

CHAPTER-III LAND REVENUE

3.1 Results of Audit

Test check of records in the offices of the Collectors and Mamlatdars (LR), Deputy Director of Deendayal Institute of Survey and Revenue Administration, Gandhinagar, Settlement Commissioner and Director of Land Records, Gandhinagar, Director of Land Use Board, Gandhinagar and Gujarat State Disaster Management Authority, Gandhinagar in the State during the year 2015-16 revealed underassessment of tax and other irregularities involving ₹ 32.80 crore in 186 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1.	Non/short levy of occupancy price/premium price	34	12.07
2.	Non/short recovery of Non Agricultural Assessment	59	1.16
3.	Non/short recovery of Conversion Tax	26	4.25
4.	Other irregularities	45	12.16
5.	Expenditure Audit	22	3.16
	Total	186	32.80

During the course of the year, the Department accepted under-assessment and other irregularities and recovered ₹ 1.00 crore in 20 cases, which were pointed out in audit during 2015-16 and earlier years.

A few illustrative audit observations involving ₹ 10.52 crore are mentioned in the succeeding paragraphs.

3.2 Non/ short levy of premium price

As per the Government of Gujarat, Revenue Department Resolutions¹ issued under Section 43 of the Gujarat Tenancy and Agricultural Lands Act, 1948 in case of conversion of land under new and restricted tenure to old tenure, premium at the prescribed rates is required to be recovered by the concerned Collector. The market value of the property is determined in accordance with the *jantri*² rates and subject to the conditions prescribed therein. The Government Resolution dated 03.12.2011 provides that in the case of conversion of land under new and restricted tenure to old tenure for residential/ industrial/ commercial purposes, where the market value of the property is not prescribed in the *jantri*, two/ three/ four times of the agricultural rate of the same survey number of the property should be considered for the purpose of levy of premium. The rates so arrived at should not be less than the rates provided in the previous *jantri* effective from 01.04.2008. As per GR dated 03.05.2011, the rate of premium was 25/40 per cent of the market value of the property for agricultural/ non agricultural purpose.

During the test check of records including the orders for change of tenure of land of three Collector offices³ for the period 2012-13 to 2013-14, we noticed⁴ that premium price of ₹ 47.27 lakh was short recovered in 8 cases as detailed below:

Sl. No.	Name of Collector/ Number of cases	Nature of observation	Non/short levy of premium price (₹ in lakh)
1.	<u>Ahmedabad</u> 5	<p>Conversion of land for residential/ industrial purposes:</p> <p>In five cases, rates of residential/ industrial lands had not been provided in the <i>jantri</i> and therefore, two/ three times of agricultural rate provided in the prevalent <i>jantri</i> (effective from 18.04.2011) had been adopted to arrive at market value of land for residential/ industrial use. However, the rates so adopted were lower than the rates provided in the previous <i>jantri</i> (effective from 01.04.2008). The Department had fixed the market value at ₹ 89.70 lakh instead of ₹ 132.32 lakh provided in the previous <i>jantri</i>. Thus, undervaluation of ₹ 42.62 lakh resulted in short levy of premium price of ₹ 17.05 lakh.</p>	17.05

¹ Dated 13 July 1983 read with the Resolution No NBJ-102006-S 71-J (Part 2) dated 04 July 2008

² Annual Statement of Rates issued by the Government showing the rates for the purpose of determination of value of immovable properties and levy of stamp duty.

