

**CHAPTER III**  
**COMPLIANCE AUDIT**  
**(URBAN LOCAL BODIES)**

## CHAPTER III

### COMPLIANCE AUDIT

Compliance Audit of Municipal Administration and Water Supply Department, Housing and Urban Development Department, Corporation of Chennai, Tiruppur City Municipal Corporation and Chennai Metropolitan Development Authority brought out instances of lapses in management of resources and failures in the observance of the norms of regularity, propriety and economy. These have been presented in the succeeding paragraphs.

#### MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT

##### 3.1 Levy and collection of Tax and Non-tax revenue in Tiruppur City Municipal Corporation

###### 3.1.1 Introduction

Tiruppur Municipality was constituted in 1917 and upgraded as Tiruppur City Municipal Corporation (TCMC) with effect from 01 January 2008. TCMC limit was extended in October 2011 by adding two adjacent Grade III Municipalities and eight Village Panchayats covering an area of 159.35 square kilometres. The entire TCMC area with a total population of 8.78 lakh is divided into four zones and the zones are further divided into 60 wards. As per Tiruppur City Municipal Corporation Act, 2008, all provisions of the Coimbatore City Municipal Corporation Act, 1981 (CCMC Act) including provisions relating to levy and collection of any tax or fee are extended to TCMC.

###### 3.1.2 Organisational set up

Secretary, Municipal Administration and Water Supply (MAWS) Department is the overall head at the Government level. Commissioner of Municipal Administration (CMA) is the head of the Department. TCMC is headed by a Commissioner who is the executive head for implementing all functions of the Corporation in accordance with the resolutions passed by the TCMC Council. Assistant Commissioner (Revenue) who is the head of the Revenue section is responsible for levy and collection of Tax and Non-tax revenues.

###### 3.1.3 Scope of Audit and Audit objectives

Audit of levy and collection of Tax<sup>1</sup> and Non-tax<sup>2</sup> revenue was conducted in all four zones in TCMC during August and September 2013 by test-check of records relating to the period 2010-13. Out of 11,396 assessments,

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<sup>1</sup> Tax Revenue includes Property Tax, Vacant Land Tax, Profession Tax and Advertisement Tax

<sup>2</sup> Non-tax revenue comprises (i) lease of land, markets, pay and use toilets, shops, vehicle parking stands, bus stand entry fees and slaughter house; (ii) water and sewerage user charges and (iii) annual track rent

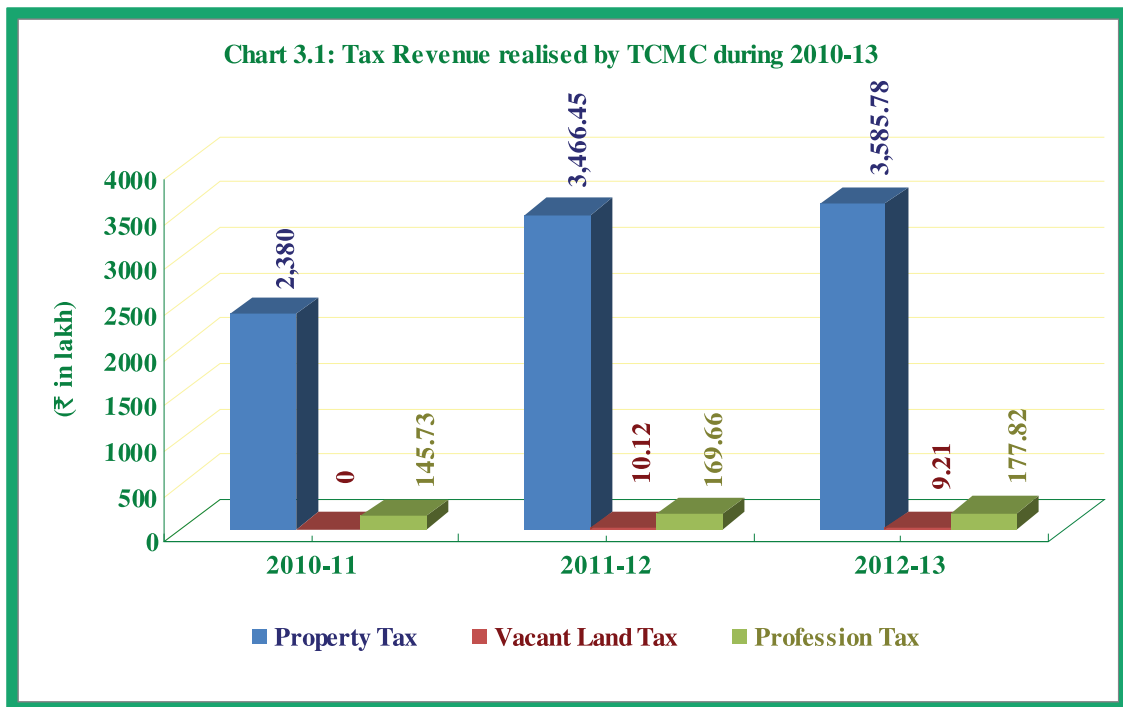
252 assessments (163 residential, 67 commercial and 22 industrial) were randomly selected and test-checked. As regards Profession Tax and Vacant Land Tax (VLT), TCMC had not raised demand but had accepted the payment as paid by the deductors/assesseees. All 695 Non-tax items as per Demand, Collection and Balance (DCB) statement for the period 2010-13 were checked to assess whether there is a proper system for assessment and collection of taxes and Non-taxes, whether the taxes are levied as per the orders and rules and accounted for correctly. Results of audit are presented in the succeeding paragraphs.

**Audit findings**

**3.1.4 Collection of Tax revenue**

Main components of tax revenue are Property Tax (PT), VLT and Profession Tax. PT was assessed based on the self assessment details furnished by the assessee and collected for all buildings and lands every half year<sup>3</sup>. PT and VLT have to be paid by the assessee within 15 days after the commencement of every half year. Profession Tax has to be recovered from the pay bill of the employees by the Drawing and Disbursing Officers of the offices concerned once in six months at the rate fixed by the Council and remitted before 15<sup>th</sup> September and 15<sup>th</sup> February of every year.

Details of tax revenue realised by TCMC during the years 2010-11, 2011-12 and 2012-13 are given in **Chart 3.1**.



(Source: DCB statement furnished by TCMC)

<sup>3</sup> First half year - 01 April to 30 September; Second half year - 01 October to 31 March

Total tax revenue for the years 2010-11, 2011-12 and 2012-13 was ₹ 2,525.73 lakh, ₹ 3,646.23 lakh and ₹ 3,772.81 lakh respectively. There was an increase of 44 *per cent* in the collection of tax revenue during the year 2011-12 compared to the previous year 2010-11. The increase was mainly due to merger of two Municipalities and eight Village Panchayats with TCMC in October 2011.

