

CHAPTER-VII

CHAPTER VII

OTHER TAX RECEIPTS

7.1 Tax administration

This chapter consists of receipts from Excise Duty and Fees, Electricity Duty, Amusement/Entertainment Tax and Profession Tax. The tax administration is governed by Acts and Rules framed separately for each Department. These taxes are administered by the Excise Department and the Finance (Revenue) Department headed by the Principal Secretary who is assisted by the concerned Directorates.

7.2 Results of audit

In 2014-15, test check of the records of 45 units relating to Excise Duty and Fees, Electricity Duty, Amusement/Entertainment Tax and Profession Tax showed underassessment of tax and other irregularities amounting to ₹ 37.42 crore in 257 cases, which fall under the following categories as indicated in Table 7.1.

Table 7.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A. State Excise			
1.	Non/short levy of Excise Duty/Wastage Fee on chargeable wastage of Rectified Spirit/India Made Foreign Liquor	43	5.14
2.	Loss/blockage of revenue	7	4.87
3.	Non-realisation of Fee due to delayed removal of foreign liquor from bonded warehouse	3	3.01
4.	Non/short realisation of Initial Grant Fee/Licence Fee/Pass Fee/Regulatory Fee/Renewal Fee etc.	23	2.03
5.	Non-levy and non-realisation of Excise Duty due to non-destruction of unsold stock of foreign liquor	4	1.14
6.	Other cases	32	1.80
Total		112	17.99
B. Electricity Duty			
1.	Non/short assessment and non/short realisation of Electricity Duty	9	8.59
2.	Non-levy of interest on delayed payment of Electricity Duty	3	1.44
3.	Other cases	18	0.15
Total		30	10.18
C. Amusement/Entertainment Tax			
1.	Non/short realisation of Entertainment /Luxury/ Amusement Tax etc.	17	5.58
2.	Other cases	24	0.18
Total		41	5.76

D. Profession Tax			
1.	Non-realisation of profession tax due to non-enrolment	41	3.07
2.	Non-realisation of profession tax due to non-assessment	5	0.15
3.	Non-realisation of demand of Profession tax against enrolled certificate holders	7	0.13
4.	Other cases	21	0.14
Total		74	3.49
Grand Total		257	37.42

During the course of the year, the Departments accepted underassessment and other deficiencies of ₹ 8.48 crore in 135 cases, of which 80 cases involving ₹ 6.96 crore were pointed out in the year 2014-15 and the rest in the earlier years. An amount of ₹ 1.09 crore was realised in 39 cases during the year 2014-15.

A few illustrative cases involving ₹ 4.55 crore are discussed in the following paragraphs.

State Excise

7.3 Non-realisation of fee on unsold stock of foreign liquor

Rule 241(1) of the West Bengal Excise (Foreign Liquor) Rules, 1998 provides that the licensee shall forthwith intimate the collector for destruction of foreign liquor lying unsold in any licensed premises after the period indicated as ‘best for use’ on the label of the bottle. In case of failure, the licensee shall pay fee at the rate of ₹ two per Bulk Litre (BL) *per diem* on such stock from the date on which the FL ceased to be best for use till the date of intimation to the collector. The said Rule was revised in October 2013¹²⁰ and it was provided that prior to any destruction of unsold stock of bottled foreign liquor, the licensee shall pay a fee of ₹ two per BL on such quantity.

During scrutiny of annual stock taking reports and correspondence between the licensee and the Excise Department, Audit found in the office of the Superintendent of Excise, Burdwan (West), Asansol in December 2013 that 8,087.26 BL of beer of a licensee remained unsold after the dates indicated as best for use. The licensee, however, did not intimate the collector even after lapse of 35 to 38 months from the indicated dates i.e. September and December 2010. Out of this, 322.08 BL of beer was destroyed by the licensee (October 2011) without intimation in contravention of Rules. It was also observed that though the expiry of the beer had come to notice of the Excise authority during stock taking in July 2011, they did not initiate any action against the licensee to raise demand and realise the fee. This resulted in non-realisation of fee of ₹ 1.79 crore.

The Department admitted (March 2015) the audit observation and stated that a demand notice was issued in February 2014 against which the licensee had deposited ₹ 16,819 in February 2014 by taking instance of the revised Rule. However, Department did not furnish any reasons for not taking action till audit pointed out. Since the demand pertained to the period when the rules were not

¹²⁰ Notification No. 15(N) EX dated 31.10.2013.

revised, the demand cannot be settled against the amount deposited by the licensee. Department did not furnish any information about realisation of the remaining amount (October 2015).

The case was reported to the Government in January 2014 followed by a reminder issued in February 2015; their reply has not been received (October 2015).

7.4 Non-realisation of wastage fee on handling wastage

Rule 38(2) of the Consolidated Rules framed under Section 86 of the Bengal Excise (BE) Act, 1909 provides that if the wastage in handling of spirit exceeds 0.25 *per cent* of the total quantity of spirit handled in a year, the licensee shall be required to pay a wastage fee at the rate of ₹ 186 per LPL¹²¹ on such excess wastage within a week on demand by the collector.

