

CHAPTER VI

OTHER TAX AND NON-TAX RECEIPTS

6.1 Tax administration

This chapter consists of receipts from State Excise, Entertainments Duty, State Education Cess (EC), Employment Guarantee Cess (EGC), etc. The administration is governed by Acts and Rules framed separately for each Department.

6.2 Results of audit

In 2015-16, test check of the records of 330 units relating to the State Excise, Entertainments Duty, Taxes and Duties on Electricity, Education Cess/Employment Guarantee Cess, Profession Tax, Repair Cess, etc., showed short levy of licence fees, entertainments duty and other irregularities amounting to ₹ 64.35 crore in 729 observations, which fall under the following categories as indicated in **Table 6.2**.

Table 6.2

(₹ in crore)			
Sr. No.	Category	No. of observations	Amount
1	Audit of "Receipts from Co-operative Societies"	1	1.92
2	State Excise	115	3.28
3	Entertainments Duty	364	28.63
4	Taxes and Duties on Electricity	36	4.67
5	Repair Cess	19	5.75
6	Education Cess and Employment Guarantee Cess	96	15.75
7	Maharashtra Tax on Buildings (with Larger Residential Premises)	22	0.06
8	Profession Tax	71	0.87
9	Non-Tax Receipts	5	3.42
Total		729	64.35

In response to our audit observations pointed out during the year 2015-16 as well as earlier years, the concerned Department accepted underassessment, short levy, etc. and recovered ₹ 4.63 crore in 216 observations of which 16 observations involving ₹ 35.24 lakh related to 2015-16 and the rest to earlier years.

This Chapter contains five paragraphs including a paragraph on "Receipts from Co-operative Societies".

6.3 Audit of “Receipts from Co-operative Societies”

Introduction

The Maharashtra Co-operative Societies Act, 1960 (MCS Act) governs the promotion, registration, development, supervision, inspection and annual audit of Co-operative Societies. The receipts from co-operative societies were administered/monitored by Commissioner/ Registrar of Co-operative Societies under the jurisdiction of Department of Co-operation, Marketing and Textiles¹. The major functions of the Department were as follows:

The Department was responsible for audit of each society annually. The audit fees were payable by the Societies to the Registrar. The Registrar was empowered to notify that any society or class of Societies may get its or their accounts audited by an auditor selected from the panel of certified auditors maintained by the Registrar. The Department also recovered the charges known as Surcharge for assistance given to societies for recovering their loans and also watches the recovery of share capital invested by the Government and other dues of the Government.

There were 1,96,907 societies registered with the Registrar as on 31 March 2016. We selected five divisions viz., Pune, Nashik, Kolhapur, Mumbai and Nagpur division. The total number of societies in these divisions was 1,40,530. The results of audit are briefly discussed in the following paragraphs:

6.3.1 Non-realisation of audit fee

As per the information furnished by the Commissioner of Co-operative Societies, an amount of ₹ 69.64 crore was recoverable from 34,997 Societies as on 31 March 2016. The year wise breakup for the last five years is given in **Table 6.3.1**.

Table 6.3.1

(₹ in crore)					
Year	Opening balance	Addition	Total recoverable	Recovery	Closing balance
2011-12	52.23	24.60	76.83	18.79	58.04
2012-13	58.04	25.99	84.03	19.40	64.63
2013-14	64.63	12.29	76.92	7.19	69.73
2014-15	69.73	11.26	80.99	7.74	73.25
2015-16	73.25	6.64	79.89	10.25	69.64

Source : Information furnished by the Department

¹ The Department of Co-operation, Marketing and Textiles consist of Co-operation Commissionerate, Sugar Commissionerate and Directorate of Marketing. The scope of Audit has been limited to Co-operation Commissionerate and does not cover societies under Sugar Commissionerate and Directorate of Marketing.

It could be seen from the above that amount of arrears has increased from ₹ 52.23 crore to ₹ 69.64 crores, i.e. by 33 *per cent* while the pace of recovery has been gradually going down.

After this was pointed out, the Department stated that the amounts could not be recovered as a number of societies were running in loss, had gone for liquidation or were closed down.

Audit, however, found that out of 10,648 audited societies registered in Pune, only 637 societies were under liquidation or had closed or were not found at the registered address. Similarly in Kolhapur out of 9,593 audited societies, only 177 societies were under liquidation or had closed or were not found at the registered address. Thus, the number of societies that had closed their business was very small.

The arrears were being reflected in Monthly Reports submitted to the Commissioner, however, no action was taken for recovery of dues as envisaged in Section 155 of the MCS Act which stipulated that all sums due from the society to the Government may be recovered as arrears of land revenue.

