

OVERVIEW

This Report contains 28 paragraphs, including three Performance Audits relating to non/short levy of taxes, duties, interest and penalty, etc., involving ₹ 255 crore. Some of the major findings are mentioned below:

I General

The total revenue receipts of the State during the year 2013-14 were ₹ 1,49,749.64 crore, of which the revenue raised by the State Government was ₹ 1,19,877.77 crore and receipts from Government of India was ₹ 29,871.87 crore. The revenue raised by the State Government constituted 80 *per cent* of the total net receipts of the State. The receipts from Government of India included ₹ 16,630.43 crore on account of the State's share of divisible Union taxes which registered an increase of 9.47 *per cent* over the previous year and ₹ 13,241.44 crore received as grants-in-aid.

(Paragraph 1.1.1)

At the end of June 2014, 11,241 audit observations involving ₹ 4,274.03 crore relating to 4,977 inspection reports issued up to 31 December 2013 were pending for settlement.

(Paragraph 1.5)

II Taxes on Sales, Trade, etc.

Audit of the "Refund and Refund Audit Branch" of the Sales Tax Department revealed the following:

- Delay in finalisation of 100 refund cases resulted in grant of interest of ₹ 8.18 crore which could have been avoided, had the cases been finalised within the stipulated time period.
- Irregularities, mistakes, excess set off/deferment of tax, inadmissible deductions and application of incorrect rates were noticed in the 19 Refund and Refund Audit units. This resulted in short levy of tax/incorrect grant of refunds aggregating to ₹ 4.38 crore.

(Paragraphs 2.4.3 to 2.4.7)

- Demands aggregating to ₹ 17.74 crore were raised after a lapse of four to nine months. No time limit was fixed by the Department for raising the demand. Besides, non-follow of the provisions of the Act resulted in non recovery of revenue amounting to ₹ 33.28 crore.

(Paragraph 2.4.8)

- The correctness of the interstate and export transactions having a tax effect of ₹ 8.72 crore could not be verified as the transactions were not supported by documentary evidence, correct and complete forms, etc.

(Paragraph 2.4.10)

Cross verification of the assessment records with the list of *hawala* dealers prepared by the Department revealed that a dealer had made purchases from three *hawala* dealers, though no set off was admissible, it was granted

incorrectly resulting in underassessment of tax including interest and penalty of ₹ 38.12 lakh.

(Paragraph 2.5.1)

In two cases, it was found that the tax was paid at the rate of four *per cent* instead of 12.5 *per cent*. Though, the assessing authority levied tax of ₹ 87.04 lakh at the rate of 12.5 *per cent*, but it omitted to levy penalty of ₹ 87.04 lakh resulting in short realisation of revenue to that extent.

(Paragraph 2.5.5)

III State Excise

Audit of the “Scheme for granting subsidy to grain based distilleries” revealed the following:

- The Finance and Planning Departments were not in favour of the subsidy scheme however, the Home Department went ahead with the scheme stating that its implementation would benefit farmers and improve production of grains. There was nothing on record to suggest that the subsidy scheme benefited grain producing farmers.

(Paragraphs 3.4.3 and 3.4.6)

- Though seven distilleries had submitted their letter of intent (LOI) and detailed plan for setting up of distilleries much before the notifications of the scheme and the profitability statements of three units indicated that these units would run in profit, despite this, subsidy to the extent 90.48 *per cent* of total subsidy was granted to them.

(Paragraph 3.4.4)

IV Stamp duty and Registration fees

A performance audit on “Levy and Collection of Stamp Duty in adjudication cases” revealed as under :

- Scrutiny of the information collected from the Inspector General of Registration, Pune revealed that 1.24 lakh cases involving revenue of ₹ 726.80 crore were outstanding as on 31 March 2014 at various stages.

(Paragraph 4.3.7)

- Payments made on account of components like rent, construction cost, brokerage charges etc. paid by the developer were incorrectly treated as obligation and stamped at 0.2 *per cent* instead of 5 *per cent* by treating it as a part of consideration for development agreement. This resulted in short levy of stamp duty and penalty of ₹ 13.04 crore in 36 instruments.