### **3.1.5 Property tax**

PT is a major source of Tax revenue. As per Section 121 of CCMC Act, PT should be levied on all buildings and lands within the city at such percentage of the annual value of buildings or lands which are occupied by or adjacent and appurtenant to buildings or both. Further, as per Section 122 of CCMC Act, every building should be assessed for PT together with its site and other adjacent premises occupied as appurtenance thereto, unless the owner of the building is a different person from the owner of such site or premises. TCMC assessed, levied and collected PT on buildings and lands within its jurisdiction under Sections 121 and 122 of CCMC Act.

#### **3.1.5.1 *Lack of coordination between Town Planning section and Revenue section***

CCMC Act provides that construction or re-construction of a building should be completed within two years from the date on which permission was given for construction or re-construction. As per Article 342A of Municipal Manual Volume-I, there should be coordination between Town Planning section and Revenue section in Urban Local Bodies (ULBs) to ensure that the PT is assessed without omission. Two check registers, one in Revenue section and the other in Town Planning section were to be maintained. These registers should be scrutinised by the Commissioner once a month. CMA's circular issued in March 2006 also reiterated adherence to the guidelines given in Municipal Manual Volume-I to ensure that there would not be any omission in the assessment of buildings due to lack of coordination between Town Planning section and Revenue section.

Test check of records of Town Planning section and Revenue section relating to the period 2008-11 revealed that details regarding completion of building or issue of fresh licence for buildings which were not completed within two years from the date of initial approval were not entered in the register (MF 146-A) maintained by Town Planning section and Tax Revision Register (MF 12 – III) maintained in the Revenue section did not contain details such as plan approval number, completion reports etc., even though columns were provided for in both the registers. Details of assessments made by Revenue section were not furnished to the Town Planning section and details of building licences issued by Town Planning section were not furnished to Revenue section as provided in the Manual. This indicated that there was lack of coordination between these sections on the vital issue involving revenue of TCMC. The registers maintained by both the sections were also not subjected to periodical scrutiny by the Commissioner.

PT assessments were being made based on details furnished by applicant in the application and there was no evidence of verification of details furnished by the applicant. Details of building licence issued by Town Planning section

were not available in Revenue section. Similarly, details of assessment of PT made by Revenue section were not available in Town Planning section. Therefore, details furnished by the applicant for assessment of tax could not be verified by Revenue section and unauthorised constructions could not be watched by Town Planning section. Short levy and collection of PT due to lack of coordination between these two sections and non-verification of completion are given in succeeding paragraphs.

**3.1.5.2 Short levy of Property Tax**

PT assessments were being made based on the details furnished by applicant in the application for assessment of tax. Cross verification of building plan approvals and tax assessment records by Audit revealed that in 12 out of 67 test-checked assessments for commercial properties, assessments were made without considering actual area constructed in Zones III and IV. Instead, assessments were made for lesser areas than the actual construction area based on details furnished by the assesseees without verifying details, which resulted in short collection of PT of ₹ 71.27 lakh in 12 cases for the period from the second half year of 2010-11 to the first half year of 2013-14 as detailed in **Table 3.1**.

**Table 3.1: Details of PT leviable, collected and short collection**

Sl. No.	Assessment Numbers	Area as per construction (in sq.ft.)	Area assessed for PT (in sq.ft.)	PT leviable per half year (in ₹)	PT collected per half year (in ₹)	Short collection of PT per half year (in ₹)	No. of half years	Total short collection of PT as of 2013-14 (I half year) (in ₹)
1.	63979 63980 63981 63982 63983 63984	81,096	11,000	11,02,460	1,49,540	9,52,920	6	57,17,520
2.	11711 11712 11713	50,494	18,600	2,74,940	1,01,277	1,73,663	5	8,68,315
3.	62002 62004 62005	13,300	6,550	1,79,317	89,044	90,273	6	5,41,638
<b>12</b>								<b>71,27,473</b>

When incorrect assessments and consequent short collections were brought to notice, Commissioner of TCMC accepted the defects in assessments and attributed (September 2013) them to incorrect data entry and oversight. In respect of Sl.No. 2 mentioned in **Table 3.1**, the Commissioner stated that assessment was made by the erstwhile Nallur Municipality which was merged with the TCMC. In respect of all the three cases, he further replied that revised demands would be raised after measuring the buildings concerned.

### 3.1.5.3 Short levy of PT due to non-verification of unauthorised construction

As per Section 282 of CCMC Act, if the Commissioner finds that the work is otherwise than in accordance with the plans or specifications which have been approved, or contravenes any of the provisions of the Act, or any rule, by-law, order or declaration made under the Act, he may by notice require the owner of the building, within a period stated, either to make such alterations as may be specified in the said notice with the object of bringing the work in conformity with the said plans, specifications or provisions or to show cause why such alterations should not be made. If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice. Further, Government ordered (November 2000) levy of PT for unauthorised buildings. As per the approved (April 2004) building plan, one assessee was permitted to construct a building at 162, Kumaran Road, Tiruppur, with ground floor and first floor measuring each 483 sq.ft. Audit scrutiny of files maintained in Revenue section revealed that the assessee had constructed additional area/floors without approval from Local Planning Authority (LPA), Tiruppur. However, three assessments for a total area of 4,600 sq.ft. were made (April 2007) by TCMC and PT of ₹ 31,691 per half year was levied with effect from April 2007.

The LPA issued (October 2007) a notice seeking explanation from the assessee for the unauthorised construction and directed him to demolish unauthorised construction and bring the building to its original condition. The assessee then submitted (December 2007) a revised plan for construction area of 13,221 sq.ft for approval of LPA through TCMC, which was pending approval at Directorate of Town and Country Planning (December 2013).

Scrutiny of the inspection note (December 2007) of the Town Planning Inspector revealed that the assessee had unauthorisedly constructed (April 2007) cellar plus four floors deviating from the building plan approved in April 2004. Thus, failure of the Commissioner to verify details furnished by the assessee with reference to actual construction and take action as per the Act and levy PT for unauthorised construction led to underassessment. PT assessable as per actual constructed area worked out to ₹ 1.70 lakh per half year for 2007-08 and ₹ 1.79 lakh from 2008-09 onwards. The resultant short collection of PT was ₹ 18.78 lakh as detailed in **Appendix 3.1**. On this being pointed out, Commissioner of TCMC stated (September 2013) that PT would be revised based on revised plan and difference would be collected from the assessee.