6.3.2 Non-recovery of Government Share Capital

As per the terms and conditions attached with the GRs² issued by the GOM, each society was required to create a Share Capital Refund Fund to ensure redemption of the Government's share capital. The society had to deposit 1/15th of the amount of share capital every year in the Fund. However, we noticed that neither the Societies had created the Share Capital Refund Fund and nor had the Department taken any action for enforcing the conditions for creating the fund. Thus, the recovery of share capital was not ensured.

6.3.3 Dividend from profit making Co-operative societies not ensured

As per the terms and conditions attached with the GR's authorizing share capital issued by the GOM, each society in profit could pay dividend not more than four *per cent* of the share capital until the entire Government Share Capital has been paid up. Audit found that 1,004 societies were running in profit during the year 2014-15. The Government had invested ₹ 7.14 crore as share capital in these societies. Had the societies declared dividend the Government could have earned revenue of ₹ 28.56 lakh. There was no provision in the MCS Act for mandatory declaring of dividends as in Andhra Pradesh Co-op Societies Act, 1964³.

6.3.4 Non-remittance of surcharge into Government Account

Under provisions of Rule 107 (e) of the MCS Rules, cost of recovery of loans to the societies @ 1.75 *per cent* of the total amount recovered was to be credited to the GOM as 'Surcharge'. As per the information furnished to audit, the Department had collected ₹ 1.79 crore as surcharge during 2011-12

² Authorising Share Capital.

³ Section 36 (5)(d).

to 2015-16 from seven societies in Pune (City), Pune (Rural), Solapur and Nashik divisions. Out of this, the Department had not remitted ₹ 1.64 crore into the treasuries and had shown this as cost of recoveries. No document in support of the expenditure incurred was produced to audit. The Department may consider collecting the information for the entire State and ensure correctness of the expenditure incurred.

6.3.5 Audit of Societies and its Compliance

Under Section 81 of the MCS Act, the Registrar shall audit or cause to be audited the accounts of every society at least once in each year. As per the information furnished to audit by the Commissioner of Co-operative Societies out of total 1,96,907 number of societies in all divisions only 1,47,689 (75 *per cent*) were allotted for audit out of which 13,091 societies were pending for audit by Departmental auditors and 62,186 were pending for audits that were allotted to other⁴ auditors. Thus the pendency of audit works out to 51 *per cent* of the allotted units and 63 *per cent* of the total societies. The Department may consider a time bound program for audit of these societies.

Section 82 of the Maharashtra Co-operative Societies Act, requires every society to explain to the Registrar, within three months of the receipt of the audit report in 'O' Form, the defects or irregularities pointed out by the auditor and take steps to rectify the defects, remedy the irregularities and report to the Registrar the action taken by it thereon. These reports furnished by the societies were called 'Rectification Reports' by the Department. As per the information furnished by the Department it was seen that as on 31 March 2016, 54,554 societies out of 75,628 societies (72 *per cent*) had not submitted 'Rectification Reports'. Thus corrective action taken by the concerned societies could not be ascertained by the Department. In absence of Rectification reports from the societies the efficiency in working of the Societies could not be ensured.

The matter was reported to the Government (July 2016). Their reply has not been received (February 2017).

⁴ Other auditors include Chartered Accountants, Chartered Accountant Firm, Certified Auditors empanelled by the Department.

Other audit observations

6.4 Non recovery of Entertainments Duty from cable operators

ED amounting to ₹ 70.33 lakh was not paid by 158 cable operators

Under section 3(4) of the Bombay Entertainments Duty Act, 1923 (BED Act), Entertainments Duty was payable by the cable operators at rates specified in the Act. Under Rule 14 of the Collection of Entertainments Duty on Cable Television (including Entertainments Duty leviable on DTH Broadcasting Services) by way of Public Auction Rules 2003, the Collector is required to assess the cable operators and recover the Entertainments Duty. These cable operators are required to file monthly returns in Form 'E' along with the payment of Entertainments Duty with the Collector. As per Section 4B(4) of the BED Act, if the return is not filed within the prescribed time, the State Government may, after giving the cable operator a reasonable time, assess to the best of its judgment, the Entertainments Duty due from the cable operators and also direct them to pay the Entertainments Duty and penalty, if any. Failure of compliance to the provisions of Section 4B is punishable under Section 5A by imprisonment for a term extending up to six months or fine not more than ₹ 5,000 or both. As per Section 9B of the BED Act, interest at the rate of 18 *per cent* per annum for the first 30 days and 24 *per cent* per annum thereafter is also to be levied in case of default in payment.

Test check of records of seven⁵ offices in May 2014 and July 2015 revealed that the returns were not filed by 158 cable operators along with Entertainments Duty amounting to ₹ 70.33 lakh during various periods between August 2012 and March 2015. The demands were not raised by the concerned Collectors resulting in non-realisation of ED to that extent. Interest at the prescribed rates was also leviable.

