

## CHAPTER-III LAND REVENUE

### 3.1 Results of Audit

Test check of records in the offices of the Collectors, Dy. Collectors and Mamlatdars (LR); Gujarat State Disaster Management Authority, Gandhinagar; Commissioner of Revenue (Inspection), Gandhinagar; Director of Relief, Gandhinagar and Principal Secretary, Revenue Department in the State during the year 2016-17 revealed underassessment of tax and other irregularities involving ₹ 71.13 crore in 204 cases, which fall under the following categories:

**Table 3.1**  
**Results of Audit**

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Non/ short levy of occupancy price/ premium price	39	30.81
2	Non/ short recovery of Non Agricultural Assessment	84	0.21
3	Non/short recovery of conversion tax	24	15.91
4	Other irregularities	46	24.16
5	Expenditure Audit	11	0.04
	<b>Total</b>	<b>204</b>	<b>71.13</b>

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 44.35 lakh in 26 cases, which were pointed out in audit during 2016-17 and earlier years

A few illustrative audit observations involving ₹ 5.17 crore are mentioned in the succeeding paragraphs.

## 3.2 Short levy of premium price

As per the Revenue Department Resolutions<sup>1</sup> 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<sup>2</sup>, 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*<sup>3</sup> rates and subject to the conditions prescribed therein.

Government Resolution of 18 April 2011 stipulates that in cases where old *jantri* rates effective upto 17 April 2011 were higher than the new *jantri* rates effective from 18 April 2011, then the old *jantri* rates would be applicable for the valuation purpose. As per Government Resolution dated 03 May 2011, the rate of premium is 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 in the office of the Principal Secretary, Revenue Department for the period 2014-15 to 2015-16, audit noticed (August 2016) that premium price of ₹ 78.44 lakh was short recovered in two cases as detailed below:

**3.2.1** In one case of conversion of land measuring 4,221 sq. mtr. at Magdalla, Surat from new and restricted tenure to old tenure for agricultural purpose, the Revenue Authority (RA) had adopted *jantri* rate of ₹ 9,500 per sq. mtr. as opined by the Dy. Collector (SDVO) based on new *jantri*. But, this rate was lower than the rate (i.e. ₹ 14,000 per sq. mtr.) prescribed in the old *jantri*. The RA was required to adopt old *jantri* rates for determination of market value for levy of premium price instead of new *jantri* rates. This resulted in short levy of premium price of ₹ 47.49 lakh at the rate of 25 *per cent*<sup>4</sup>.

**3.2.2** In one case of conversion of land measuring 8,397 sq. mtr. at Thaltej, Ahmedabad from new and restricted tenure to old tenure for agricultural and non-agricultural purposes, the Department adopted incorrect *jantri* rates. The *jantri* rate for agricultural land was taken as ₹ 8,600 per sq. mtr. instead of ₹ 9,400 per sq. mtr. The *jantri* rate for non-agricultural land was taken as ₹ 32,750 per sq. mtr. instead of ₹ 43,500 per sq. mtr. The premium levied was ₹ 8.53 crore instead of ₹ 8.84 crore<sup>5</sup>. This resulted in short levy of premium price of ₹ 30.95 lakh.

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

<sup>2</sup> New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the prior approval of Collector. Old tenure land means land deemed to have been purchased by a tenant on Tiller's day, 1 April 1957 free from all encumbrances. New and restricted tenure land can be converted to old tenure after payment of premium price.

<sup>3</sup> *jantri*: 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.

<sup>4</sup> [4,221 sq. mtr. X ₹ 14,000 per sq. mtr. x 25 per cent] – ₹ 1,00,24,875 = ₹ 47,48,625

<sup>5</sup> [7,433 sq. mtr. x ₹ 8,600 per sq. mtr. x 25 per cent + 4,460 sq. mtr. x ₹ 32,750 per sq. mtr. x 40 per cent + 964 sq. mtr. x ₹ 9,400 per sq. mtr. x 25 per cent + 675 sq. mtr. x ₹ 43,500 per sq. mtr. x 40 per cent] - ₹ 8,53,22,050 = ₹ 30,95,300

Audit pointed out these cases to the Department and Government in April 2017. Their replies have not been received (September 2017).