### 3.1.6 Vacant Land Tax

Section 121 (4) (a) of the CCMC Act provides for the levy of PT on vacant lands which are not used exclusively for agricultural purposes and are not occupied by, or adjacent or appurtenant to, buildings having regard to its location and subject to the minimum and maximum rates per square foot as may be prescribed by the State Government. Government of Tamil Nadu (GoTN) notified (August 2009) minimum and maximum rates of PT leviable on vacant land for three different grades of ULBs with effect from

01 September 2009. Accordingly, TCMC resolved (November 2009) to collect VLT at the revised rates as given in **Table 3.2**.

**Table 3.2: Rates of Vacant Land Tax**

Sl. No.	Location of the vacant land	Tax (in ₹ per square foot)
1.	Streets in residential area	0.20
2.	Main roads and bus roads other than those which lead to arterial road	0.30
3.	Arterial roads and bus route roads which lead to arterial road	0.40

### **3.1.6.1 Deficiencies in the system of collection of Vacant Land Tax**

Details of demand raised and collection made towards VLT during 2011-13 are given in **Table 3.3**. During 2010-11, VLT was not shown separately in the DCB statement but was included in PT statement.

**Table 3.3: Details of demand, collection and balance of VLT during 2011-13**

(₹ in lakh)

Year	Demand raised		Collection made		Closing balance		Percentage of collection	
	Arrears	Current	Arrears	Current	Arrears	Current	Arrears	Current
2011-12	16.42	5.02	6.81	3.31	9.61	1.71	41.47	65.93
2012-13	23.67	5.02	5.56	3.65	18.11	1.37	23.49	72.71

(Source: DCB statement furnished by TCMC)

(i) Percentage of collection of arrear demand during the years 2011-12 and 2012-13 was 41.47 and 23.49 respectively. When reasons for poor collection efficiency were called for (September 2013), Commissioner of TCMC attributed (September 2013) the shortfall to demands inadvertently raised for the vacant lands in which buildings were already constructed. He further stated that Revenue Inspectors had been instructed to verify details with Town Planning Section and rectify the defects in DCB statement.

(ii) As per Section 126 of CCMC Act, VLT shall be levied every half year and be paid by the assessee within 15 days after commencement of the half year. It was observed that the VLT was assessed and collected only when the individual applied for assessment of PT and hence no separate system for assessment and collection of VLT existed in TCMC. Besides, Audit scrutiny revealed that a demand of ₹ 5.02 lakh each was raised against 2,071 and 2,577 assessments during 2011-12 and 2012-13 respectively. This indicated that the system of preparation of demands lacked accuracy. When this was pointed out (September 2013), Commissioner of TCMC replied that incorrect raising of demand during 2012-13 would be rechecked and correct demand raised.

### **3.1.6.2 Non-conduct of survey**

The guidelines issued (September 2009) by CMA for effective and efficient implementation of new system of assessment of PT on vacant lands in Municipal Corporations and Municipalities insisted on conducting a quick

survey of vacant lands in the entire Corporation area to assess ward-wise, survey number-wise details of extent of vacant lands (assessed and not assessed) and preparation of a computerised master list of such vacant lands with complete details. Audit scrutiny revealed (September 2013) that no survey was conducted by TCMC to assess extent of vacant lands. On this being pointed out, Commissioner of TCMC stated (September 2013) that no survey has been conducted for identification of vacant lands in the Corporation area.

### **3.1.6.3 Non-updation of records**

CMA instructed (September 2009) that in order to update the records of VLT assessments after completion of general revision, all registrations of properties happening after 01 September 2009 should be watched closely through receipt of 'M' Notices from Registration Department. For this purpose, an employee of the Municipal Corporation should be deputed regularly to Registration Department to note down changes including address of purchaser to update the Corporation records.

Audit scrutiny revealed that no such exercise was conducted by TCMC. On this being pointed out, Commissioner of TCMC replied (September 2013) that due to shortage of manpower, the above exercise could not be conducted and the needful would be done.

### **3.1.7 Profession Tax**

CCMC Act provides for levy of tax on profession, trade, calling and employment. The employer should deduct and pay the tax on behalf of employees and every employer liable to pay tax should file a return to the Commissioner showing salaries paid by him to the employees and amount of tax deducted by him in respect of such employees. In case any employer fails to file a return or the return filed by him appears to be incorrect, the Commissioner, after giving reasonable opportunity to the employer, should determine the tax, assess the employer and issue a notice of demand for tax so assessed.

#### **3.1.7.1 Deficiencies in collection of Profession Tax**

Demand, collection and balance in respect of Profession Tax during 2010-13 are as given in **Table 3.4**.

**Table 3.4: Details of demand, collection and balance of Profession Tax**

(₹ in lakh)

Year	Demand raised		Collection made		Closing balance		Percentage of collection	
	Arrears	Current	Arrears	Current	Arrears	Current	Arrears	Current
2010-11	219.79	135.63	33.91	104.54	185.88	31.09	15.43	77.08
2011-12	160.93	176.00	32.10	137.56	128.83	38.44	19.95	78.16
2012-13	167.27	177.00	25.37	152.45	141.90	24.55	15.17	86.13

(Source: DCB statement furnished by TCMC)



Percentage of arrear collection ranged between 15.17 and 19.95 during the period 2010-13. It was noticed from the records produced to Audit that no action was taken by the TCMC by way of issuing notices as per Section 169 E (2) of the CCMC Act for collection of arrears from the employers. Failure of TCMC to take action as per the CCMC Act resulted in arrears of ₹ 166.45 lakh in Profession Tax as of 31 March 2013. In reply, Commissioner of TCMC stated (September 2013) that Revenue Inspectors were instructed to issue notices to concerned organisations to remit arrears of Profession Tax.

### **3.1.8 Advertisement Tax**

#### *Non-receipt of Advertisement Tax due to TCMC*

As per Rule 19 of Tamil Nadu ULBs Licensing of Hoardings and Levy and Collection of Advertisement Tax Rules, 2003 (Advertisement Tax Rules) and amendments issued in December 2008, the District Collector should levy and collect every half year advertisement tax and arrange to remit 100 *per cent* of the tax collected on the advertisements made on the hoardings permitted in the municipal area to Personal Deposit account of the ULB concerned in the District Treasury or Sub-Treasury, as the case may be, once in a year between April and June of the succeeding year.

