

## CHAPTER-III TAXES ON VEHICLES

### 3.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder. The Transport Department functions under the administrative control of the Transport Commissioner. The levy and collection of tax in the State are governed by the Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989 and the Kerala Motor Vehicles Taxation (KMVT) Act, 1976.

### 3.2 Internal audit

Finance Officer attached to the office of the Transport Commissioner (TC) conducts annual audit of offices of the Deputy Transport Commissioners and Regional Transport Officers (RTOs). The Senior Superintendents attached to the office of the Deputy TC conduct internal audit of Sub RTOs and Check posts of the Department. The Internal Audit team in the office of the Transport Commissioner is comprised of two Accounts Officers and two Senior Superintendents. The internal audit function of the Deputy TC's offices in four zones is looked after by eight Senior Superintendents and eight clerks (two each in each zones). No special training has been imparted to the personnel of the Internal Audit Wing (IAW). An annual inspection programme schedule is prepared well in advance and the internal audit is being conducted as per the schedule and when an inspection is scheduled a team is constituted by deploying officials from other sections of the office due to shortage of staff in the Inspection Wing. Against the target of 71 units, 50 units were audited during 2015-16. The Department stated that the periodicity of audit of all offices is 'annual' but could not achieve the target due to lack of proper training. The Department has not prepared a separate Internal Audit Manual. During 2015-16 the Department could clear 436 paras which was only 9.83 *per cent* of the outstanding 4,436 paras during the year as against 14.45 *per cent* of clearance in 2014-15. The Department attributed the reason for low clearance of audit observations to delay in getting final rectification reports from the sub offices audited.

### 3.3 Results of audit

Test check of records of all the 78 offices of Motor Vehicles Department in 2015-16 relating to token tax, registration fee, permit fee, driving license fee, conductor license fee, penalties and composite fee under National Permit Scheme showed non/short levy of tax and other irregularities involving ₹ 137.32 crore in 777 cases which fall under the following categories as given in **Table – 3.1**.

**Table – 3.1**

(₹ in crore)

<b>Sl. No.</b>	<b>Categories</b>	<b>Number of cases</b>	<b>Amount</b>
1.	Non/short levy of tax	647	124.08
2.	Other lapses	130	13.24
	<b>Total</b>	<b>777</b>	<b>137.32</b>

During the course of the year, the Department accepted non/short levy of tax and other deficiencies amounting to ₹ 84.17 crore in 171 cases which were pointed out by Audit. An amount of ₹ 5.19 crore was realised in 560 cases during the year 2015-16, of which ₹ 4.86 crore in 518 cases were pointed out in earlier years.

A few illustrative audit observations involving ₹ 8.70 crore are mentioned in the following paragraphs.

### 3.4 Short levy of onetime tax due to incorrect adoption of purchase value

- **59 RTOs/SRTOs<sup>1</sup>**

Section 3(1) of the KMVT Act, 1976 stipulates that in respect of new motor vehicles, onetime tax shall be levied at the rate specified in Schedule to the Act at the time of first registration of the vehicle. With effect from 1 April 2012, the rates of onetime tax leviable were six per cent, eight per cent, 10 per cent and 15 per cent of the value of vehicles having purchase value upto ₹ five lakh, more than ₹ five lakh and upto ₹ 10 lakh, more than ₹ 10 lakh and upto ₹15 lakh and more than ₹ 15 lakh respectively. Government enhanced<sup>2</sup> the rate of one time tax for vehicles having purchase value of ₹ 20 lakh and more from 15 per cent to 20 per cent of the purchase value with effect from 13 November 2014. Section 2(e) of KMVT Act, 1976 defines purchase value of the vehicle as shown in the purchase invoice. Under Finance Act, 2014 Government of Kerala clarified<sup>3</sup> that with effect from 1 April 2007 purchase value includes value added tax, cess and customs/excise duty chargeable on vehicles provided that the discount or rebate given by the dealer to the registered owner shall not be deducted from the bill amount for computing the purchase value.

Scrutiny (between December 2014 and January 2016) of data in the purchase invoice of the vehicles newly registered and the details of tax levied in 59 RTOs/SRTOs, revealed that during the period 2013-14 and 2014-15, onetime tax was levied short in the case of 4,724 vehicles newly registered. Audit found that while registering the vehicles, the Regional Transport Officers/Joint Regional Transport officers adopted the purchase value of the vehicles in the purchase invoices but did not include VAT, cess and the rebate received. In the case of vehicles with purchase value of more than ₹ 20 lakh, the registering officers levied one time tax on these vehicles at 15 per cent on the purchase value instead of at the prescribed rate of 20 per cent. The incorrect reckoning of purchase value and application of incorrect rate of tax resulted in consequent short levy of onetime tax of ₹ 4.96 crore in 4,724 cases as given in the **Appendix XVI**.