### **3.3 Non/ short levy of conversion tax**

Section 67A 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. Different rates of conversion tax are prescribed for residential/ charitable/ temporary non-agriculture and industrial/other purposes, depending upon the population of the city/ town/ notified area/ village. The conversion tax shall be paid in advance by a challan in the Government treasury. As per Revenue Department's Resolution of 18 December 2006, in cases of allotment of Government land for non-agricultural purposes, conversion tax shall be recovered from the applicant.

During the test check of records of four Collector offices<sup>6</sup> for the period 2012-13 to 2014-15, audit noticed<sup>7</sup> that the conversion tax of ₹ 1.98 crore was not levied in 138 cases as detailed below:

#### **3.3.1 Levy of conversion tax in cases of land granted to AUDA and ONGC**

During test check of records of Collector office, Ahmedabad, audit observed that in one case land measuring 1,76,481 sq. mtr. was awarded to Ahmedabad Urban Development Authority (AUDA) for construction of sewage treatment plant. But, conversion tax at the rate of ₹ 6 per sq. mtr. amounting to ₹ 10.59 lakh was not recovered.

Audit also observed in 27 cases that land measuring 3,15,724 sq. mtr. was awarded to Oil and Natural Gas Corporation (ONGC) for mining purposes at different places. But, conversion tax at the rate of ₹ 6 per sq. mtr. amounting to ₹ 18.94 lakh was not levied.

The assessing authority accepted the observation in 27 cases of land awarded to ONGC (December 2015) while no reply has been received in case of land awarded to AUDA (September 2017).

#### **3.3.2 Levy of conversion tax in cases of land leased to Sardar Sarovar Narmada Nigam Limited (SSNNL)**

During test check of records of two Collector offices<sup>8</sup>, audit observed in 73 cases that land measuring 15,87,789 sq. mtr. had been granted on lease for 99 years to SSNNL for irrigation projects at the token rent of ₹ one. The Collector had not inserted the condition of payment of conversion tax in the lease sanction order. This resulted in non-levy of conversion tax of ₹ 95.27 lakh.

<sup>6</sup> Ahmedabad, Amreli, Kachchh and Surendranagar

<sup>7</sup> in April 2015 to February 2016

<sup>8</sup> Kachchh and Surendranagar

Both assessing authorities replied that clarification from the Government would be obtained for levy of conversion tax. The reply is not correct as Section 67 A of GLR Code, 1879 provides for levy of conversion tax. As such, no clarification in this regard was required.

### **3.3.3 Levy of conversion tax at lower rates in cases of land situated within municipal areas**

During test check of records of Collector office, Amreli, audit observed in 32 cases that for conversion of lands situated in municipal areas from agricultural to non-agricultural purposes, i.e. residential or industrial, conversion tax was levied without taking into consideration the population figures available on the website of the Census of India 2011 (a Government Department). As the population of Amreli exceeded one lakh, conversion tax was leviable at higher rates<sup>9</sup>. This resulted in short levy of conversion tax of ₹ 20.96 lakh.

The assessing authority stated that in absence of Census booklet, higher rates were not levied. The reply is not acceptable as the population figures were available in the website of the Census of India. These should have been made use of for levy of conversion tax. The Department may circulate these figures to all Assessing Authorities for levy of conversion tax. Besides, no provision in the Act prevents the Department from recovery of the amount realised short.

### **3.3.4 Levy of conversion tax in cases of advance possession of land for metro link project**

During test check of records of Collector office, Ahmedabad, audit observed in five cases that advance possession of land measuring 1,72,560 sq. mtr. had been handed over (March 2015) to Metrolink Express for Gandhinagar and Ahmedabad (MEGA- a company) for metro link project. But, conversion tax at the rate of ₹ 30 per sq. mtr. amounting to ₹ 51.77 lakh was not levied.

The assessing authority accepted (October 2015) the observation stating the conversion tax would be recovered at the time of final allotment.

Audit pointed out these cases to the Department and Government in April 2017. Their replies have not been received (September 2017).

## **3.4 Non levy of additional occupancy price**

In January 1999, State Government framed a policy for allotment of grazing land to industries after recovery of 30 *per cent* additional occupancy price in addition to the full market value of the land. This amount shall be used by respective *Taluka Panchayat* for purchase of land for grazing purpose.