During scrutiny of records relating to stock taking of a distillery under the Superintendent of Excise, South 24 Parganas, it was found in September 2014 that the licensee handled 4.14 crore LPL of spirit in 2013-14. The permissible handling wastage in respect of this quantity of spirit was 1.03 lakh LPL against which the licensee had availed handling wastage of 1.71 lakh LPL. Hence, on such excess wastage of 0.68 lakh LPL, the licensee was required to pay wastage fee of ₹ 1.26 crore on demand. Though the excess wastage had come to notice of the excise authorities during annual stock taking in April 2014, they did not initiate any action as per provisions of the BE Act and Rules to raise demand and realise the wastage fee. This resulted in non-realisation of wastage fee of ₹ 1.26 crore on excess handling wastage.

The Department admitted the audit observation and intimated (March 2015) that the demand notice was issued, but did not furnish any report regarding realisation (October 2015).

The case was reported to the Government in October 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

Electricity Duty

7.5 Non-levy of interest on delayed payment of electricity duty

Section 5A of the Bengal Electricity Duty Act, 1935 prescribes that where a licensee fails to make payment to the State Government by the prescribed date electricity duty collected by him, he shall pay a simple interest at the rate of one *per centum* for each month of default till the month previous to the one in which duty is paid fully.

During scrutiny of records of payment of electricity duty by licensees in the office of the Inspecting Officer, Asansol Zonal Office, Audit found that a State Government company deposited electricity duty amounting to ₹ 47.53 crore on 11 occasions between February 2013 and December 2013 which were due between September 2012 and August 2013. For such delay in payment of electricity duty, interest of ₹ 1.20 crore though leviable was not levied. This resulted in non-levy and non-realisation of interest of ₹ 1.20 crore.

¹²¹ London Proof Litre (LPL) - London Proof means the strength or proof as ascertained by means of Sykes' Hydrometer and denotes that spirit which at the temperature of 51 degree Fahrenheit weighs exactly 12/13th part of an equal measure of distilled water.

After this was pointed out, the Department did not furnish any specific reply (October 2015).

The case was reported to the Government in July 2014 followed by reminders issued up to February 2015; their reply has not been received (October 2015).

Entertainment Tax

7.6 Non-levy and non-realisation of entertainment tax

Section 3 of the Bengal Amusement Tax Act, 1922 prescribes that entertainment tax at the rate of *20 per cent* shall be paid to the State Government upon the value of tickets sold for admission to sports and games held in an amusement park, theme park or water games park.

During scrutiny of the reports of inspections in November 2014 in the office of the Agricultural Income Tax Officer, 24 Parganas (North) relating to an amusement park, Audit noticed that the park was opened to public in December 2012 and conducted various entertainment events. Further scrutiny revealed that tickets valuing ₹ 78.52 lakh were sold by the park between June 2013 and September 2014 for various sports and games in the park like shikara boating, kayaking, water zorbing, car ride, duo cycling and speed boating. However, no entertainment tax was paid. It was also observed that though the matter came to the notice of the assessing authority in June 2013, they did not levy the entertainment tax. This resulted in non-levy and subsequently non-realisation of entertainment tax of ₹ 15.70 lakh.

After Audit pointed out the case, the Department did not furnish any specific reply (October 2015).

The matter was reported to the Government in December 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

Profession Tax

7.7 Non-realisation of profession tax due to non-enrolment

Sections 3(2) and 5(2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 provide that every person who falls under the purview of the Act shall obtain a certificate of enrolment from the prescribed authority and pay tax at the prescribed rates. Further, under Section 17 of the Act, authorities are empowered to inspect and search any place of work where records relating to employment, trade, salaries etc. are to be kept.

Cross verification of records of seven licence-issuing offices¹²² with five¹²³ unit

¹²² Seven units of different authorities responsible for issuing licences/permissions to carry out different trades/professions as follows :- AITO, Coochbehar; Chief Medical Officer of Health (CMOH), Coochbehar; Coochbehar Municipality; Dum Dum Municipality; Kolkata Municipal Corporation; Paschim Midnapore Municipality and Raiganj Municipality.

¹²³ Deputy Commissioner of Profession Tax (DCPT), Kolkata East Range; DCPT, North Unit IV, Coochbehar; DCPT, West Bengal North Unit III, Raiganj; DCPT, West Bengal South Unit III, Paschim Midnapore and Joint Commissioner of Profession Tax (JCPT), Kolkata West Range.

offices of profession tax between November 2013 and May 2014 revealed that 430 professionals had not enrolled themselves with the prescribed authority and continued their professions without payment of any profession tax between 2010-11 and 2013-14. The Department also failed to bring these persons under the tax net and recover tax from them at the prescribed rates. Absence of a mechanism to bring the persons evading tax into the tax net by cross verification with the licence-granting authorities resulted in non-realisation of profession tax of ₹ 13.94 lakh.

The Department accepted (in November 2013 and May 2014) the audit observations in 162 cases involving ₹ 7.27 lakh, but did not furnish any information regarding realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January 2014 and July 2014 followed by reminders issued up to March 2015; their reply has not been received (October 2015).



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