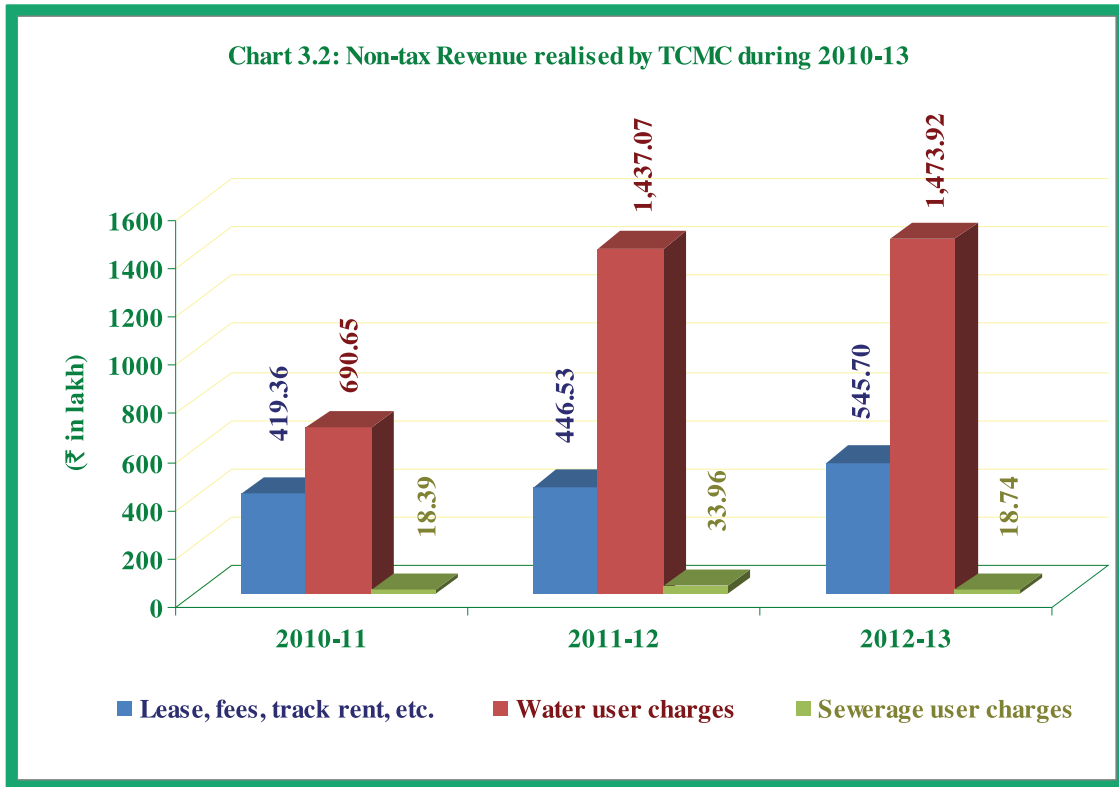
Scrutiny of records, however, revealed that the TCMC had not received any amount towards advertisement tax from the District Collector so far and TCMC did not maintain any record for recording details of issue of 'No Objection Certificate' for the hoardings erected in the TCMC limits. Failure of the Commissioner, TCMC to take up the matter with the District Collector resulted in non-realisation of revenue of TCMC towards advertisement tax. When this was brought (September 2013) to notice of the Commissioner, he stated (October 2013) that the District Collector had been addressed in this regard and the reply was awaited.

### **3.1.9 Levy and collection of Non-tax Revenue**

Following are the Non-tax revenues of TCMC:

- i) Lease of land, markets, pay and use toilets, shops, vehicle parking stands, bus stand entry fees, slaughter houses, etc.
- ii) Water and sewerage user charges
- iii) Annual track rent

Details of Non-tax revenue realised by TCMC during the period 2010-13 are given in **Chart 3.2**.



(Source : DCB statement furnished by TCMC)

Total Non-tax revenue for the years 2010-11, 2011-12 and 2012-13 was ₹ 1,128.40 lakh, ₹ 1,917.56 lakh and ₹ 2,038.36 lakh respectively. There was an increase of 70 per cent in the collection of Non-tax revenue during the year 2011-12 compared to the previous year 2010-11. The increase was mainly due to merger of two Municipalities and eight Village Panchayats with TCMC in October 2011.

Scrutiny of records relating to Non-tax revenue revealed following deficiencies:

### 3.1.9.1 Lease rent and fees

#### (i) Non-recovery of lease rent from Public Private Partnership

Two pieces of land of TCMC measuring 14.892 acres and 13.77 acres were leased out (August 2002 and August 2007) to New Tiruppur Area Development Corporation Limited (NTADCL), a partner in Public Private Partnership arrangement, for implementing Tiruppur Water Supply and Sanitation Project at a lease rent of ₹ 4.44 lakh per annum and ₹ 4.11 lakh per annum respectively. The lease rent totalling to ₹ 73.48 lakh for the period from August 2002 to August 2013 had not been collected from NTADCL as of August 2013.

In reply, Commissioner of TCMC stated (September 2013) that lease rent was yet to be realised from NTADCL and action would be taken to collect the amount.

**(ii) Loss of revenue due to non-renewal of recognition of new bus stand**

Lease to collect entry fees for buses at the new bus stand was given (March 2010) to a contractor for ₹ 8.02 lakh per annum for 2010-11, renewable for a further period of two years, with an annual increase of five per cent in the lease amount.

The Regional Transport Authority (RTA), Tiruppur (North) Region renewed (June 2011) the recognition of the Tiruppur bus stand as 'A' class for a period of one year from 20 May 2011 to 19 May 2012. TCMC applied (March 2012) to RTA for renewal of recognition of bus stand for three years from 20 May 2012 to 19 May 2015. After an inspection (May 2012), RTA pointed out deficiencies in the bus stand to be rectified for issue of renewal. TCMC rectified certain deficiencies in the bus stand pointed out by RTA and again sought (June 2012) for renewal of recognition of the bus stand. RTA again inspected (August 2012) the bus stand and pointed out certain deficiencies which were rectified by TCMC and intimated RTA in August 2013 and sought for renewal.

As the recognition of the bus stand was not renewed from 20 May 2012, the contractor was not able to collect bus entry fee and requested TCMC to refund deposit amount after deducting proportionate lease amount of ₹ 1.19 lakh. TCMC could not collect entry fee from 20 May 2012. Thus, failure of TCMC to renew recognition of bus stand resulted in revenue loss of ₹ 13.39 lakh as detailed in **Table 3.5**.

**Table 3.5: Loss of revenue due to delay in renewal of recognition of Bus Stand**

(in ₹)

<b>Annual lease amount for 2012-13</b>	<b>8,84,205</b>
<b>Less:</b> Lease amount for the period 01/04/2012 to 19/05/2012	1,18,701
Balance lease amount from 20/05/2012 to 31/03/2013	7,65,504
<b>Add :</b> Entry fees from 01/04/2013 to 31/08/2013 (250 buses x ₹ 15 per day x 153 days)	5,73,750
<b>Loss of revenue</b>	<b>13,39,254</b>

On this being pointed out, Commissioner of TCMC stated (September 2013) that all works had been completed and on receipt of renewal certificate from RTA, auction for lease for collection of entry fees would be conducted to avoid further loss of revenue. However, the fact remains that TCMC failed to maintain bus stand to renew the recognition which resulted in a revenue loss of ₹ 13.39 lakh.