During test check of records of the office of the Principal Secretary, Revenue Department, Gandhinagar and Collector (LR), Godhara for the year 2012-13

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<sup>9</sup> ₹ 10/ 30 per sq. mtr instead of ₹ 2/ 6 per sq. mtr. for residential/ industrial purposes

to 2015-16, audit noticed<sup>10</sup> non levy of additional occupancy price as shown below:

Land measuring 7,521 sq. mtr. in Visnagar and Unjha taluka (District Mehsana) had been allotted to Dedicated Freight Corridor Corporation of India Ltd. (DFCCIL) for the railway project after recovery of occupancy price at the rates decided by State Level Valuation Committee (SLVC). The allotted land was identified as grazing land (*gauchar*), but the Department did not levy additional occupancy price. This resulted in non-levy of additional occupancy price of ₹ 42.20 lakh. Similarly, land measuring 4,900 sq. mtr. in Godhra taluka had been allotted to Gujarat Energy Transmission Corporation Ltd. (GETCO) for industrial purposes (i.e. construction of sub-station) after recovery of occupancy price at the rates decided by District Level Valuation Committee (DLVC). The allotted land was identified as grazing land (*gauchar*), but the Department failed to levy additional occupancy price. This resulted in non-levy of additional occupancy price of ₹ 5.88 lakh. Thus, there was total non-levy of additional occupancy price of ₹ 48.08 lakh in two cases.

The AA accepted the audit observation in one case and issued (October 2016) notice for recovery of ₹ 5.07 lakh. No reply has been received in other case (September 2017).

Audit pointed out these cases to the Department and Government in April 2017. Their replies have not been received (September 2017).

### 3.5 Short levy of penal occupancy price

As per Government Resolution dated 8 January 1980, the Government land encroached for commercial or industrial purpose shall be regularised after charging penal occupancy price at 2.5 times of the market value fixed by competent authority.

During the test check of records of the office of the Principal Secretary, Revenue Department, Gandhinagar, audit noticed (August 2016) that land measuring 1,619 sq. mtr. in Bhunava (Gondal-Rajkot) had been allotted (May 2015) to a Company after recovery of occupancy price. Records kept in file revealed that the said land had been encroached by the Company. The Company had requested for regularisation of encroachment after payment of occupancy price. The fact was not taken into consideration while levying the occupancy price. The Department had recovered occupancy price of ₹ 7.19 lakh instead of 2.5 times penal occupancy price of ₹ 17.97 lakh. This resulted in short-recovery of penal occupancy price of ₹ 10.78 lakh.

Audit pointed this out to the Department and Government in April 2017. Their reply has not been received (September 2017).

<sup>10</sup> September 2015 and August 2016

### 3.6 Non/ short levy of service charge

As per GR dated 26 April 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. GR of 18 April 2011 stipulates that in cases where old *jantri* rates effective upto 17 April 2011 were higher than the new *jantri* rates effective from 18 April 2011, then the old *jantri* rates would be applicable for the valuation purpose.

During test check of records of Collector office, Ahmedabad for the period 2014-15, audit noticed (February 2016) that land measuring 24,85,897 sq. mtr. and 3,03,525 sq. mtr. in Hansalpur and Ughrojpura villages respectively were allotted to Maruti Suzuki India Ltd. for industrial purpose, after determination of market value by the SLVC and recovery of occupancy price. Audit observed that in respect of land allotted at Hansalpura village, though old *jantri* rates were higher than the new *jantri* rates, the Revenue Authorities adopted new *jantri* rates for valuation of land for the purpose of levy of service charge and levied ₹ 62.09 lakh instead of ₹ 74.58 lakh. In respect of land allotted at Ughrojpura, service charge of ₹ 8.65 lakh was not levied at all. This resulted in non-recovery of service charge of ₹ 21.14 lakh.

Audit pointed out this case to the Department and Government in April 2017. Their reply has not been received (September 2017).

### 3.7 Non 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 (10 *per cent*, if amount of compensation/ award is ₹ 10 lakh and above).

During test check of records of the Additional Special Land Acquisition Officer, Ahmedabad, audit noticed (February 2016) in one case that the Officer had acquired private land after payment of compensation of ₹ 16.10 crore and awarded (October 2013) the same to Western Railways. But, establishment charges of ₹ 1.61 crore were not levied.

Audit pointed out this case to the Department and Government in April 2017. Their reply has not been received (September 2017).