

Chapter VI - Compliance Audit

Department of Urban Development

6.1 Collection of property tax in Urban Local Bodies

6.1.1 Introduction

Urban Local Bodies (ULBs) or Municipalities are the institutions of self-governance, constituted under Article 234Q of the Constitution of India. The State Government enacted (March 1965 and June 1977) the Karnataka Municipalities Act, 1964 (KM Act) to consolidate and amend the law relating to the management of municipal affairs in towns and cities and Karnataka Municipal Corporations Act, 1976 (KMC Act) to consolidate and amend the laws relating to the establishment of Municipal Corporations in the State of Karnataka. There are 10 City Corporations⁴¹ (CCs) other than Bruhat Bengaluru Mahanagara Palike (BBMP), 57 City Municipal Councils⁴² (CMCs), 114 Town Municipal Councils⁴³ (TMCs), 89 Town Panchayats⁴⁴ (TPs) and 4 Notified Area Committees (NACs) in the State.

6.1.1.1 Source of revenue of ULBs

The finances of the ULBs comprise receipts from own resources, grants, assistance from Government of India and State Government and loans from financial institutions and nationalised banks. Own resources comprise tax and non-tax revenues realised by the ULBs. Property tax is one of the most important sources of tax revenue for ULBs. The authority for levying property tax is Section 103(b)(i) of the KMC Act for the CCs and Section 94(b)(i) of the KM Act for the CMC/TMC/TP.

6.1.1.2 Self-assessment of property tax

The State Government, through amendments to the KM and KMC Acts, introduced (November 2001) the 'Self-assessment System (SAS)' in assessment of property tax in the municipalities, which was given effect from 1 April 2002. This provided for simplification of property tax collection, besides discouraging and preventing corruption and misappropriation. The SAS aimed to ease the procedure for assessment of tax by taxpayers. As per this system, the tax payers had to assess the tax themselves, based on the guidelines for calculation of market value published by the Department of Stamps and Registrations from time to time.

6.1.2 Organisational set-up

The Additional Chief Secretary to Government, Urban Development Department (UDD), Government of Karnataka (ACS) at the Government level

⁴¹ ULBs with a population of more than 3,00,000

⁴² ULBs with a population of more than 50,000 but less than 3,00,000

⁴³ ULBs with a population of more than 20,000 but less than 50,000

⁴⁴ ULBs with a population of more than 10,000 but less than 20,000

is responsible for overall supervision of the activities including enforcement of the rules framed for administering the Acts and is assisted by the Director of Municipal Administration (DMA). The ULBs are headed by the Commissioner/Municipal Commissioner/Chief Officer and assisted by the Revenue Officer, Revenue Inspector and Bill Collectors.

6.1.3 Audit mandate

The Principal Director, Karnataka State Audit and Accounts Department⁴⁵ (KSAD) is the primary Auditor of ULBs under the Acts. The State Government entrusted (May 2010) the audit of accounts of all ULBs except NACs to the Comptroller and Auditor General of India (CAG) under Section 14(2) of CAG's Duties, Powers and Conditions of Service (DPC) Act, 1971 with effect from the financial year 2008-09, and under Technical Guidance and Supervision (TGS) with effect from 2011-12 onwards, by amending the statutes (October 2011).

6.1.4 Audit objectives

The compliance audit was conducted to ascertain whether:

- the ULBs have a reliable database of all the properties,
- the existing mechanism is adequate to ensure that the entire property tax realisable has been demanded, collected and accounted for, and
- control mechanism was in place and necessary efforts were made to minimise tax evasion and revenue leakage.

6.1.5 Audit criteria

The compliance audit was conducted with reference to the following criteria:

- KM and KMC Acts;
- Self-Assessment of Property Tax Scheme Guidelines;
- Karnataka Municipal Corporations Taxation (Amendment) Rules, 2002;
- Karnataka Municipal Accounting and Budgeting Rules, 2006 (KMABR);
- Karnataka Municipal Accounting Manual Volume 1;
- Government orders and departmental circulars issued from time to time; and
- Resolutions passed by the Councils of the respective ULBs.

⁴⁵ erstwhile Controller, Karnataka State Accounts Department

6.1.6 Audit scope and methodology

The audit on collection of property tax was conducted from April to August 2016 covering the period from 2013-14 to 2015-16, through test-check of records of DMA, three CCs, six CMCs, ten TMCs and five TPs. The test-checked municipalities were selected through statistical sampling method of “probability proportional to size without replacement” with the collection of property tax for the year 2014-15 as size measure. BBMP was excluded⁴⁶ from this. The list of selected ULBs is given in **Appendix 6.1**. Joint physical verifications (JPVs) were also carried out wherever necessary along with the officials of ULBs.

An entry meeting was held (26.04.2016) with DMA to discuss the audit objectives, scope and methodology. The exit meeting was held (24.01.2017) with the ACS to share and discuss the audit findings.

Acknowledgement

We acknowledge the cooperation extended by the officers and staff of DMA and ULBs in conducting the audit.

Audit findings

The audit findings noticed during the audit are discussed in the succeeding paragraphs.

6.1.7 Survey of properties

The provisions⁴⁷ of the KM and KMC Acts stipulate that the Commissioner shall, subject to general or special orders of the Government, direct a survey of buildings or lands or both within the municipal area/city with a view to assess the property for tax and may for this purpose obtain the services of any qualified person or agency for conducting such survey and preparation of the property register.