(Paragraphs 4.3.8.1 and 4.3.8.2)

- Consideration amount of ₹ 421.75 crore based on sharing of revenue between the developer and the owner, though mentioned in the instrument, was not considered for levy of stamp duty instead it was levied on the market value of the land of ₹ 66.86 crore. This resulted in short levy of stamp duty and penalty of ₹ 21.69 crore.

(Paragraph 4.3.8.3)

- Premium aggregating to ₹ 15.35 crore paid by a developer for additional FSI and water charges was not considered for levy of stamp duty. This resulted in short levy of stamp duty of ₹ 76.74 lakh in Collector of Stamps, Kurla.

(Paragraph 4.3.8.4)

- Construction cost of the area occupied by the tenants was omitted from determination of the market value in 83 cases. This resulted in short levy of stamp duty and penalty of ₹ 16.54 crore.

(Paragraphs 4.3.9.1 and 4.3.9.4)

- The adjudicating authorities treated “A- category cessed buildings” as non cessed buildings and applied incorrect FSI ratio of 1.33 instead 3 / 2.5. This resulted in short levy of stamp duty including penalty of ₹ 4.37 crore in six adjudicated cases.

(Paragraph 4.3.10)

- Transfer of Development Rights of 1.15 lakh sqft involving ₹ 11.25 crore was not taken into account for determination of the market value of the property. This resulted in short levy of stamp duty of ₹ 56.24 lakh and penalty of ₹ 11.25 lakh.

(Paragraph 4.3.11)

- Stamp duty of ₹ 23.89 lakh payable on a supplementary agreement executed in continuation of a joint development agreement (JDA) that had altered the contents of the JDA substantially was not levied. This resulted in short realisation of revenue to that extent.

(Paragraph 4.3.12)

- An amount of ₹ 200 crore received by the owner company was incorrectly treated as an unsecured loan/obligation, etc. instead of consideration for development agreement. The total consideration worked out to ₹ 235.67 crore. The Department levied stamp duty of ₹ 5.46 crore on the consideration amounting to ₹ 97.62 crore. This resulted in undervaluation of ₹ 138.05 crore involving stamp duty of ₹ 6.32 crore.

(Paragraph 4.3.13.1)

- Development agreement and lease agreements were misclassified as BOT agreements in three cases and stamp duty was levied at lesser rates. This misclassification of the instruments resulted in short levy of stamp duty of ₹ 4.81 crore in three cases.

(Paragraph 4.3.13.2)

- Instructions contained in ASR were not followed uniformly. In some cases FSI mentioned in the instruments was taken into consideration while in some cases it was not taken into consideration for determination of the market value of the properties. This resulted in undervaluation of the properties involving stamp duty ₹ 2.30 crore in eleven cases where FSI mentioned in the documents was not taken into consideration.

(Paragraph 4.3.14)

- There was shortfall in conducting audit by internal audit wing of IGR. No specific targets were set for auditing Collector of Stamps office by the IGR. Further, the Additional Controller of Stamps, Mumbai was not conducting audit of any of the Collector of Stamps under its control despite the huge revenue contributed by them.

(Paragraph 4.3.16)

We noticed that the Department had not determined the market values of property brought for registration in accordance with the rates prescribed in the ASR. This resulted in undervaluation of property in five cases involving stamp duty of ₹ 1.53 crore.

(Paragraph 4.4.1)

An area of 2,806.69 square meters was exempted from the levy of stamp duty though there was nothing on record to indicate that it was occupied by tenant. This incorrect exemption resulted in short levy of stamp duty of ₹ 76.98 lakh.

(Paragraph 4.4.2)

In one case, the Collector of Stamps, levied stamp duty and penalty of ₹ 26.24 lakh on the consideration of ₹ 4.77 crore mentioned in a document instead of the market value of ₹ 63.77 crore involving stamp duty of ₹ 3.18 crore resulting in short levy of stamp duty of ₹ 2.95 crore.