<sup>1</sup> RTOs: Alappuzha, Attingal, Ernakulam, Kannur, Kasargod, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Thiruvananthapuram, Thrissur, Wayanad  
SRTOs: Alathur, Aluva, Angamaly, Chalakkudy, Changanacherry, Chengannur, Cherthala, Chittur, Guruvayoor, Irinjalakkuda, Kanhangad, Kanjirappally, Karunagappally, Kayamkulam, Kazhakoottam, Kodungalloor, Koduvally, Kottarakkara, Koyilandy, Kunnathur, Kuttanad, Mallappally, Mannarkkad, Mattancherry, Mavelikkara, Nedumangad, Neyyattinkara, Nilambur, North Paravoor, Ottapalam, Pala, Parassala, Pattambi, Perinthalmanna, Perumbavoor, Ponnani, Punalur, Ranni, Sulthan Bathery, Thalassery, Thaliparamba, Tripunithura, Tirur, Uzhavoor, Vaikom, Wadakkancherry

<sup>2</sup> Notification No. 23704/Leg D2/2014/Law dated 13 November 2014

<sup>3</sup> Circular No. 7/14 of Transport Commissioner.

Maximum short levy of tax on vehicles were noticed in SRTO Thalassery (292 cases; ₹25.58 lakh), RTO Kannur (270 cases; ₹ 23.57 lakh) and RTO Kottayam (264 cases; ₹ 35.36 lakh).

The matter was pointed out to the Regional Transport Officers/Joint Regional Transport Officers between December 2014 and January 2016 and referred to Government (May 2016). The Government stated (July 2016) that ₹ 44.87 lakh has been realised in 454 cases.

While considering similar para in previous Audit Reports, the Committee on Public Accounts (2011-14) in its 34 Report recommended the Department to take stringent action against those officials who failed to initiate revenue recovery action. However, Audit found that no action has been taken by Department/Government in this regard. The reason for not taking revenue recovery action against the defaulters in compliance with PAC recommendation had been called for from Government (August 2016) by Deputy Accountant General with Secretary, Transport Department.

### **3.5 Non-imposition of fine in cases of overloaded vehicles**

- 56 RTOs/SRTOs<sup>4</sup>

**Under Section 79 of the MV Act, 1988 while issuing goods carriage permit, the authority shall mention the maximum gross vehicle weight of the vehicles used in the permit. Under Section 113 of the MV Act, 1988, no person shall drive any motor vehicle or trailer, the laden weight of which exceeds the gross vehicle weight specified in the certificate of registration. Under Section 114 of the MV Act, 1988, if on weighment, the vehicle is found to contravene any provisions of the above Section regarding weight, the authorized officers of the motor vehicle department, may by order in writing direct the driver to off load the excess weight at his own risk and not to remove the vehicle from that place until the laden weight has been reduced so that it complies with Section 113. Under Section 194 of MV Act, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention to the provisions of Section 113 shall be punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load together with liability to pay charges for off loading the excess load. Under notification<sup>5</sup> issued (April 2010) by Government of Kerala the offence can be compounded**

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<sup>4</sup> RTOs: Attingal, Ernakulam, Kannur, Kasargod, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Thiruvananthapuram, Thrissur, Vadakara, Wayanad

SRTOs: Adoor, Alathur, Aluva, Angamaly, Chalakkudy, Changanassery, Cherthala, Chittur, Guruvayoor, Irinjalakkuda, Kanhangad, Karunagappally, Kayamkulam, Kazhakkuttam, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Koyilandy, Kunnathur, Mannarkkad, Mattancherry, Mavelikkara, Muvattupuzha, Nedumangad, Neyyattinkara, Nilambur, North Paravoor, Ottappalam, Parassala, Perumbavoor, Ponnani, Punalur, Ranni, Taliparamba, Thalassery, Thiruvalla, Thodupuzha, Tripunithura, Tirur, Uzhavoor, Vandiperiyar, Wadakkancherry

<sup>5</sup> SRO No. 221/2010 with effect from 1 April 2010

at the prescribed rates which is equivalent to the rate of fine mentioned above. PAC (2011-14) in its 34 Report had recommended that the Department should strictly adhere to the law and should levy the fine as specified in the Act. It also recommended to cancel the permit of those vehicles found overloaded. The Committee on Public Accounts (2014-16) in its 89 Report had recommended that Transport Department should chalk out effective measures to ensure that overloaded vehicles are levied with compounding fee at higher rate and excess weight is off loaded.

