

## CHAPTER-IV

### EXECUTIVE SUMMARY

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#### Results of audit

Test check of records in the offices of Commissioner of Transport, Regional Transport Offices and Assistant Regional Transport offices in the State during the year 2012-14 revealed under assessment of tax and other irregularities involving ₹ 37.17 crore in 115 cases.

During the course of the year, the Department accepted and recovered underassessment and other irregularities of ₹ 3.13 crore in three cases.

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#### What we have highlighted in this Chapter

Operators of 2,369 omnibuses/maxi cabs/staff buses/school buses, who kept their vehicles for use exclusively as contract carriage and 1,999 vehicles used for transport of goods, had neither paid tax nor filed non-use declarations for various periods between 2008-09 and 2012-13. This resulted in non-realisation of motor vehicles tax of ₹ 24.61 crore including interest of ₹ 1.92 crore and penalty of ₹ 2.34 crore.

The fleet owner Ahmedabad Municipal Transport Services (AMTS) has delayed payment of passenger tax for their CNG/Diesel buses that ranged between five and 281 days. Taxation authority had not demanded interest and penalty for the late payment. This has resulted in non-levy of interest of ₹ 3.30 lakh and penalty of ₹ 68.92 lakh. Total non-levy of interest and penalty worked out to ₹ 72.22 lakh.

In two cases, tax was recovered only on cost of vehicle of ₹ 1.63 crore and Central Sales Tax of ₹ 20.38 lakh paid was not taken into consideration for the purpose of levy of tax. This resulted in short levy of lump-sum tax of ₹ 3.21 lakh including interest and penalty.

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## CHAPTER-IV TAXES ON VEHICLES

### 4.1 Tax administration

The Commissioner of Transport (CoT) heads the Gujarat Motor Vehicle Department (GMVD) under the administrative control of the Principal Secretary to the Government of Gujarat in the Ports and Transport Department. He is assisted by a Joint Director and two Officer on Special Duty (OSDs) specialising in Enforcement, Administration and Finance in the Head office. There are 14 Regional Transport Offices (RTOs), 12 Assistant Regional Transport Offices (ARTOs) and two Inspector Motor Vehicle Offices (MVI). There are 13 check posts<sup>1</sup> working under nine RTOs.

### 4.2 Results of audit

Test check of records in the offices of the Commissioner of Transport, Regional Transport and Assistant Regional Transport Offices in the State during the year 2012-14 revealed under assessment of tax and other irregularities involving ₹ 37.17 crore in 115 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Non/short levy of motor vehicle tax	69	30.55
2	Other irregularities	41	5.90
3	Passenger Tax/MVT & Expenditure audit para	5	0.72
	<b>Total</b>	<b>115</b>	<b>37.17</b>

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 3.13 crore in three cases.

A few illustrative audit observations involving ₹ 25.93 crore are mentioned in the succeeding paragraphs.

### 4.3 Non-realisation of motor vehicle tax on transport vehicles

The Gujarat Motor Vehicle Tax (GMVT) Act, 1958 prescribes that owners of contract carriage and goods carriage vehicles are required to pay assessed tax on monthly/half yearly/yearly basis respectively except for the period where the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month and if the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable. Section 12 of the Act *ibid* authorises the Department to recover unpaid tax as arrears of land revenue. Section 12 B empowers the

<sup>1</sup> Ambaji, Amirgadh, Bhilad, Chhota Udepur, Dahod, Gundari-Thavar, Jamnagar, Samkhiyali, Shamlaji, Songadh, Tharad, Waghajai and Zalod

Department to detain and keep in custody of the vehicles of those owners who defaulted in payment of Government dues.

During test check of the Demand and Collection Registers of 12 taxation authorities<sup>2</sup> between April 2012 and March 2014, we noticed that operators of 2,369 omni buses/maxi cabs/staff buses/school buses, who kept their vehicles for use exclusively as contract carriage and 1,999 vehicles used for transport of goods, had neither paid tax nor filed non-use declarations for various periods between 2008-09 and 2012-13. There was no proper monitoring system to trace such vehicles in default. The Departmental officials failed to issue demand notices and take recovery action prescribed in the Act which is indicative of the existence of weak internal control system in the Department. The Department neither invoked provisions of Section 12 nor took action under Section 12B. This resulted in non-realisation of motor vehicles tax of ₹ 24.61 crore including interest of ₹ 1.92 crore and penalty of ₹ 2.34 crore.