We observed that none of the test-checked ULBs had conducted such a survey. The DMA, however, had conducted the survey through Geographical Information System (GIS) initially for 49 ULBs starting from 2004-05 and later for 164 ULBs starting from 2009-10 that was completed by 2012-13. The period of the survey conducted in respect of the test-checked ULBs is indicated in **Appendix 6.2**. The GIS was aimed at creation of property database with standard set of details so as to bring all the properties under the tax net besides ensuring transparency and accountability in collection of property tax. The Municipal Reforms Cell (MRC) specifically created in 2005 for implementation of computerisation and other reforms in all the ULBs in the State was responsible for maintenance of the GIS database. An online

⁴⁶ A performance appraisal on the implementation of SAS of property tax in BBMP was conducted during 2010-11, which appeared as Paragraph 4.1 of Audit Report on Local Bodies for the year ended March 2010.

⁴⁷ Section 107A of KM Act and Section 112D of KMC Act

database was created for all the 213 ULBs on completion of the survey with the intention to bring all the properties under the tax net. The Department claimed that 12.08 lakh properties were brought into the tax net as a result of this survey and the DMA issued periodic instructions to all the ULBs to update and use the database for assessment, demand and collection of property tax. However, we observed that the survey data had not been put to use by any of the test-checked ULBs for the period test-checked.

The reasons stated by ULBs for not utilising the database are as follows:

- Hubballi-Dharwad Municipal Corporation (HDMC) and CC, Kalaburagi stated (May and August 2016) that they were using their own software;
- CC, Mysuru and CMC, Ullal stated (May and June 2016) that there was no provision for additions and alterations (edit option);
- CMC, Ramanagara and TMC, Mahalingapura stated (May and July 2016) that there was a mismatch between property details of GIS database *vis-à-vis* their own database;
- CMC, Bidar stated (July 2016) that there was problem with internet connectivity in the CMC;
- Thirteen ULBs⁴⁸ stated (May-September 2016) that they were using the database from 2016-17 onwards.

No reasons were furnished by the remaining four ULBs⁴⁹. In response to the Audit observation as to why there was no edit option, the DMA stated (September 2016) that the edit and append option was provided during May 2016.

We noticed that there were differences between the number of properties listed in the records of the test-checked ULBs and those in the MRC database as detailed in the **Appendix 6.2**. A comparison of the two showed that in eight ULBs, the number of properties as per the ULB's records for the year 2015-16 was less than that in the MRC database (GIS for these ULBs was conducted during the period 2004-05 to 2012-13). It was also seen that none of the ULBs reconciled the number of properties in their database with the GIS database. Consequently, the correctness of the number of properties assessed to tax could not be ascertained in audit.

The State Government stated (March 2017) that the MRC through its GIS had updated property numbers in almost all the ULBs.

⁴⁸ CMCs-Bhadravathi and Hassan; TMCs-Anekal, Devanahalli, Indi, Kumta, Kushtagi, Pavagada and Wadi; TPs-Gubbi, Honnavara, Khanapura and Kushalnagara

⁴⁹ CMC, Chikkamagaluru; TMCs-Belur and Bhalki; TP, Sullia

6.1.8 Property tax registers and Demand Collection and Balance register

The provisions⁵⁰ of the KM and KMC Acts state that a property tax register in respect of building or lands or both in the municipal area/city shall be maintained in such form and in such manner as may be prescribed. The property tax register had to contain all details such as the name and address of the owner/occupier, area of land, type and age of building, nature of use, tax paid, *etc.*

Further, Rule 53(1)(a) of the KMABR states that a Demand Collection and Balance (DCB) register shall be maintained where any tax is due to be paid by the assesseees. The DCB register shall be maintained in such manner that amounts due, collection made and balances due are ascertained for all such persons or things and should contain details such as ownership, use of property, occupancy type, dimensions of land and building, date of construction of building, *etc.*

We observed that no separate property tax registers and DCB registers were being maintained in any of the test-checked ULBs and only a single register (in form KMF 24) was maintained. In 10 ULBs, the register so maintained was incomplete as it did not contain the vital details such as year/date of completion and dimension of the buildings. The register also did not contain the details of exempted properties. Consequently, the correctness of demand reflected by the ULBs could not be assessed.

The details of demand raised in the test-checked ULBs during the period 2013-16 are given in **Appendix 6.3**. Our scrutiny revealed that the demand was not commensurate with the number of the properties in the following instances:

- In two ULBs (TMC, Mahalingapura and TP, Khanapura), the demand raised for the year 2015-16 was the same as the previous year in spite of increase in the number of properties.
- In two ULBs (CMC, Bidar and TP, Honnavara), the demand raised for the year 2015-16 was less than the previous year, though the number of properties remained the same.
- In CC, Kalaburagi the demand raised during 2014-15 and in CMC, Chikkamagaluru and TP, Kushalnagara, the demand raised during 2015-16 was less than the demand raised during the previous years in spite of increase in the number of properties.
- In TMC, Devanahalli, though the number of properties increased by 804 during 2014-15, the demand raised increased by only ₹50,000.

The JPV (May-August 2016) of 96 properties in 19 ULBs showed that in respect of 45 properties, the property owners had short-declared the actual

⁵⁰ Section 106 of KM Act and Section 112B and Rule 11 under Schedule III of KMC Act

built-up area at the time of paying property tax. The short-payment of tax as worked out by us in respect of 42 properties amounts to ₹20.26 lakh in 13 test-checked ULBs⁵¹. In respect of three properties of TMC, Belur, the tax paid was more due to incorrect calculation.

The necessity for maintaining property registers and DCB registers separately may be ascertained and demand raised may be periodically reconciled between the two registers which would eliminate mismatches, if any.

The State Government stated (March 2017) that circular/guidelines were issued (January 2017), in response to the audit observations, for assessment, collection and maintenance of registers of self-assessment of property tax. The instructions reiterate the maintenance of separate property tax register and DCB register.

