According to Section 3(b) of the Tamil Nadu Tax on Consumption or Sale of Electricity Act 2003, read with GO Ms.No.51, Energy (B1) dated 13 June 2003, every licensee shall pay every month to the Government in the prescribed manner a tax on the electricity captively consumed during the previous month at the rate of 10 paise per unit.

As per Section 9 of the Act, if no return is submitted by a licensee or if the return submitted is incomplete or incorrect, the Electrical Inspector assess to the best of his judgement the amount of electricity tax payable under the Act by such licensee or person.

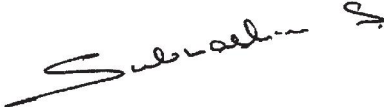
As per Section 9(3) of the Act, no assessment shall be made after the expiry of four years.

We observed during test check of records in the office of the Electrical Inspector, Salem (January 2011), that M/s Madras Aluminium Company Ltd., a licensee having captive power generating plants (CPP) did not pay tax on 210.37 crore units of electricity generated and captively consumed during the years 2005-06 to 2007-08. The Department also failed to raise the demand and collect the electricity tax due. This resulted in non-collection of electricity tax of ₹ 21.03 crore.

After we pointed this out (January 2011), the Department replied (February, 2012) that demand notice for ₹ 21.04 crore was issued in March 2011 and the party had filed writ petition against the demand and obtained stay order from the Hon'ble High Court of Chennai for the collection of tax. It is pertinent to mention that though the assessments were made for all the years i.e., from 2005-06 to 2007-08 in March 2011, the assessment made for the year 2005-06 is against the provisions of the Act as no assessment could be made after the expiry of four years. We are awaiting further report (December 2012).

We reported the matter to the Government (March 2012) and are awaiting their reply (December 2012).

Chennai
Dated 25 Feb 2013


(SUBHASHINI SRINIVASAN)
Principal Accountant General
(Economic and Revenue Sector Audit)
Tamil Nadu

Countersigned

New Delhi
Dated 26 Feb 2013


(VINOD RAI)
Comptroller and Auditor General of India