³ Ahmedabad, Jamnagar and Patan

⁴ In October 2014 and January 2015

After this was pointed out the Collector, Ahmedabad accepted all the audit observations and stated that demand notices would be issued to recover the premium price. Further, report on recovery in these cases had not been received (October 2016).			
2.	<u>Patan</u> 1	Conversion of land for commercial purpose: In one cases, rate of commercial land had not been provided in the <i>jantri</i> and therefore, four times of agricultural rate provided in the prevalent <i>jantri</i> (effective from 18.04.2011) had been adopted to arrive at market value of land for commercial use. However, the rate so adopted was lower than the rate provided in the previous <i>jantri</i> (effective from 01.04.2008). The Department had fixed the market value at ₹ 6.07 lakh instead of ₹ 20.26 lakh provided in the previous <i>jantri</i> . This resulted in under valuation of land of ₹ 14.19 lakh involving short levy of premium price of ₹ 5.67 lakh.	5.67
After this was pointed out the Collector Patan accepted the audit observation and stated that demand notice had been served to recover the premium amount. Further, report on recovery had not been received (October 2016).			
3.	<u>Ahmedabad</u> 1	Incorrect application of rates: In one case, the Collector had incorrectly adopted <i>jantri</i> rate of ₹ 500 per sq. mtr. pertaining to Survey No. 101 instead of ₹ 1,030 per sq. mtr. pertaining to Survey Number 162. Thus, the value of the land was incorrectly fixed at ₹ 28.84 lakh instead of ₹ 59.40 lakh resulting in under valuation to the extent of ₹ 30.56 lakh. This resulted in short levy of premium price of ₹ 12.23 lakh.	12.23
The Department accepted the audit observation and stated that action would be taken to recover the differential amount. Further recovery report in this case had not been received (October 2016).			
4.	<u>Jamnagar</u> 1	Incorrect application of rates: In one case incorrect <i>jantri</i> rate had been adopted to arrive at the market value due to application of rate of a zone other than the zone in which the land was located. The Collector had adopted <i>jantri</i> rate of ₹ 140/130 per sq. mtr. pertaining to Survey No. 205/ 206 of value zone R/0/5/C instead of ₹ 350/300 per sq. mtr. of value zone R/0/29. Thus, the value of the land was incorrectly fixed at ₹ 35.25 lakh instead of ₹ 84.53 lakh resulting in under valuation to the extent of ₹ 49.28 lakh This resulted in short levy of premium price of ₹ 12.32 lakh.	12.32
After this was pointed out the Department stated that valuation was made as per the opinion of the Sub-Registrar and as such the rate was applied. However the fact remains that rate was available in the <i>jantri</i> and there was no need of seeking opinion of Sub-Registrar. Besides, the Sub-Registrar was not authorised under the Land Revenue Code to give his opinion in this case.			
		Total	(8 Cases) ₹ 47.27 lakh

We pointed out these cases to the Government in June 2016; their replies have not been received (October 2016).

3.3 Non levy of conversion tax

Section 67 A of the Gujarat Land Revenue Code, 1879 provides for the levy of conversion tax at prescribed rates on change in the mode of use of land from agricultural to non agricultural (NA) purpose or from one NA purpose to another in respect of land situated in a city, town or village.

During the test check of records of two Collector offices⁵ for the period 2012-13 to 2013-14, we noticed⁶ that the conversion tax of ₹ 7.33 crore was not levied in two cases as follows:

Sl. No.	Location/No. of cases	Nature of observation
	Non levy of conversion tax (₹ in lakh)	
1.	<u>Patan</u> <u>2 cases</u> 691.19	In two cases, Government lands admeasuring 1,02,00,000 sq. mtrs. and 13,19,790 sq. mtrs were allotted (December 2010 and September 2012) to the Gujarat Power Corporation Ltd. (GPCL) for the purpose of development of Solar Power Park and Gas Based Power Project respectively by the Revenue Department. Though advance possessions of the said lands were given to GPCL, the Revenue Authorities did not levy conversion tax at prescribed rates. This resulted in non-levy of conversion tax of ₹ 6.91 crore.
The Collector, Patan accepted the point and stated that conversion tax would be recovered.		
2.	<u>Jamnagar</u> <u>25 cases</u> 41.40	In 25 cases, Government lands admeasuring 6.90 lakh sq. mtrs. were given on lease for wind farm power project by the Revenue Department. But the Revenue Authorities did not levy conversion tax of ₹ 41.40 lakh.
After this was pointed out, the Department accepted (August 2016) the audit observations in all cases and also recovered ₹ 22.20 lakh in three cases.		
	<u>27 cases</u> ₹ 732.59 lakh	

We pointed out these cases to the Government in June 2016; their replies have not been received (October 2016)

3.4 Non-levy of service charge

As per GR dated 26.04.2011, the person/ company applying for the allotment of government land has to pay service charge at the rate of one *per cent* of the value of land applied for as per the prevailing *jantri*. The service charge so paid is non-refundable. Moreover, the application should be processed only if the applicant pays the service charge at the time of application itself. Further, Government *vide* GR dated 15.06.2011 clarified that service charge is also to be collected in advance from the State Government Company/ Corporations,

⁵ Jamnagar and Patan

⁶ in October and December 2014

Municipal Corporation, Municipalities and Departments of Government of India, who are applying for grant of Government land.