(Paragraph 4.4.8)

VI Other Tax Receipts and Non-tax Receipts

Maharashtra Tax on Buildings (with larger Residential Premises)

Performance Audit on “Assessment, Collection and Accounting of Maharashtra Tax on Buildings (with larger Residential Premises)” revealed the following:

- Audit noticed absence of a mechanism to ascertain effective utilisation of living space and the extent to which the objective of the Maharashtra Tax on Buildings (with larger Residential Premises) Act, 1979 (MTOB Act) was fulfilled.

(Paragraph 6.3.6.1)

- Notifications for levy and collection of MTOB were not issued in respect of 15 municipal corporations formed after 1989; of these, five corporations were levying and collecting the tax, while the remaining ten corporations were not collecting tax.

(Paragraph 6.3.6.2)

- Notification for fixation of rate of MTOB on capitalised value of properties was not issued. Non-realisation of revenue amounting to a minimum of ₹ 74.85 crore was due to inaction on the part of the Urban Development Department (UDD) to permit Municipal Corporation of Greater Mumbai (MCGM) to issue bills at provisional rates.

(Paragraph 6.3.6.3)

- The municipal corporations did not maintain a uniform database of properties, due to which the possibility of some properties remaining un-assessed could not be ruled out.

(Paragraph 6.3.6.4)

- We noticed that four municipal corporations had not remitted taxes amounting to ₹ 4.26 crore into Government Account. The information regarding non-remittance of revenue by the corporations was not available with the UDD.

(Paragraph 6.3.6.5)

- In four corporations 1,711 properties had escaped assessment resulting in non-realisation of revenue of ₹ 1.99 crore.

(Paragraphs 6.3.7.1 and 6.3.7.2)

Entertainments Duty

Entertainments Duty (ED) amounting to ₹ 1.83 crore was not recovered from 336 cable operators and 18 permit rooms/beer bars with live orchestra.

(Paragraphs 6.4.1 and 6.4.2)

Education cess and Employment Guarantee cess

EC and EGC aggregating ₹ 59.10 crore was collected by the three municipal corporations but it was not remitted into the Government treasury.

(Paragraph 6.6.3)

VII Finance Department, Government of Maharashtra, Directorate of Account & Treasuries

Performance Audit on “IT audit of Government Receipts Accounting System (GRAS)” revealed the following:

- Prescribed procedure for recording e-Receipts in the cash book was not followed in three offices under the Inspector General of Registration (IGR) and four offices of the State Excise Department.

(Paragraph 7.9.2)

- Reconciliation of e-Receipts was not carried out with the Principal Accountant General (Accounts and Entitlements). Further, reports with classification details required for reconciliation were not available for the user Departments.

(Paragraph 7.9.3)

- Technical documentation on the database was inadequate as the Data Dictionary descriptions of the fields were absent and the Entity Relation Diagram (ERD) was not available.

(Paragraph 7.9.4)

- Though the Government had made it mandatory to quote the users' IT PAN in e-challans for receipts exceeding ₹ 10,000, the instructions were

not followed in 1,45,272 cases. Further, validation checks in this regard were absent.

(Paragraph 7.10.1)

- Data of e-Receipts accounted by Pay and Accounts Office was uploaded to the GRAS website only for the period 2012-13, that too partially.

(Paragraph 7.10.2)

- There was absence of proper procedure for rectification of misclassification of heads of accounts. Further, misclassification of heads of accounts for the year 2013-14 involving an amount of ₹ 32.53 crore was noticed in two offices.

(Paragraph 7.10.4)

- Though the e-Receipts are required to be defaced after service to the user has been provided, same was not done so in respect of e-Receipts amounting to ₹ 14,503.95 crore for the period 2010-11 to 2013-14 in all the departments test checked.

(Paragraph 7.10.5)

- The user access controls to GRAS were weak as user IDs were allotted in the code name of the user office and shared by multiple individual users.

(Paragraph 7.11.3)

- The audit trail in the system was inadequate as transactions in the system lacked a unique identifier or transaction code.

(Paragraph 7.11.6)