Audit scrutiny (between December 2014 and December 2015) in 56 RTOs/SRTOs revealed that, as per check reports, vehicles were found carrying weight in excess of the limit prescribed in the certificate of registration. The Motor Vehicle Inspectors/Assistant Motor Vehicle Inspectors who inspected the overloaded vehicles during 2013-15, did not offload the excess weight and allowed them to proceed after recording the offence in check reports, but without levying fine prescribed. This resulted in non-levy of fine of ₹ 1.01 crore in 1,302 cases as shown in the **Appendix XVII**.

Despite being pointed out repeatedly in Audit, the irregularity still persists. Audit found that Department/Government had not taken appropriate action in this regard. The recommendations of PAC had also not been complied with.

Non imposition of fine was noticed maximum in RTO, Thrissur with 143 cases involving ₹ 11.48 lakh.

The audit finding was referred to Government in May 2016. The Government stated (July 2016) that in 294 cases, ₹ 22.10 lakh has been realised.

### **3.6 Short collection of tax on contract carriages with pushback seats**

- *Five RTOs/SRTOs<sup>6</sup>*

**Section 3(1) of the Kerala Motor Vehicles Taxation (KMVT) Act, 1976 stipulates that in respect of new motor vehicles, onetime tax shall be levied at the rate specified in Schedule to the Act at the time of first registration of the vehicle. Tax at the rates specified in the Schedule to the Act shall be levied for contract carriages with push back seats with effect from 01 April 2014. Section 52 of the Motor Vehicles Act, 1988 stipulates that no owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer. The Transport Commissioner directed<sup>7</sup> that an alteration which involves change in the structure of a vehicle which results in change in its basic features cannot be effected without approval from Government of India. When a vehicle with pushback seats is to be altered with ordinary seats, it may be permitted to fit more seats according to the space available, if**

<sup>6</sup> RTO Ernakulam, SRTOs, Aluva, Angamaly, Mattancherry, North Paravur.

<sup>7</sup> Circular No. 5/2014 dated 26.6.2014.

**the alteration complies with the provisions of the act and rules and there is no revenue loss. While permitting altering in seats, Rules 267, 268, 269 and 270 of the Kerala Motor Vehicles Rules, 1989 shall be complied.**

Audit of five Regional/Sub Regional Transport Offices between July 2015 and August 2015 revealed that permits were issued to 148 contract carriages with pushback seat but tax was realised at the rates prescribed for contract carriages with ordinary seats. Audit found that neither any permits for altering the seat type was issued to these contract carriages nor any physical verification of these vehicles to verify the number of pushback seats was conducted by RTOs/JRTOs resulting in application of incorrect rate of tax and consequent short collection of tax of ₹ 10.42 lakh as detailed in the **Appendix XVIII**.

Maximum number of cases were found in RTO, Ernakulam (55 cases; ₹ 4.30 lakh).

When the audit finding was referred to Government in May 2016, the Government stated (July 2016) that in 10 cases ₹ 51,140 has been realised.

### **3.7 Non remittance of tax for the operated period of stage carriages**

- **Four RTOs<sup>8</sup>**

**Section 3(1) of the Kerala Motor Vehicles Taxation (KMVT) Act, 1976 stipulates that a tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified for such vehicle in the Schedule to the Act. Section 4 of the Act stipulates that the tax levied shall be paid in advance within such period and in such manner as may be prescribed by the registered owner for a quarter or year at his choice upon a quarterly or annual license to be taken out by him. As per Section 5 (1) of the Kerala Motor Vehicles Taxation Act, 1976 in the case of motor vehicle which is not intended to be used or kept for use during the first month or the first and second months of a quarter, or the whole of a quarter or year, as the case may be, the registered owner or the person having possession of such vehicle shall give previous intimation in writing<sup>9</sup> to the Regional Transport Officer that such vehicle would not be used for such period and no tax shall be payable in respect of such vehicle for such period. As per Rule 10 (2) of the Kerala Motor Vehicles Taxation Rules, 1975 on receipt of the intimation, the Regional Transport Officer shall certify, after such verification, the non-use of the vehicle for the period for which tax is not payable, by making necessary endorsement in the certificate of registration of the vehicle. Section 12 of the KMVT Act, 1976 read with Section 13 stipulates that if the registered owner has not paid the tax within the prescribed period, he shall pay, in addition to the tax, an additional tax of such amount as specified by**