During the test check of records of two Collector offices⁷ for the period 2012-13 and 2013-14, we noticed⁸ that service charge of ₹ 1.24 crore was not recovered at the time of application for allotment of Government land in three cases as follows:

Sl. No.	Location/ No. of cases	Nature of observation
	Non-levy of service charge (₹ in lakh)	
1	<u>Bharuch</u> <u>2</u> 96.74	In two cases, valuation of Government land had been finalised (October 2013 and January 2014) by the District Level Valuation Committee (DLVC) for allotment of land to Gujarat Industrial Development Corporation (GIDC) and Gujarat Tourism Opportunity Ltd. for setting up of industry and hotel respectively. In both the cases, though the applicants had not paid the service charge at the time of application (March and July 2013) for allotment of land, the Collector had processed the applications. Thus, the Department did not adhere to the specific instructions issued by the Government <i>vide</i> above mentioned GRs. This resulted in non-recovery of service charge of ₹ 96.74 lakh on market value of ₹ 96.74 crore as per <i>jantri</i> .
The jurisdictional Collectors accepted the observation and stated that recovery would be effected.		
2	<u>Gandhinagar</u> <u>1</u> 27.40	In one case, Government land was allotted (January 2013) to Gandhinagar Urban Development Authority (GUDA) for sewage treatment plant and advance possession of the land had also been given. However, no service charge had been recovered in advance from the applicant by the Collector. This resulted in non-recovery of service charge of ₹ 27.40 lakh on market value of ₹ 27.40 crore as per <i>jantri</i> .
The Collector, Gandhinagar accepted (March 2016) the audit observation and stated that amount would be recovered.		
Total	<u>3 cases</u> ₹ 124.14 lakh	

Further report on recovery is awaited in these cases (October 2016).

We pointed out these cases to the Government in June 2016; their replies have not been received (October 2016).

⁷ Bharuch and Gandhinagar

⁸ in April 2014 and February 2015

3.5 Short levy of stamp duty

As per Article 20 of the Gujarat Stamp Act, 1958, stamp duty on conveyance is leviable on the market value of the property or consideration stated in the document, whichever is higher. The market value of the Government land to private persons is fixed by DLVC/ SLVC depending upon the value of the land. The value so fixed remains valid for one year and in case the land is not allotted within one year, the value of the land is enhanced by 12 *per cent* annually.

During the test check of the records of the office of Collector, Surat for the period 2013-14, we noticed (March 2015) in one case that the Government land admeasuring 33.75 hectare was allotted (January 2014) by Collector to a firm for establishment of cement factory. The District Land Valuation Committee (DLVC) had fixed the price of land as ₹ 158.96 crore in July 2011. However the land was not allotted within one year by the Department. It was allotted in June 2013. The Department enhanced the value of the land by 12 *per cent* i.e. ₹ 19.08 crore for the levy of premium. Thus, the market value of the land was ₹ 178.04 crore. But, while levying stamp duty (in 2013), this enhanced amount was omitted and the stamp duty was levied on ₹ 158.96 crore only. This resulted in short levy of stamp duty of ₹ 93.47 lakh.

After we pointed this out, the Collector stated that reply would be furnished after scrutiny of records. No further reply was received (October 2016).

3.6 Non/ short levy of cost of acquisition

As per Section 50(1) of the Land Acquisition Act, 1894, where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company. Revenue Department vide Circular of September 1999 had revised the rates of cost of acquisition commonly termed as “establishment charges” by the Department on the basis of amount of compensation/ award.

During test the check of records of the Special Land Acquisition Officer, Gandhinagar, we noticed (October 2015) that in nine cases, the Special Land Acquisition Officer had acquired private land after payment of award of ₹ 5.42 crore and awarded (February 2005 to June 2011) the same to Western Railways, Border Security Force and Ahmedabad Urban Development Authority. Out of these, in seven cases, establishment charges were not levied at all and in remaining two cases, establishment charges were recovered at incorrect rates. This resulted in non/ short levy of establishment charges of ₹ 54.32 lakh.

After we pointed this out, the Special Land Acquisition Officer accepted the audit observation in all cases and stated that the establishment charges would be recovered under intimation to audit. No further reply has been received (October 2016).