6.1.9 Collection of property tax

We observed from the records that the collection of property tax in TMC, Mahalingapura was less than 35 *per cent* of the demand raised during the audit period. The performance of the other 23 test-checked ULBs with regard to collection of property tax against the demand is indicated in the **Table 6.1** below:

Table 6.1: Collection of property tax by ULBs

Percentage of collection	Number of ULBs		
	2013-14	2014-15	2015-16
> 50 and ≤ 75	3	3	3
> 75 and ≤ 90	10	13	13
> 90	10	7	7

Source: Information furnished by ULBs

As against the total demand of ₹521.53 crore in the 24 ULBs, the collection during the years of test-check was ₹488.19 crore, leaving an amount of ₹33.34 crore which was yet to be collected. Additional efforts may be made by the ULBs to ensure collection of all dues.

The State Government stated (March 2017) that circular/guidelines were issued (January 2017) for assessment, collection and maintenance of registers of self-assessment of property tax. We feel that there is need of close monitoring by the State Government.

⁵¹ CC, Kalaburagi (three properties-₹1.51 lakh), CC, Mysuru (one property-₹0.53 lakh), CMC, Bidar (nine properties-₹4.91 lakh), CMC, Chikkamagaluru (three properties-₹1.85 lakh), CMC, Hassan (one property-₹0.15 lakh), CMC, Ramanagara (one property-₹0.06 lakh), CMC, Ullal (five properties-₹2.27 lakh), TMC, Anekal (five properties-₹3.40 lakh), TMC, Devanahalli (four properties-₹0.36 lakh), TMC, Kumta (five properties-₹1.07 lakh), TMC, Kushtagi (three properties-₹3.01 lakh), TMC, Mahalingapura (one property-₹0.47 lakh) and TMC, Wadi (one property-₹0.67 lakh)

6.1.10 Escape from assessment

The provisions⁵² of the KM and KMC Acts state that if for any reason, any person liable to pay any of the taxes or fees leviable, has escaped assessment in any half year/year, the Commissioner or the Chief Officer or the authorised officer may at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to tax or fee due and demanding payment thereof within fifteen days from the date of service of such notice.

We observed that 1,47,211 (16 *per cent*) properties in 14 test-checked ULBs, as per their records, remained unassessed for the year 2015-16. The ULB-wise details of properties that escaped assessment are indicated in **Appendix 6.2**. However, the number of properties which remained unassessed for the year 2015-16 stood at 3,90,651 (38 *per cent*) in 23 of the ULBs test-checked as per MRC database. There were no unassessed properties in CMC, Ramanagara as per the MRC database whereas the ULB's records showed that 256 properties were unassessed.

A few of the ULBs accepted that some properties were unassessed and stated (February 2017) that notices are now served to the property owners for compulsory assessment and a plan of action to complete the process is drawn for six months. The State Government stated (March 2017) that guidelines were issued (January 2017) to the ULBs and Project Directors of all the districts to monitor the SAS system of ULBs under their jurisdiction and ensure that all properties are brought into the tax net.

6.1.11 Evasion of tax

We observed from the records of TMC, Anekal that owners of 700 properties⁵³ located under the jurisdiction of the TMC got their properties irregularly assessed at four Gram Panchayats⁵⁴ (GPs) located near the TMC by availing *khatas* from the GPs and paying property tax to the respective GPs. The TMC should have surveyed these properties since it was within its jurisdiction and ensured that the property tax was paid to it. Since the properties escaped payment of tax to TMC, the TMC was put to loss of revenue.

During the JPV (August 2016) of randomly selected five properties, we observed that these properties were irregularly assessed at GP, Vanakanahalli and the loss of revenue from these properties amounted to ₹6.80 lakh for the period 2013-14 to 2015-16, excluding penalty. We also observed that the rates of property tax in GPs are less than that in the TMC. For instance, in respect of one assessee (Shri Muniraju), the tax as per the GP rates was ₹7,236.00 whereas as per the TMC rates, the tax would be ₹27,111.00.

⁵² Section 115 of KM Act and Section 143 of KMC Act

⁵³ as per information furnished (25.11.2016) by TMC, Anekal

⁵⁴ GPs – Gowrenahalli, Karpuru, Samanthuru and Vanakanahalli

The TMC stated (September 2016) that action would be initiated to issue notices to the property owners and collect tax. However, the reply was silent regarding the action that would be taken regarding the other properties which were assessed at GPs though the properties were under the jurisdiction of the TMC.

While no specific reply was furnished, the State Government stated (March 2017) that guidelines were issued (January 2017) to the ULBs and Project Directors of the State to adopt and monitor the SAS system properly.

6.1.12 Property tax on telecommunication towers

As per the Karnataka Municipalities and Certain Other Law (Amendment) Act, 2014, the definition of building was amended (January 2015) to incorporate the telecommunication towers also. Hence, the ULBs were required to collect property tax on these towers.

We observed that out of the 24 test-checked ULBs, only HDMC had raised (2015-16) the demand for collection of property tax in respect of 16 out of 304 telecommunication towers at ₹12,000 per year and had collected ₹1,92,000 up to the end of 2015-16. The other ULBs had not taken any action for collection of property tax from the telecommunication towers. The loss of revenue in respect of 1,195 towers in 18 test-checked ULBs was ₹1.43 crore per year (@ ₹12,000 per tower approximately). Information on the number of towers was not made available by six ULBs⁵⁵.

The ULBs replied (May-August 2016) that in the absence of clear instructions from the DMA, they were not in a position to collect tax on these towers. The State Government stated (March 2017) that the rates on telecommunication towers were under examination. The reply is not acceptable as non-finalisation of the rates of tax to be collected on towers despite amending the KM and KMC Acts in January 2015 has resulted in revenue foregone.