**(iii) Non-levy of penal interest for belated payment of lease amount**

TCMC leased out shops, land, pay and use toilets etc., on yearly and monthly rental basis. Arrears of lease amount pending collection as of March 2012 was ₹ 1.57 crore for the period 1986-87 to 2010-11 (**Appendix 3.2**). Year-wise break up details of arrears at the end of March 2012 and March 2013 were not furnished to Audit.

Despite Government instructions (January 1994) to levy penal interest at the rate of 18 *per cent* per annum for the belated payment of lease rent, TCMC did not levy any penal interest on the arrear amounts. Non-levy of penal interest on the amounts due towards lease rent resulted in foregoing of revenue of ₹ 1.28 crore for the period from 1994-95 to 2010-11 as detailed in **Appendix 3.2**.

On this being pointed out, Commissioner of TCMC replied (September 2013) that the Corporation had not invoked penal clause on defaulters of Non-tax so far and henceforth penal interest at 18 *per cent* per annum for belated payment of lease amount would be levied and collected from the defaulters.

### **3.1.9.2 Water and sewerage user charges**

#### **(i) Review of demand statement for water charges**

A general review of demand statements of TCMC revealed that the computerised system of raising of demands contained certain major flaws as discussed below:

(a) It was noticed that abnormal meter readings and consequent abnormal demands were exhibited in the demand list and a few examples extracted for the years 2009-13 are listed in **Appendix 3.3**. The illustrative list includes demands like ₹ 357.83 crore, ₹ 572.40 crore, ₹ 212.99 crore and ₹ 128.94 crore based on those abnormal readings. This indicated that data entry of meter readings was inaccurate.

(b) It was noticed that in demand statements for the year 2012-13, demands were raised for the first quarter of 1970 which would not be correct. Raising of incorrect demands was due to error in the computerised programme and lack of validation control system. Illustrative cases are given in **Appendix 3.4**. In reply, Commissioner of TCMC stated (September 2013) that the computation of demands for water charges was carried out using computer programmes and that the entire meter reading data would be examined in detail and necessary rectification made.

#### **(ii) Loss of revenue due to incorrect calculation of demands**

As per by-law No. 9 (a) and 9 (b) of water supply by-laws of TCMC, water charges at a minimum charge of ₹ 150 per month shall be charged upto 10,000 litres for non-domestic commercial water connections. In addition, ₹ 10 shall be charged for every additional 1,000 litres of water and ₹ 4 for meter maintenance charges per month. There is no free water supply for non-domestic industrial/commercial water connections.

Scrutiny of demand statements for the period 2009-13 for water supply charges for non-domestic commercial water connections revealed that there were errors in demands raised by TCMC.

Minimum water charges to be charged for non-domestic commercial water connections was ₹ 462 (₹ 150 x 3 + ₹ 4 (meter maintenance charges) x 3) per quarter and water consumed in excess of 30 Kilolitres (KL) was chargeable at the rate of ₹ 10 per KL. However, instead of programming the water consumed as in excess of 30 KL, the same was incorrectly taken as in excess

of 36/45 KL which resulted in loss of revenue of ₹ 72.46 lakh<sup>4</sup> during 2009-13 as detailed in **Appendix 3.5**.

On this being pointed out, Commissioner of TCMC replied (September 2013) that the financial loss would have been on account of error in the programming and suitable instructions would be given to the persons concerned.

**(iii) Non-collection of revised deposit amount**

Deposits for existing House Service Connections (HSCs) for water supply were revised (March 2005) from ₹ 2,000 to ₹ 5,000 and ₹ 5,000 to ₹ 10,000 respectively for domestic and non-domestic users. There were 38,757 domestic and 4,781 non-domestic connections in existence at the time of revision and the anticipated deposit amount was ₹ 14.02 crore ((₹ 3,000 x 38,757) + (₹ 5,000 x 4,781)). However, the additional deposit amount was yet to be collected from 38,169 domestic and 4,669 non-domestic consumers resulting in non-realisation of difference in deposit amounts of ₹ 13.79 crore (38,169 x ₹ 3,000 + 4,669 x ₹ 5,000). Further, at the time of enhancing the deposit, the Council resolved (December 2004) to repay outstanding loan amount of ₹ 33.39 crore (Principal : ₹ 21.52 crore and interest : ₹ 11.87 crore) obtained for second water supply scheme out of the deposit so collected. However, this objective was not realised as TCMC failed to collect ₹ 13.79 crore from existing water supply HSC users.

On this being pointed out, Commissioner of TCMC stated (September 2013) that action would be taken to collect balance deposit amount from beneficiaries by serving demand notices.

**(iv) Non-levy and non-collection of additional surcharge on arrears amount**

As per Rule 51(5) of Rules framed under TCMC by-laws for Under Ground Drainage (UGD) Scheme published in Coimbatore District Gazette dated 12 May 2006, an additional surcharge of 18 *per cent* should be collected from the owners if service charges are not paid within 15 days of receipt of the notice from the Municipal Commissioner.

However, it was noticed that additional surcharge amounting to ₹ 5.31 lakh was not levied and collected from the users who had not paid the service charges amounting to ₹ 29.52 lakh during the period 2009-12.

On this being pointed out, Commissioner of TCMC stated (September 2013) that penal provision on defaulters was not invoked and action would be taken to levy penalty.

**(v) Non-levy and non-collection of annual rent from cable television operators**

As per the Cable Television Networks (Regulation) Act 1995, any person who is operating or is desirous of operating a cable television network may apply for registration as a cable operator to the registering authority. The Head Post Master of a Head Post Office of the area in whose territorial jurisdiction

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<sup>4</sup> Restricting the computation of revenue loss in respect of demands less than or equal to 60 KL per quarter, to eliminate abnormal readings discussed in sub paragraph 3.1.9.2(i)(a)

the office of the cable operator is situated, has been notified as the Registering Authority under the Act. As per the Tamil Nadu Municipalities Television Cable Installation Regulation Rules 2000, rent at the rate of ₹ 6,300 per annum per kilometre should be collected for installation of television cable for using the street light poles and for erecting additional poles.

TCMC had not levied and collected the track rent from the cable television operators till August 2013. It was noticed from the records of Head Post Office, Tiruppur that 1,396 new cable television operators had registered with the Post Office during the period 2010-13. However, the details of actual length of cable laid were not available. In the absence of actual length of cables laid, the loss of revenue could not be worked out by audit. TCMC maintained neither any record of the total number of cable television operators operating in their jurisdiction nor the length of cables laid by them for assessment.