After this was pointed out in May 2013 and July 2014, the Department accepted (October 2014) the entire amount and reported recovery of ₹ 3.06 crore in 688 cases. In remaining cases, particulars of recovery had not been received (November 2014).

#### **4.4 Non-levy of interest and penalty on belated payment of passenger tax from AMTS**

Section 3 of the Gujarat Motor Vehicles (Taxation of Passengers) Act, 1958 and rules made there under provide for levy of tax on all passengers carried by a stage carriage at prescribed rate from the fleet owners. The Act also provides for levy of interest and penalty not exceeding 25 per cent on delayed payments of unpaid tax.

During test check of the records of Commissioner of Transport, Gandhinagar in September 2013 for the period 2011-12 to 2012-13, we noticed that the fleet owner AMTS<sup>3</sup> had delayed payment of passenger tax for their CNG/Diesel buses. The delay ranged between five and 281 days. Taxation authority had not demanded interest and penalty for the late payment. This has resulted in non-levy of interest of ₹ 3.30 lakh and penalty of ₹ 68.92 lakh. Total non-levy of interest and penalty worked out to ₹ 72.22 lakh.

After this was pointed out to the Department in July 2014, the Department accepted (October 2014) audit observation and had issued demand notice. Further, the details of recovery had not been received (November 2014).

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<sup>2</sup> Ahmedabad, Bhavnagar, Bhuj, Gandhinagar, Himatnagar, Mehsana, Patan, Rajkot, Surat, Surendranagar, Vadodara and Valsad

<sup>3</sup> Ahmedabad Municipal Transport Service

#### 4.5 Non-recovery of motor vehicles tax on non-transport vehicles

Section 3 and 4 of the Gujarat Motor Vehicle Tax Act, 1958 require owners of non-transport vehicles (cranes, compressors, rigs, excavators and loaders etc) to pay tax six monthly/annually in advance except for the period during which the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month and if the delay exceeds one month, penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable. Further, Section 12 of the Act *ibid* authorises the Department to recover unpaid tax as arrears of land revenue. Section 12B empowers the Department to detain and keep in custody of the vehicles of those owners who defaulted in payment of Government dues.

During test check of the records of six taxation authorities<sup>4</sup> between April 2012 and January 2014 we noticed that owners of 228 non-transport vehicles who used or kept for use their vehicles in the State had neither paid tax nor filed non-use declarations for the various periods between 2009-10 and 2012-13. The Departmental officials did not issue demand notices and initiate recovery action as contemplated in the Act. The Department also failed to invoke provisions of Section 12 and 12B of the Act. This resulted in non-realisation of motor vehicles tax of ₹ 34.66 lakh including interest of ₹ 5.02 lakh and penalty of ₹ 4.55 lakh.

After this was pointed out in May 2013 and July 2014, the Department accepted (October 2014) the entire amount and reported recovery of ₹ 6.21 lakh in 41 cases. In remaining cases, particulars of recovery had not been received (November 2014).

#### 4.6 Non-ascertaining of mailing address

As per Rule 47 of Central Motor Vehicles Rules, 1989, an application for registration shall be accompanied by proof of address by way of any one of the documents referred to in Rule 4. As per Rule 75, each State Government shall maintain a State Register of motor vehicles in respect of motor vehicles registered in the State in Form 41 which *inter alia*, includes name and full address of the registered owner of the vehicle. The GMVT Act requires RTOs to issue Revenue Recovery Certificate (RRC) against defaulters after one month of non-payment of MVT. Several instances were noticed in which RRCs were issued after the prescribed time limit and often with improper mailing address. Before issuance of certificate of registration, RTO has to verify evidence of address from one of the documents specified in CMV Rules, 1989.

During test check of the records of two taxation authorities<sup>5</sup> between August 2012 and November 2013 for the period 2011-12 and 2012-13, we noticed that in 40 cases, the demand notices issued to vehicle owners for recovery of outstanding dues were returned due to incorrect address of vehicle owners. Failure on the part of the Department in ascertaining the correct address of the

<sup>4</sup> Bhuj, Himatnagar, Palanpur, Patan, Rajkot and Surendranagar

<sup>5</sup> Palanpur and Vadodara

vehicle owner at the time of registration resulted in non-recovery of MVT of ₹ 12.87 lakh including interest and penalty.