6.1.13 Revision of rates of tax

As per the provisions⁵⁶ of the KM and KMC Acts, the property tax once assessed, shall not be assessed each year thereafter but shall stand enhanced by 15 per cent once in every three years commencing from the financial year 2005-06. Accordingly, the ULBs had to revise the rates of property tax during 2008-09, 2011-12 and 2014-15.

We found that all the ULBs had revised the rates at required periods except the following:

- CC, Mysuru revised the rates during 2006-07, 2010-11 and 2014-15 (*i.e.*, once in four years).
- TMC, Kushtagi revised the rates only during 2011-12 and 2014-15.

⁵⁵ TMCs-Anekal and Pavagada; TPs-Gubbi, Honnavara, Khanapura and Sullia

⁵⁶ Section 102A of KM Act and Section 109A of KMC Act

- TMC, Devanahalli revised the rates during 2013-14 and 2014-15. The rates revised during 2013-14 were with retrospective effect from 2008-09. Scrutiny of the SAS returns showed that the TMC had not collected the property tax at revised rates from the owners of properties who had already paid the tax for the period 2008-09 to 2012-13.

Consequently, the above ULBs suffered loss of revenue due to non-enhancement of rates of the property taxes as per the Acts.

The State Government stated (March 2017) that circulars were issued (January 2017) to the ULBs and Project Directors of the State to adopt and monitor the SAS system properly and action to amend the Act would be taken.

6.1.14 Calculation of taxable capital value of land and buildings

The provisions⁵⁷ of the KM and KMC Acts stipulate that the taxable capital value of the building shall be assessed together with the land occupied by it having regard to the market value guidelines of properties published under Section 45B of the Karnataka Stamp Act, 1957 minus depreciation at the time of assessment as may be notified by the Government from time to time.

We observed that the DMA had instructed (April 2011) the ULBs to adopt the guidance value of 2005-06 instead of the prevailing guidance value. As a result, 22 test-checked ULBs adopted the guidance value of 2005-06, while HDMC and TMC, Kushtagi adopted the guidance value of 2009-10 and 2011-12 respectively. The ULBs were thus put to a loss of revenue. The loss, as worked out by Audit, in respect of 10 properties under TMC, Devanahalli considering the guidance value of 2014-15, amounted to ₹5.00 lakh for the year 2015-16.

The State Government stated (March 2017) that action would be taken to amend the relevant Act and Rules for adopting the prevailing guidance value.

6.1.15 Depreciation

We observed that five of the test-checked ULBs⁵⁸ were not allowing depreciation on the actual age of the building in accordance with Section 102 of KM Act and Section 109 of KMC Act.

The ULBs replied (May-August 2016) that DMA had issued instructions not to allow further depreciation after the year 2006-07. The online tax calculator made available to ULBs by the DMA provided for calculation of depreciation up to the year 2006-07 only. This was contrary to the provisions of the KM and KMC Acts.

The State Government stated (March 2017) that action would be taken to issue revised date.

⁵⁷ Section 102 of KM Act and Section 109 of KMC Act

⁵⁸ CCs – HDMC and Mysuru; CMCs – Hassan and Ullal; TMC - Devanahalli

6.1.16 Excess collection of tax on vacant land

Section 101 of KM Act and Section 108 of KMC Act prescribe the rates of property tax for vacant land as under:

- (i) Land measuring not above one thousand square meters, at not less than 0.1 *per cent* and not more than 0.5 *per cent* of taxable capital value of land,
- (ii) Land measuring above one thousand square meters but not above four thousand square meters, at not less than 0.025 *per cent* and not more than 0.1 *per cent* of taxable capital value of land,
- (iii) Land measuring above four thousand square meters, at not less than 0.01 *per cent* and not more than 0.1 *per cent* of taxable capital value of land.

We observed that HDMC calculated the tax on vacant land by adopting incorrect slab rates, resulting in excess collection of tax in 172 cases of vacant lands measuring more than 4,000 square meters. Similarly, TMC, Devanahalli calculated the tax on vacant land at a uniform rate of 0.35 *per cent* instead of the above rates thereby resulting in excess collection of tax in 5,912 cases.

The State Government stated (March 2017) that circulars were issued (January 2017) to the ULBs and Project Directors of the State to adopt and monitor the SAS system properly.

6.1.17 Rebate for timely payment

As per the provisions⁵⁹ of the KM and KMC Acts, the owner or occupier who pays property tax within one month from the date of commencement of the financial year shall be allowed a rebate of five *per cent* on the tax payable.

We noticed that in TMCs, Bhalki and Wadi, the benefit of rebate was not extended to those property owners who had paid the tax within one month.

The State Government stated (March 2017) that circulars were issued (January 2017) to the ULBs and Project Directors of the State to adopt and monitor the SAS system properly. The reply was, however, silent on the refund of rebate to the property owners.

6.1.18 Remittance of cess

The ULBs were required to collect various cesses such as Health, Library, Beggary and Urban Transport Cess at 15 *per cent*, 6 *per cent*, 3 *per cent* and 2 *per cent* respectively, on the amount of tax collected on land and buildings.

⁵⁹ Section 105 of KM Act and Section 112A of KMC Act

Section 56 of the KMABR states that the ULBs are required to remit the same to the authorities⁶⁰ concerned within 10th of the following month.

We observed that cess amount of ₹109.64 crore pertaining to the period 2013-14 to 2015-16 including opening balance was pending remittance by the 23 test-checked ULBs at the end of March 2016 as detailed in **Appendix 6.4**. The information was not furnished by TMC, Pavagada.