On this being pointed out, Commissioner of TCMC stated (September 2013) that the details of cable television operators would be obtained from the Head Post Office and necessary track rent would be levied and collected from the cable television operators.

### 3.1.10 Conclusion

Existing procedure for assessment and collection of Property Tax, Vacant Land Tax and Profession Tax had certain shortcomings. Tiruppur City Municipal Corporation (TCMC) failed to levy and collect Non-tax revenues correctly as per the provisions of the Act/Rules/Orders and to collect arrears of both Tax and Non-tax revenues, which ultimately resulted in loss of revenue to TCMC.

The matter was referred to Government in November 2013; reply has not been received (February 2014).

## HOUSING AND URBAN DEVELOPMENT DEPARTMENT AND MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT

### 3.2 Alienation and utilisation of Open Space Reservation Land

#### 3.2.1 Introduction

Tamil Nadu Town and Country Planning Act, 1971 (TTCP Act) and Development Control Rules and Regulations framed under the Act stipulate reservation of 10 *per cent* of area (excluding area for roads) for community and recreational purposes in layouts or subdivisions for residential/commercial/industrial or combination of such uses exceeding 3,000 sq.m. and 2,500 sq.m. respectively for Chennai Metropolitan Area and other districts. Primary objective of Open Space Reservation (OSR) Land is to meet the community and recreational requirements. Directorate of Town and Country Planning (DTCP) and Chennai Metropolitan Development Authority (CMDA) are the regulating authorities for compliance with the provisions of the TTCP Act.

As per the procedure prescribed by the DTCP, on receipt of application for approval of layout in the prescribed format from the applicant, the local body, after scrutiny, would forward the application to the Regional Deputy Director of Town and Country Planning concerned in respect of areas other than Chennai Metropolitan Area and to CMDA in respect of Chennai Metropolitan Area. On receipt of layout proposals technically approved by the planning authority concerned i.e. DTCP or CMDA, the executive authority of the local body would direct the applicant to hand over the open spaces and roads, through a registered gift deed, after duly forming them. On completion of this process, the council of the local body concerned would grant the approval for the layout and the local bodies would take over the street and public purpose reservation in the approved layouts and maintain the same properly.

### **3.2.2 Scope of Audit and Audit objectives**

Audit on the compliance aspects of alienation and usage of OSR land in Chennai Metropolitan Area, Kancheepuram and Thiruvallur districts was taken up between March 2013 and July 2013 covering the period from 2007 to 2012 to assess (i) compliance with provisions of TTCP Act/Development Control Rules (DCR) by local bodies and CMDA, (ii) effective usage of OSR land and (iii) efficiency of local bodies/CMDA in employing OSR land as parks/playfields for use by public.

### **3.2.3 Audit methodology**

The sample OSR land in 10 zones of Corporation of Chennai were selected through stratified sampling from the layouts approved by CMDA during 2007-12 and all layouts approved during 2007-12 in eight Municipalities and 15 Town Panchayats in Kancheepuram and Thiruvallur districts respectively and old OSR items pending action by local bodies were also selected. An entry conference was conducted with Secretary to Government, Municipal Administration and Water Supply (MAWS) Department on 17 June 2013. Exit conference was held with Secretary to Government, MAWS Department on 24 January 2014. Results of audit are presented in the succeeding paragraphs.

### **Audit findings**

#### **3.2.4 Position of OSR land**

Overall position of OSR land approved during 2007-12 and also the old OSR items pending action in Corporation of Chennai/CMDA and the test-checked urban local bodies are given in **Appendix 3.6**. Details of OSR land not developed/maintained are given in **Appendix 3.7**.

Some important points noticed were:

- Out of 582 cases of OSR land test-checked, only 151 cases of OSR land (26 per cent) were developed as parks.
- Improper use of OSR land valuing ₹ 442.84 crore.
- Illegal occupation of OSR land valuing ₹ 21.20 crore.
- Unauthorised sale of OSR land valuing ₹ 3.80 crore.

### 3.2.5 Non-compliance with provisions of the TTCP Act

Despite existence of the procedures prescribed by the Directorate of Town and Country Planning for approval of layout/handing over of OSR land through a gift deed by the applicant to the local bodies, scrutiny of records and site visits by audit teams along with department officials revealed that the procedures were not scrupulously followed by the test-checked local bodies. Some of the instances of non-compliance are highlighted in the succeeding paragraphs.

#### 3.2.5.1 Non-receipt of gift deeds

(i) As per procedures prescribed by the DTCP, approval for the layouts would be given only after executing the gift deeds for the open spaces. Gift deeds for OSR land measuring 10,959 sq.m. in respect of seven layouts were not received by two Municipalities (two cases in Maduranthagam where approval was given for residential layout in 1994 and 2002 and in five cases in Thiruthani where approval was given for residential layout between 1980 and 2007). The two municipalities failed to get the gift deeds.

(ii) In respect of Thiruvallur and Thiruverkadu Municipalities, out of 61 and 51 cases respectively, gift deed details for 49 and 24 cases respectively were not available with the municipalities and hence the details of extent of OSR land to be transferred to the municipalities by the applicants could not be ascertained by Audit for these 73 cases.

#### 3.2.5.2 Unauthorised occupation in OSR land

As per DCR, CMDA reserves the right to enforce the maintenance of OSR land by the owner/developer to its satisfaction or order the owner/developer to transfer the said land to itself or to any local body designated by it, free of cost through a gift deed. Audit scrutiny of records and site visit by Audit along with department officials (July 2013) revealed that in Velacherry village of Adyar Zone of the Corporation of Chennai, OSR land measuring an extent of 4,379.82 sq.m. was gifted to the Corporation by the owner in 2001. However, the Corporation failed to initiate any action to demarcate the said OSR land and bring it under its control. As a result, 33 houses were built in the OSR land by private parties. When audit brought it to the notice of the Zonal authorities, they initiated action (July 2013) under Sections 56 and 57 of TTCP Act. Thus, OSR land valuing ₹ 21.20 crore<sup>5</sup> was under illegal occupation of private parties.

#### 3.2.5.3 Unauthorised sale of OSR land

As per Section 197 of the Tamil Nadu District Municipalities Act, 1920, municipality has to give planning permission for the construction of building in the approved layout as per approved plan. If the proposed building would be an encroachment upon government or municipal land, the building permission may be refused as per Section 203 of the Act.