After this was pointed out in May 2013 and July 2014, the Department accepted (October 2014) audit observations in six cases and reported recovery of ₹ 1.40 lakh. In remaining cases, the Department stated effort would be made in ascertaining the correct mailing address of the vehicle owners.

#### **4.7 Short levy of lump-sum tax**

As per the Circular of April 2007 issued by Commissioner of Transport under Section 3 and 4 of the GMVT Act, 1958, six *per cent* of sales value is payable as tax on registration of indigenous four wheeled vehicles by individuals, local authorities, universities, educational and social institutions and for others the rate is double. The Circular also stipulated for inclusion of other taxes but exclusion of VAT while arriving at sales price for levying lump-sum tax. Further, as per clarification of Office of Commissioner of Transport's Circular dated 05.07.2011, the Central Sales Tax (CST) is to be included in the value of the cost of vehicle for the purpose of calculation of MVT.

During test check of the registration records of two taxation authorities<sup>6</sup>, between April 2012 and August 2012, for the period 2010-11 and 2011-12, we noticed short levy of lump-sum tax of ₹ 11.63 lakh including interest of ₹ 1.48 lakh and penalty of ₹ 1.78 lakh. These are mentioned in the following paragraphs:

In two cases, tax was recovered only on cost of vehicle of ₹ 1.63 crore and Central Sales Tax of ₹ 20.38 lakh paid was not taken into consideration for the purpose of levy of tax. This resulted in short levy of lump-sum tax of ₹ 3.21 lakh including interest and penalty.

In one case of imported vehicle (Range Rover 4.4 TDV8 Diesel) valued at ₹ 98.77 lakh, tax was levied at normal rates at the rate of 6 *per cent* instead of 12 *per cent* as applicable to an imported vehicle. This resulted in short levy of lump-sum tax of ₹ 8.42 lakh including interest and penalty.

This was pointed out to the Department in May 2013 and July 2014. The Department had accepted (October 2014) the audit observations and issued demand notices. Further, particulars of recovery had not been received (November 2014).

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<sup>6</sup> Bhuj and Vadodara

## CHAPTER-V

### EXECUTIVE SUMMARY

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#### **Results of audit**

Test check of records in the offices of the Additional Superintendent of Stamps and Sub Registrars in the State during the year 2013-14 revealed short realisation of stamp duty and registration fees and other irregularities involving ₹ 103.94 crore in 363 cases.

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 1.04 crore in 42 cases, of which two cases involving ₹ 3.57 lakh was pointed out in audit during the year 2013-14 and rest in earlier years.

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#### **What we have highlighted in this Chapter**

In 21 instruments, consideration aggregating to ₹ 299.99 crore was either paid in advance or partly paid/agreed to be paid by the developers to the land owners. Besides, the land owners had also given irrevocable powers of attorney to the developers for sale/transfer of the land. These instruments were required to be stamped at the rates applicable to the conveyance deeds instead of one *per cent*. This resulted in short levy of stamp duty and registration fees of ₹ 14.70 crore.

In one case, it was noticed that developer had been given absolute rights by the owner to dispose off the property, receive the money and transfer the same to prospective buyers. It was required to be stamped at conveyance rates but the assessing authority incorrectly stamped it at the rates applicable to development agreement. This resulted in short levy of stamp duty and registration fees of ₹ 1.67 crore.

In 10 instruments, 23 owners had in addition to development agreement executed powers of attorney with the developers authorising them to sign and execute the document of conveyance in the capacities as seller as well as developers. The developers had themselves sold the property but the instruments were stamped at the rates applicable to development agreement. This resulted in short levy of stamp duty and registration fees of ₹ 1.84 crore.

In 56 instruments, the recitals revealed that in addition to development agreement the powers of conveyance of the properties were given to the developers without charging any stamp duty. This resulted in short levy of stamp duty and registration fees of ₹ 4.96 crore.

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There was no uniformity in charging of registration fees by the registering authorities on the instruments of development agreements in the absence of clear provision/direction.

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