After we pointed out these cases, the Department accepted the observations and communicated recovery of ₹ 28.63 lakh from 51 cable operators between June 2014 and March 2016. A report on balance recovery has not been received.

We brought the matter to the notice of the Government in June 2016; their reply has not been received (February 2017).

6.5 Non recovery of Entertainments Duty from discotheques

ED amounting to ₹ 28.00 lakh was not paid by three discotheques

Under the provisions of Section 3(17) of the Bombay Entertainments Duty Act, 1923 (BED Act), there shall be levied and paid by the proprietors of discotheques, the entertainments duty at the rates specified from time to time, in advance by the tenth day of every calendar month. In case the entertainments duty is not paid by the due date, a demand notice is issued for payment of the duty. As per Section 9B of the BED Act, interest at the rate of 18 *per cent* per annum for the first 30 days and 24 *per cent* per annum

⁵ Resident Deputy Collectors: Ratnagiri and Solapur; Taluka Magistrates: Barshi, Karmala, Madha, Mohol and Pandharpur.

thereafter is also to be levied in case of default in payment. Non-compliance of the demand notice is punishable by imprisonment for a term extending up to six months or fine not more than ₹ 5,000 or both.

Our scrutiny (June 2014) of records in two⁶ offices revealed that Entertainments Duty amounting to ₹ 28.00 lakh was not paid by proprietors of three discotheques during various periods between September 2012 to March 2014. The demands in these cases were also not raised by the concerned Collectors resulting in non-realisation of ED to that extent. Interest at the prescribed rates was also leviable.

After we pointed out these cases, the Department accepted the observations. A report on recovery has not been received.

We brought the matter to the notice of the Government in July 2016; their reply has not been received (February 2017).

6.6 Short recovery of Licence Renewal Fees

Licence renewal fees amounting to ₹ 11.71 lakh was not recovered in respect of nine licences

In exercise of the powers conferred by Clause (a) of Rule 4 of the Maharashtra Potable Liquor (Periodicity and fees for grant, renewal or continuance of licence) Rules, 1996 and the provisions under Bombay Prohibition Act, 1949 read with Maharashtra Country Liquor Rules, 1973 for grant, renewal or continuance of licences in respect of CL-III, CL/FL/TOD-III, FL-II, FL-III etc., the Commissioner notifies the rates for each financial year for licences mentioned in Column No. 2 of the Schedule of the notification, which are based on the population of that area where the licence is granted or renewed.

During the scrutiny of records of the three⁷ State Excise Superintendent offices between January 2015 and September 2015, it was noticed that renewal fees in respect of nine licences was not recovered as per the schedule rates based on the population census. The short recovery in this regard worked out to ₹ 11.71 lakh.

After this was brought to the notice of the Department between February 2015 and October 2015, the Department accepted the observation and reported recovery of ₹ 0.85 lakh in four cases in February 2016. A report on the recovery of the balance amount is awaited.

We brought the matter to the notice of the Government in June 2016; their reply has not been received (February 2017).

6.7 Short remittance of State Education Cess (SEC) and Employment Guarantee Cess (EGC)

Amount collected on account of Education Cess and Employment Guarantee Cess was short remitted by ₹ 11.70 crore

As per the provisions under section 4 and 6(b) of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, read with Rule 4 of Education

⁶ Dy. Collector (BEDA), Zone VIII and Dy. Collector (BEDA), Zone IX, Mumbai.

⁷ Superintendent of State Excise: Ahmednagar, Raigad and Thane.

(Cess) Tax on lands and Buildings (Collection and Refund) Rules, 1962, amounts of cess and penalty collected by any Municipal Corporation (MC) during any calendar week are required to be credited into the Government account before the expiry of the following week. If any MC defaults in payment of any sum under the Act, Government may, after holding such enquiry as it thinks fit, fix a period for the payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from the bank account to the Government. There is no provision in the Act to levy interest or penalty on delay in remittance of Government revenue by the MC.

During the scrutiny (August 2014 and December 2015) of the Tax Collection Registers of two Municipal Corporations (Aurangabad and Bhiwandi-Nizampur), we noticed that the Corporations had remitted only ₹ 9.81 crore out of ₹ 21.51 crore collected as State Education Cess and Employment Guarantee Cess during the period 2011-12 to 2014-15, thereby resulting in short remittance of ₹ 11.70 crore.

After this was brought to notice, the Corporations stated that matter would be verified.

The matter was also brought to the notice of the Department in January 2016. However, details of action taken by the Department have not been received.

We brought the matter to the notice of the Government in July 2016; their reply has not been received (February 2017).



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