Audit noticed that out of OSR land measuring an extent of 12,931.88 sq.m. pertaining to six approved layouts in Thiruvallur Municipality, an extent of 5,135.69 sq.m. was sold to 21 persons between 1986 and 2009 by the

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<sup>5</sup> 1 sq.m. = 10.76 sq.ft.; 4,379.82 sq.m x 10.76 x present guideline value of ₹ 4,500 per sq.ft.= ₹ 21.20 crore



promoters of the layouts. Of those 21 persons, eight persons obtained planning permission for construction of buildings from the Municipality and houses were constructed. Other 13 persons constructed houses without getting planning permission from the Municipality. However, the building permission was given in the land marked as OSR without following the procedure stipulated in the Act. Thus, OSR land to the extent of 5,135.69 sq.m. valuing ₹ 3.80 crore (calculated at the present guideline value) was sold in contravention of the provisions of TTCP Act.

#### ***3.2.5.4 Improper use of OSR land***

Primary objective of OSR land was to serve for community and recreational purposes in layouts or sub-divisions for residential or commercial or industrial or combination of such uses. However, on scrutiny of records and site visits by Audit along with departmental officials, it was noticed that in 21 cases (16 in Corporation of Chennai, four in three Municipalities and one in a Town Panchayat), OSR land measuring 68,427.67 sq.m. was used for dumping of debris, car parking, rest sheds for workers, stock yard etc. Thus, OSR land valued at ₹ 442.84 crore (calculated at the present guideline value) was improperly used in contravention of the Act.

#### ***3.2.5.5 Non-reservation and non-taking over of OSR land***

(i) DTCP is the regulating authority for compliance with the provisions of the TTCP Act. However, the Executive Officer of Uthukkottai Town Panchayat regularised (March 2001) an unapproved residential layout measuring an extent of 7.803 acres and 10 *per cent* reservation for OSR (excluding the area for roads) was not made.

(ii) As per DCR, OSR land should be transferred to the concerned local body. However, OSR land of 15,344.11 sq.m. relating to Avadi Municipality handed over to CMDA by the developers (while getting approval) through gift deeds, between 2003 and 2012 are yet to be transferred to the Municipality by CMDA for development and maintenance. On this being pointed out (April 2013), Commissioner of Avadi Municipality replied (April 2013) that after field verification of OSR land by the Revenue Department and on receipt of survey report, OSR land would be taken over for maintenance. Thus, the objective of serving the community/giving recreational facility to the public was not achieved.

#### ***3.2.5.6 Incorrect acceptance of alternate OSR land***

As per DCR, OSR land should be earmarked in the same layout. Mamallapuram Town Planning Authority approved (July 2009) construction of a private hotel to the extent of 36.46 acres in Mamallapuram Town Panchayat. OSR land measuring 3.95 acres (16,019 sq.m.) in Survey No.172/2, which was far away from the hotel site, was taken over (June 2009) by the Town Panchayat. However, in this case, OSR land was allocated outside the approved layout. When pointed out, Commissioner of Town and Country Planning accepted (February 2014) the fact and stated that the applicant had been requested to submit a revised proposal for getting revised technical clearance.

### 3.2.5.7 *Non-publication of lists of OSRs in the Government Gazette*

As per Section 3 of the Tamil Nadu Parks, Playfields and Open spaces (Preservation and Regulation) Act, 1959 (TPPO Act), executive authority of every local authority was to prepare and submit for the approval of the Government, a correct and complete list with plans and maps of the parks, playfields and open spaces within their jurisdiction. Such lists would be approved by the Government under Sections 4(1) to 4(3) of the TPPO Act and published in the Government Gazette. However, scrutiny of records of Corporation of Chennai and other test-checked ULBs (eight Municipalities and 15 Town Panchayats) revealed that no such lists were prepared by executive authorities of the local bodies and submitted to Government for publishing in the Government Gazette though 151 OSR cases had been developed as parks/playfields out of 582 cases reviewed.

### 3.2.5.8 *Non-transfer/Non-utilisation of Development charges and Open Space Regulation charges*

The Third State Finance Commission recommendation which was accepted (June 2010) by the Government of Tamil Nadu (GoTN) stipulated that 75 per cent of Development charges and Open Space Regulation charges collected by DTCP/CMDA were to be passed on to the respective local body without any condition. CMDA had instructed (October 2010) that Open Space Regulation charges should be utilised only for the specific purpose of provision of open spaces such as parks, playfields or improvement of existing ones and in case there was no such open space to maintain, the amount would be utilised for implementation of Detailed Development Plan/Master Plan with the approval of the Head of the Department concerned.

CMDA did not allot any funds to the Corporation of Chennai and had released ₹ 16.56 crore to four Municipalities (Avadi, Pallavaram, Tambaram and Thiruverkadu) between March 2011 and March 2013 and the four Municipalities did not incur any expenditure till date (May 2013). CMDA stated (July 2013) that it gave delegation of powers for issue of planning permission to Corporation of Chennai subject to the condition that the Development charges and Open Space Regulation charges collected at the time of issue of planning permission should be transferred to CMDA. CMDA further stated that Corporation of Chennai was requested to follow the new core banking system to make remittances directly to CMDA and Corporation of Chennai did not follow the core banking system and also did not furnish the year-wise details of Development charges collected so far (July 2013). CMDA further stated that no fund allotment was made to Corporation of Chennai for developing these OSR land pending realisation of Development charges due from Corporation of Chennai.

### 3.2.6 **Conclusion**

Primary objective of Open Space Reservation (OSR) land was to serve community and recreational purposes in layouts or sub-divisions for residential/commercial/industrial or combination of such uses. However, green spaces were found only in 151 cases (26 per cent) out of 582 cases test-checked. Local bodies could not develop parks/playfields in the balance 431 OSR land due to non-compliance with provisions of the Tamil Nadu Town

and Country Planning Act, 1971/Development Control Rules and system to receive, take over, develop and maintain the OSR land as parks/playfields as envisaged in the Act was found to be ineffective.

The matter was referred to Government in September 2013; reply has not been received (February 2014).

## **MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT**

### **3.3 Loss of revenue**

#### **CORPORATION OF CHENNAI**

##### **3.3.1 Loss of revenue due to short assessment of Property Tax**

**Failure to revise the property tax assessment in respect of a Hotel by Corporation of Chennai resulted in loss of revenue of ₹ 61 lakh.**

Under Section 99 of Chennai City Municipal Corporation Act, 1919 (Act) property tax should be levied on all buildings and lands within the city. As per Section 100 of the Act, resolution passed by the Council in August 2008 and the Government Order issued in April 1972, property tax for a private hotel (Hotel) within Corporation of Chennai (Corporation) limits was to be levied at 12.40 *per cent* of Annual Value<sup>6</sup> and the same has to be paid half yearly.