The State Government stated (March 2017) that the Project Directors of the State have been directed (January 2017) to take care of the remittance of the Cess of the ULBs coming under their jurisdiction and ULBs have been directed to clear all the dues pending towards Cess payment.

6.1.19 Non-collection of tax from industrial properties developed by Urban Development Authorities

As per Section 101(1) of the KM Act and Section 108 of KMC Act, unless exempted under the Acts or any other law, property tax shall be levied every year on all buildings or vacant land or both situated within the municipal area/city. Further as per Section 94(1A)(k) of KM Act and Section 110(1)(k) of KMC Act, buildings or lands belonging to any Urban Development Authority constituted under the Karnataka Urban Development Authorities Act, 1987, the Karnataka Housing Board (KHB) or any local authority, the possession of which has not been delivered to any person, in pursuance of any grant, allotment or lease are exempt from payment of property tax.

Further, as per paragraph 5.1.7.4 of Karnataka Industrial Policy 2014-19, till the townships are declared, KIADB/KSSIDC shall collect property tax, cess *etc.*, from all industries and pay it to the concerned local authorities with nominal service charge.

We observed that:

- (a) HDMC, CMC, Hassan and TMC, Kushtagi did not collect property tax from industrial units functioning in industrial areas of Karnataka Industrial Areas Development Board (KIADB) and Karnataka Small Scale Industries Development Corporation (KSSIDC) resulting in loss of revenue to the ULBs. The loss to HDMC as per the CC's records is given in the **Table 6.2:**

⁶⁰ Health Cess to Health Department, Beggary Cess to Directorate of Beggary, Library Cess to Department of Libraries and Urban Transport Cess to Urban Transport Fund being administered by Director of Urban Land Transport

Table 6.2: Loss due to non-collection of property tax from industrial units in HDMC

(₹ in lakh)

Sl. No.	Zone	Year of assessment	Name of the Industrial Area	Ward number	Total number of units/properties	Uncollected tax	Uncollected penalty	Total uncollected dues
KIADB								
1	7	1996-97	Tarihal Industrial Estate	36T	224	382.30	755.33	1,137.63
2	12	1991-92	Lakkamanahalli Industrial Estate	19A	39	106.38	161.52	267.90
3	12	1991-92	Lakkamanahalli Industrial Estate	19	5	10.07	17.68	27.75
4	12	1991-92	Sattur Industrial Estate	21	3	5.37	9.20	14.57
5	12	1991-92	Sattur Industrial Estate	21A	3	1.38	3.73	5.11
Total						505.50	947.46	1,452.96
KSSIDC								
6	5	1991-92	Gokul Road Industrial Estate	34B	207	196.18	269.69	465.87

Source: Information furnished by HDMC

The number of industrial units functioning in industrial areas of KIADB under CMC, Hassan and TMC, Kushtagi was 25 and 35 respectively. We could not assess the loss of revenue in the absence of complete details of such properties.

- (b) CC, Mysuru had not raised the demand for property tax from properties developed by Mysuru Urban Development Authority and taken over by it. In respect of CMC, Hassan, the properties developed by KHB had to be handed over to the CMC subsequently. Though KHB requested that the CMC may formally take over these properties, the same had not been done so far. Consequently the ULBs lost revenue.

6.1.20 Property tax on Government buildings

The provisions⁶¹ of the KM and KMC Acts provide exemption from paying property tax for buildings or vacant lands belonging to the Central Government or any State Government used for the purposes of Government and not used or intended to be used for residential or commercial purposes.

We observed that there was no uniformity in the test-checked ULBs regarding collection of property tax from buildings belonging to Bharat Sanchar Nigam Limited (BSNL), Karnataka State Road Transport Corporation (KSRTC) and Karnataka Power Transmission Corporation Limited (KPTCL), which were used for commercial and residential purposes, as detailed in **Table 6.3**:

⁶¹ Section 94(1A)(j) of KM Act and Section 110(1)(j) of KMC Act

Table 6.3: Status in test-checked ULBs regarding categorisation of properties of Government organisations

Government organisations (Residential/Commercially used properties)	Number of ULBs			
	Exempted	Assessed	Not assessed	Information not furnished
BSNL	10	6	5	3
KSRTC	1 [¥]	17	2	4
KPTCL	1	17	2	4

[¥] KSRTC office in TMC, Devanahalli is functioning in property belonging to the TMC.

Source: Information furnished by the ULBs

Further, the property tax due as assessed by eight test-checked ULBs was ₹221.91 lakh in respect of 37 Government properties as of March 2016. In respect of other test-checked ULBs, we could not assess the loss of revenue in the absence of complete details of such properties.

The State Government stated (March 2017) that the ULBs and Project Directors of the State had been directed, by issue of circular instructions, to bring all the buildings and land in the ambit of tax net.

6.1.21 Collection of service charges on exempted properties

As per Rule 7A of Schedule III of KMC Act, service charges for providing civic amenities shall be levied in respect of buildings exempted from property tax under Section 110 of KMC Act, excluding places of public worship at the rate of 25 *per cent* of the property tax leviable for such lands and buildings. However, as per Section 94(2) of the KM Act, it shall be open to the Municipal Council to collect service charges for providing civic amenities and for general or special services rendered at such rates as may be prescribed.

We noticed that while all the three test-checked CCs were collecting service charges from exempted properties, none of the other 21 test-checked ULBs took any action for collecting service charges even though they were providing civic amenities to the exempted properties. The lack of uniformity regarding collection of service charges from exempted properties in the KM and KMC Acts resulted in many of the exempted properties remaining out of the tax net, resulting in loss of revenue to the ULBs.