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<sup>8</sup> RTOs : Alappuzha, Ernakulam, Kozhikode and Malappuram

<sup>9</sup> Form G - Intimation of non-use of a vehicle

**the Government and any amount due shall be recoverable in the same manner as an arrear of public revenue due on land. Further, the arrears of tax shall attract interest at six *per cent per annum* from the date of default.**

During Audit (between November 2014 and November 2015) of four Regional Transport Offices, scrutiny of tax collection particulars and Form G filed revealed that though periods of non-use of the stage carriages were mentioned in the Form G filed, tax was not remitted by the registered owners in respect of those periods which were not shown as non-use in the Form G. Non remittance of tax for the operated period in respect of 15 contract carriages worked out to ₹ 6.93 lakh including additional tax and interest.

Maximum number of cases was noticed in RTO, Ernakulam (6 cases; ₹ 3.63 lakh).

Audit also found that Form G filed by the registered owners were pending for want of verification prescribed in the Rules. Hence it cannot be ascertained whether the vehicles were not in use for the period claimed for exemption. Though the vehicles have valid permits, the RTOs had not initiated revenue recovery proceedings against the defaulters to realise the tax.

The audit finding was referred to Government in May 2016. The Government stated (July 2016) that in 21 cases ₹ 5.35 lakh has been realised. Further report has not been received (November 2016).

### **3.8 Incorrect levy of one time tax on percentage basis on reclassified vehicles**

- **63 RTOs/SRTOs<sup>10</sup>**

**Section 3(1) of the KMVT Act, 1976 as amended vide Finance Act, 2007 stipulates that in the case of vehicles registered on or after 1 April 2007 and reclassified as non-transport vehicles from the category of transport vehicles, one time tax shall be levied depending on the age of vehicle from the month of original registration at the rates prescribed in the Schedule.**

<sup>10</sup> **RTOs:** Alappuzha, Ernakulam, Kannur, Kasargod, Kollam, Kottayam, Kozikode, Malappuram, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur, Vatakara, Wayanad.

**SRTOs:** Adoor, Aluva, Chalakkudy, Changanassery, Chengannur, Cherthala, Chittur, Guruvayoor, Irinjalakkuda, Kanhangad, Kanjirappally, Karunagappally, Kayamkulam, Kazhakkuttam, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Koyilandy, Kunnathur, Mallappally, Mananthavady, Mannarkkad, Mavelikkara, Muvattupuzha, Nedumangad, Neyyattinkara, Nilambur, North Paravur, Ottappalam, Pala, Parassala, Pattambi, Perinthalmanna, Ponnani, Punalur, Ranni, Sulthan Bathery, Thaliparamba, Thalassery, Thiruvalla, Thodupuzha, Trippunithura, Tirur, Tirurangadi, Udumbanchola, Uzhavoor, Vaikom, Wadakkancherry.



During the audit (between November 2014 and December 2015) of 63 RTOs/SRTOs, the Regional Transport Officers/Joint Regional Transport Officers short levied one time tax in 2,339 vehicles reclassified from the category of transport vehicles to the category of non-transport vehicles during the period 2013-14 and 2014-15. The vehicles included 269 three wheelers, 718 four wheelers and 1,352 multi axled vehicles, stage carriage, camper trailers etc. While registering these vehicles the Regional Transport Officers/Joint Regional Transport Officers applied incorrect percentage of one time tax due to mistake in calculation of age of vehicles resulted in incorrect levy of tax of ₹ 2.56 crore in 2,339 cases.

Audit found that maximum cases were from RTO, Malappuram (₹ 19.32 lakh in 206 cases) and SRTO Tirur (₹ 12.43 lakh in 164 cases).

Audit found that tax was calculated by the officers concerned by manually calculating the age of vehicles and thereby applying incorrect rate of tax. There was no provision of automatically generating the age of the vehicles from the SMART MOVE system and calculating percentage of tax accordingly.

The matter was pointed out to the Department between November 2014 and December 2015. The audit findings were referred to Government in May 2016. The Government stated (July 2016) that ₹ 76.43 lakh was collected in 615 cases. Further report had not been received (November 2016).

Audit found that the Government was taking action only in those cases where defects/deficiencies were being pointed by Audit, which is only a sample, though the Committee on Public Accounts (2011-14) in its 34 Report recommended the Department to take stringent action against those officials who failed to initiate revenue recovery action. As such, Government needs to put in place measures to detect all such cases in a timely manner and to make good short levy of tax.