Scrutiny of records (March 2013) in the Zonal Office of the Corporation revealed that the Corporation levied ₹ 3.36 lakh as half yearly property tax from the second half of 1998-99. A comparison of records of assessment of property tax of the Hotel with the returns filed by the Hotel with the Commercial Taxes Department of Government of Tamil Nadu disclosed that the Corporation had adopted lower tariff ranging from ₹ 500 to ₹ 1,200 for arriving at the annual income for assessment of property tax, whereas tariff charged by the Hotel ranged from ₹ 3,000 to ₹ 7,500 for the period from April 2010 to March 2013. Corporation failed to revise the assessment in respect of the Hotel which resulted in loss of revenue of ₹ 61 lakh (excluding the property tax leviable for commercial areas like bars, shops, restaurants etc.) for the period 2010-11 to 2012-13.

At the instance of Audit, the Corporation raised (December 2013) demand for property tax at the revised rate. The Corporation further replied (February 2014) that an amount of ₹ 1.97 crore was to be recovered from the Hotel towards arrears of property tax for the period from the first half year of 2008-09 to the second half year of 2013-14. However, recovery details are awaited (February 2014).

The matter was referred to Government in September 2013; reply has not been received (February 2014).

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<sup>6</sup> Annual Value = (Number of rooms x Room Tariff x 365 days x 10 *per cent* + estimated income per year for other areas used for commercial purposes like bars, shops, restaurants etc./12 x 10.92 (multiplying factor))

## 3.4 Unfruitful expenditure

### PALACODE TOWN PANCHAYAT

#### 3.4.1 Unfruitful expenditure on construction of conference hall

**Failure of Palacode Town Panchayat to provide basic facilities in the conference hall resulted in unfruitful expenditure of ₹ 20 lakh.**

For strengthening of existing civic infrastructural facilities and creation of requisite amenities in town panchayats, Government of Tamil Nadu introduced (July 2007) ‘Anaithu Peruratchi Anna Marumalarchi Thittam’ (APAMT) to be implemented during 2007-11. Under this scheme, ₹ 50 lakh per town panchayat was to be allocated for creation and strengthening of infrastructural facilities.

Palacode Town Panchayat (Town Panchayat) in Dharmapuri district resolved (April 2010) to construct a conference hall with dining facility in the first floor of the existing shops at the bus stand at a cost of ₹ 20 lakh under APAMT. Administrative sanction was accorded (June 2010) by the Collector, Dharmapuri District. Technical sanction for the work was given by the Assistant Executive Engineer, Town Panchayat, Dharmapuri Zone in June 2010. The work was awarded (July 2010) to a contractor and the same was completed in March 2011 at a cost of ₹ 20 lakh. The Town Panchayat Council (Council) fixed (September 2011) an amount of ₹ 1,500 per day as rental charges for the conference hall. Though the Council resolved (August 2012) to provide water facilities for the hall and basic dining facilities such as cement tables/benches required for dining, the same were not provided till date (November 2013) which resulted in idling of conference hall constructed at a cost of ₹ 20 lakh.

Government replied (October 2013) that the conference hall was inaugurated in June 2013. Government further stated that the Council passed (May 2013) a resolution to collect ₹ 2,000 per day as rental charges for the hall and ₹ 2,000 was collected towards rental charges for a marriage function held on 10 September 2013. However, on further scrutiny, Audit observed (December 2013) that the conference hall was rented out only for one day in September 2013 during the 32 months between April 2011 and November 2013, which was also confirmed (December 2013) by the Executive Officer of the Town Panchayat.

## **3.5 Idle investment**

### **VANIYAMBADI MUNICIPALITY**

#### **3.5.1 Idle investment on construction of bus stand and non-realisation of revenue**

**Construction of new bus stand without getting clearance from National Highways Authority of India to have access point to the new bus stand from NH 46 resulted in idle investment of ₹ 3.30 crore besides non-realisation of anticipated revenue due to non-leasing out the shops, restaurants etc.**

In January 2007, Vaniyambadi Municipal Council resolved to construct a new additional bus stand to cope with traffic congestion as there was no scope for extension of the existing bus stand. The Director of Municipal Administration accorded (October 2009) administrative sanction for construction of the new bus stand in Vaniyambadi Municipality (Municipality) at an estimated cost of ₹ 3.30 crore. The Chief Engineer, Office of the Commissioner of Municipal Administration, Chennai accorded (December 2009) technical sanction for the detailed estimate. The proposed bus stand should comprise 30 bus bays, 28 shops and two restaurants with other facilities like pay and use toilet, cycle shed, etc.

The work was completed in March 2012 at a cost of ₹ 3.30 crore and the bus stand was opened for public on 15 October 2012. However, the bus stand was not put to use (June 2013) due to non-availability of approaches and access point from NH 46 to the new bus stand and as a result the shops, restaurants and other public facilities were also not put to use (June 2013).

Scrutiny of records (June 2012) revealed that private land measuring an extent of 2.69 acre along NH 46 by-pass road was acquired (September 2008) for ₹ 18.56 lakh. When the Municipality sent the proposal (January 2008) to the Project Director, National Highways Authority of India (NHAI), Vellore seeking his opinion on traffic point of view and other suggestions, he returned (February 2008) the proposal citing non-compliance with the instructions of Ministry of Shipping, Road, Transport and Highways.

Only after completion of construction of the new bus stand, did the Municipality request (June 2012) NHAI to (i) provide approach road from NH to bus stand, (ii) construct the storm water drain from km 50/700 – km 50/600 and (iii) open the centre median in reach km 50/700 – 50/650 for the purpose of entry of buses to the bus stand for making the bus stand operational. However, the NHAI refused (October 2012 and December 2012) permission stating that access to the new bus stand could be considered only after completion of six laning of Krishnagiri – Walajahpet section of NH 46 along with all project facilities including widening of the existing service road to 8.0m from 6.0m and construction of a minor bridge at about 200m away from the bus stand. The work on six laning of NH 46 in the Krishnagiri – Walajahpet section taken up in May 2010 was proposed to be completed in December 2013 by NHAI. It was contended by NHAI that if access to new bus stand was given before completion of widening of the service road and

construction of minor bridge, the buses using the narrow service road from Vaniyambadi town to the new bus stand for two way movement would be a potential traffic hazard.

At the time of conceptualisation, the Municipality failed to foresee the necessity of obtaining clearance required from the NHAI to route the buses from Bangalore-Chennai side of NH 46 to the new bus stand and formation of approaches from the National Highway to the new bus stand. Failure to synchronise access to the bus stand with its approaches resulted in idle investment of ₹ 3.30 crore for more than four years besides non-realisation of anticipated revenue of ₹ 42.32 lakh per annum on lease of shops, restaurants and other public facilities created in the bus stand.

The matter was referred to Government in May 2013. In reply, Government admitted (July 2013) the observations of audit and stated that necessary action would be taken for conducting public auction for leasing out the shops/restaurants/pay and use toilets after the new bus stand was put into use.