The State Government stated (March 2017) that the ULBs and Project Directors of the State had been directed, by issue of circular instructions, to bring all the buildings and land in the ambit of tax net.

6.1.22 Persistent defaulters

The provisions⁶² of the KM and KMC Acts stipulate collection of property tax dues in respect of defaulters by distress sale of the movable property. Such action is permissible only after the defaulters have been issued show cause notice.

⁶² Section 143(1) of KM Act and Rule 27 to 31 under Schedule III of KMC Act

We noticed that none of the test-checked ULBs had taken action to recover the dues of property tax from persistent defaulters except for issuing notices repeatedly. An amount of ₹63.10 crore was due from 57,912 defaulters as at the end of March 2016 in 14 test-checked ULBs as detailed in **Appendix 6.5**. TMC, Devanahalli reflected an amount of ₹7.56 lakh as the balance due under property tax for the year 2015-16, but had not maintained the list of defaulters. The remaining nine ULBs had either not prepared the list of defaulters or failed to produce the same to Audit. A few of the major defaulters in two test-checked ULBs are indicated in the **Table 6.4** below:

Table 6.4: List of major defaulters in two test-checked ULBs

(Amount in ₹)

Sl. No.	ULB	Details of the property	Property tax due
1	Hassan	Malnad Engineering College	9,65,61,961
2		Hotel Sumukha	30,73,015
3		Adichunchanagiri <i>Kalyana Mantapa</i>	27,28,917
4	Kalaburagi	Methodist Church College, Kalaburagi	2,53,71,897
5		Central Warehouse-1	1,22,67,544
6		N.V. High School	61,42,381
7		Farhan Education Society, Mominapur	37,91,389
8		Railway Quarters	36,38,375
9		GESCOM (Electrical O&M Division), Kalaburagi	32,41,702
10		<i>Yatri Nivas</i>	23,76,537

Source: Information furnished by ULBs

The ULBs stated (February 2017) that action had been initiated to prepare the list of defaulters, notices had been issued and plan of action drawn to collect all dues from defaulters. The State Government stated (March 2017) that directions would be issued to maintain a defaulters list and to concentrate on major defaulters in order to improve property tax collection.

6.1.23 Short/non-collection of penalty

Section 105(8) of KM Act and Sections 112(3) and 112(4) of KMC Act prescribe the time limit for payment of property tax. The property tax shall be paid within ninety days after commencement of every year. If there is default in making payment, the person liable to pay tax shall pay a penalty at the rate of two *per cent* per month of the amount of property tax remaining unpaid after the expiry of the period.

We observed that TMC, Wadi had not collected the penalty in respect of payments made after the period of ninety days while nine ULBs short-collected penalty amounting to ₹13.72 lakh as detailed in **Table 6.5**:

Table 6.5: Short/non-collection of penalty

(Amount in ₹)

Sl. No.	Name of the ULB	Number of cases	Penalty due	Penalty collected	Short collection
1	CC, Mysuru	15	12,07,883	6,11,299	5,96,584
2	CMC, Hassan	22	3,81,576	1,21,325	2,60,251
3	CMC, Ramanagara	6	1,43,818	33,766	1,10,052
4	TMC, Anekal	17	1,90,513	21,521	1,68,992
5	TMC, Belur	12	23,810	11,308	12,502
6	TMC, Bhalki	5	2,065	1,233	832
7	TMC, Indi	3	11,766	900	10,866
8	TMC, Kushtagi	14	1,70,121	29,089	1,41,032
9	TMC, Mahalingapura	13	77,221	6,821	70,400
Total		107	22,08,773	8,37,262	13,71,511

Source: Information furnished by ULBs

CMC, Ramanagara, TMCs, Belur and Kushtagi stated (February 2017) that action had been initiated to recover the short collection pointed out by audit. The State Government stated (March 2017) that the ULBs and Project Directors of the State had been directed, by issue of circular instructions, to bring all the buildings and land in the ambit of tax net.

6.1.24 Levy of penalty on unlawful buildings

As per the provisions⁶³ of the KM and KMC Acts, whoever unlawfully constructs or reconstructs any building or part of a building

- (i) on his land without obtaining permission under the Acts or in contravention of any condition attached to such permission; or
- (ii) on a site belonging to him which is formed without approval under the relevant law relating to town and country planning; or
- (iii) on his land in breach of any provision of the Acts or any rule or bye-law made thereunder or any direction or requisition lawfully given or made under the Acts or such rules or bye-law,

shall be liable to pay every year a penalty, which shall be equal to twice the property tax leviable on such building so long as it remains an unlawful construction, without prejudice to any proceedings which may be instituted against him/her in respect of such unlawful construction.

We observed during JPV (May-August 2016) that penalty was not collected on unlawful buildings in 11 cases in four ULBs. In 4 of these 11 cases, ULBs had collected a sum of ₹17.35 lakh which was treated as tax (instead of penalty) considering the buildings as lawful. The details are given in **Appendix 6.6**. Further, in 15 test-checked ULBs, the building violations were not monitored as completion certificates and occupancy certificates were not yet issued by the respective ULBs.

⁶³ Section 107 of KM Act and Section 112C of KMC Act

The State Government stated (March 2017) that the ULBs and Project Directors of the State had been directed, by issue of circular instructions, to bring all the buildings and land in the ambit of tax net.

6.1.25 Reassessment

The instructions issued (October 2004) by the DMA stipulate that the Revenue Inspector and Revenue Officer should carry out reassessment of 25 per cent and 10 per cent of the SAS returns respectively.

We observed that the reassessment of property tax was not done in 12 test-checked ULBs⁶⁴. Out of remaining ULBs, the prescribed percentage of reassessment was achieved only in six ULBs⁶⁵ during the period 2013-14 to 2015-16. Test-check of cases revealed short-collection of tax as already pointed out in *Paragraph 6.1.8*.

The State Government stated (March 2017) that the ULBs and Project Directors of the State had been directed, by issue of circular instructions, to bring all the buildings and land in the ambit of tax net.

6.1.26 Karnataka Property Tax Board

Sections 102A to 102Y under Chapter IX-A of the KMC Act provides for establishment of the Karnataka Property Tax Board (Board) by the State Government. The functions of the Board, as defined under the Act are to:

- enumerate, or cause to enumerate, all class of properties and rates prevailing in zones or areas in the municipality in the state and develop a database;
- review the property tax system and suggest suitable basis for capital valuation of properties or the annual taxable value;
- recommend tax rate for different classes of building or area or zones of the municipalities;
- recommend modalities or basis for periodic revision;
- assist municipalities in determining the rates of any zone, area or any class of building; and
- make recommendations for determining the market value guidelines for the purpose of levying and collecting the property tax.

Accordingly, the State Government notified (March 2013) the Karnataka Municipal Corporations and Municipalities (Property Tax Board) Rules, 2012. As per the said rules, the ACS to Government or Principal Secretary to Government in-charge of UDD shall be the Chairperson of the Board. The

⁶⁴ CCs-HDMC and Kalaburagi; CMCs-Bhadravathi, Bidar and Ullal; TMCs-Bhalki, Indi, Kumta, Mahalingapura, Pavagada and Wadi; TP, Sullia

⁶⁵ CMC, Ramanagara; TMC, Anekal; TPs-Gubbi, Honnavara, Khanapura and Kushalnagara

DMA and Inspector General of Registration and Stamps shall be the ex-officio members of the Board along with two expert members who are not in employment of the State/Central/Public Sector undertakings of whom; one member shall be a person who is having knowledge and experience in urban governance and law and one member shall be an expert in accountancy and valuation of properties. The Board shall also consist of expert non-official members selected by the State Government from out of a panel of three persons proposed by a search committee consisting of Secretary to Government, UDD, Secretary to Government, Finance Department and Secretary to Government, Revenue Department. The Government instructed (October 2013) the DMA to suggest the names of non-official members.

We observed that so far no action was taken by the DMA in this regard. The State Government stated (March 2017) that the process of establishing the Karnataka Property Tax Board had been taken up.

6.1.27 Special Drives and Special Meetings

The instructions (February 2003) of DMA stipulate periodical conduct of special meetings (*Baithaks*) in every ward to create awareness on SAS tax collection. Twelve of the test-checked ULBs did not conduct such meetings.

The instructions (August 2003) of DMA stipulate undertaking special drives for collection of tax from all the properties. We observed that 14 of the test-checked ULBs did not conduct special drives to collect the arrears of property tax of ₹286.50 lakh.

The State Government stated (March 2017) that nodal officers from DMA are appointed for the district to monitor, control and maintain the working system of all ULBs of the State *vide* notification of October 2016.

6.1.28 Non-submission of SAS returns

The provisions⁶⁶ of the KM and KMC Acts state that every owner or occupier who is liable to pay property tax shall every year submit to the Commissioner or authorised officer a return in such form within such period and in such manner as prescribed. Further, the owner or occupier shall pay in advance full amount of property tax payable by him on the basis of such return and shall furnish along with the return satisfactory proof of payment of such tax. Failure to submit the return attracts a penalty of ₹100.

We observed collection of tax without the returns as under:

- 10 out of 24 test-checked ULBs collected the property tax by generating challans based on previous years' receipts instead of SAS returns.
- In HDMC, property owners submitted the returns only in case of any change in property details.

⁶⁶ Section 105 of KM Act and Section 112A of KMC Act

- In CMC, Hassan, only the new assesseees were submitting the SAS returns and in respect of other property tax payers, property tax was collected through challans generated based on previous years' receipts.
- Penalty for non-submission of returns was not collected by any of the test-checked ULBs.

The State Government stated (March 2017) that the Project Directors of the State had been directed to check some of the ULBs regarding the adoption of all the rules and procedures of SAS system invariably.

6.1.29 Short-remittance of property tax

The property owners were to make payments of property tax in designated banks through challans to be prepared in quadruplicate. Two copies of the challans were to be retained by the bank and the other two with the property owners. The property owners were to enclose one copy of the challan along with the SAS returns. The banks were also required to forward one copy of the challan to the ULBs. The Revenue wing of the ULBs had to cross verify both the challans before recording the same in the DCB register.

We noticed short-remittance of property tax of ₹1,32,686 in 61 cases in TMC, Indi. The amounts deposited in the banks towards property tax were less than the corresponding amounts recorded in the challans furnished by the property owners and entries made in the DCB register. Scrutiny of the challans submitted by property owners indicated that in all these 61 cases the amount of tax paid was not recorded in words. This omission provided scope for tampering the figures in the challans. It was also noticed that in many cases, the copies of challans that were supposed to have been forwarded by the bank, were not available with the TMC.

The TMC replied (August 2016) that the matter will be examined and action will be taken against the persons responsible for the same.

The State Government stated (March 2017) that the ULBs and Project Directors of the State had been directed, by issue of circular instructions, to bring all the buildings and land in the ambit of tax net and action would be taken against the concerned officials of TMC, Indi.

6.1.30 Monitoring

The UDD instructed (October 2003) that District Urban Development Cell (DUDC) will supervise and monitor the implementation of SAS in respective ULB. It was, however, seen that DUDC had not monitored the implementation of SAS in any of the test-checked ULBs.

Section 388 of KM Act provides for establishment of the Directorate of Municipal Administration headed by the DMA. As per Section 388A(2), the DMA may depute any of its officers to inspect or examine any department, office, service, work or property of the CMC, TMC, TP or as the case may be the Municipal Corporation and to report thereon and such officer may, for the

purpose of such inspection or examination, exercise all the powers of the State Government or the DMA. Further as per Section 388A(1), the DMA shall call for any record, correspondence or other documents, any return, plan, estimate, accounts or statistics and obtain any report from all the CMCs, TMCs, TPs and the Municipal Corporations other than BBMP.

We observed that though the DMA had issued instructions to the ULBs in its role as a supervisory body, periodic inspections were not carried out to ascertain the functioning of the ULBs and also to ensure the monitoring by DUDCs. Consequently, the maintenance of proper records in the ULBs were deficient thereby impacting the data relating to the actual number of properties, their assessment for property tax and its realisation.

The State Government stated (March 2017) that periodical guidelines were issued (October 2016 and January 2017) to the Project Directors and Officers of the DMA to monitor the functioning of the ULBs.

6.1.31 Conclusion

The absence of a detailed and exhaustive survey by the ULBs resulted in many of the properties remaining outside the tax net. Improper maintenance of property registers/DCB registers and failure of the ULBs to comply with the provisions of the KM and KMC Acts led to evasion and default in payments of tax. Failure to revise the tax rates periodically, adopt present market value for taxation and non-levy of penalty on unlawful buildings and for short payment of tax resulted in loss of revenue to the ULBs. Incorrect adoption of tax rates and not allowing rebate for timely payments resulted in excess collection of tax by the ULBs. The provisions regarding collection of property tax/service charges on exempted properties were not uniform under both the Acts, resulting in many of properties functioning on commercial lines remaining outside the tax net. Non-constitution of the Karnataka Property Tax Board and absence of proper monitoring by the DMA contributed to the inefficient functioning by the ULBs with regard to property tax assessment and its realisation.

Therefore, all the ULBs should conduct an exhaustive survey of properties to ensure that all the properties are brought to the tax net, as GIS is also not comprehensive. A full-fledged Property Tax Board may be established immediately to ensure periodic revision of tax rates, revision of guidance value, classification of properties, *etc.*, thereby broadening the tax base and strengthening the process of property tax collection. Also, the monitoring of the functioning of the ULBs by DMA needs to be strengthened for effective assessment and realisation of revenue.

6.2 Loss of revenue due to non-collection of urban transport cess

Non-collection of urban transport cess resulted in loss of revenue to the extent of ₹19.51 lakh in the City Municipal Council, Udupi during 2013-14 and 2014-15 and ₹1.65 crore in the City Corporation, Mangaluru during 2013-14 to 2015-16.

The State Government constituted⁶⁷ (August 2012) an Urban Transport Fund to finance initiatives and build capacity for urban transport, with budgetary support and amount to be raised through cess on property tax. For this purpose, the State Government notified⁶⁸ (August 2013) the Karnataka Municipalities (Urban Transport Fund) Rules, 2013 (UTF Rules, 2013) which provided for levy of urban transport cess on property tax. These rules stipulated that all demands raised from the date of these rules coming into effect shall include two *per cent* cess on the property tax so levied. It also stipulated that in case the property tax on any property had already been collected for the year 2013-14, a supplementary demand of two *per cent* towards urban transport cess was to be raised and collected.

Audit scrutiny of records (April 2016) in the office of the Municipal Commissioner, City Municipal Council (CMC), Udupi showed that the CMC, Udupi had collected property tax of ₹9.75 crore for the years 2013-14 and 2014-15. However, the urban transport cess for the years 2013-14 and 2014-15 was not collected. We observed that the CMC, Udupi had taken the decision (February/August 2014) not to levy the cess. Subsequently, based on the directives (November 2014) of the Director of Municipal Administration, Government of Karnataka (DMA), the Municipal Commissioner, CMC, Udupi issued orders (December 2014) to collect urban transport cess but still the urban transport cess for the years 2013-14 and 2014-15 had not been collected. This was in contravention to the provision of UTF Rules, 2013 which mandated levy of urban transport cess from the year 2013-14 onwards.

Thus, failure of the CMC, Udupi to collect urban transport cess for the years 2013-14 and 2014-15, though mandated by the UTF Rules, 2013, resulted in revenue loss of ₹19.51 lakh (@ two *per cent*) in respect of property tax of ₹9.75 crore collected during the years 2013-15 as of 31 March 2016.

The State Government stated (November 2016) that the CMC, Udupi had taken action to collect the urban transport cess from 2015-16 with retrospective effect from 2013-14. The status of recovery was awaited (February 2017).

Similarly, during the audit scrutiny (January 2016) of records in the office of the Commissioner, City Corporation (CC), Mangaluru, it was observed that the urban transport cess (@ two *per cent*) to the extent of ₹1.65 crore (in respect of the property tax of ₹82.40 crore collected for the years 2013-14 to

⁶⁷ Rule 149A of the Karnataka Municipal Corporations and Certain Other Law (second amendment) Act, 2012 dated 27 August 2012

⁶⁸ No. UDD 99 PRJ2013 (II) dated 20 August 2013

2015-16) had not been collected. The Council of the CC, Mangaluru had taken a decision (October 2014) not to collect the same and had referred (December 2014) the matter to the Regional Commissioner, Mysuru division, Mysuru (RC). Based on the clarification received (April 2016) from the RC, a public notice was issued (May 2016) by the CC, Mangaluru to collect the urban transport cess from April 2013 onwards.

The State Government stated (March 2017) that the CC had taken action to collect the urban transport cess from July 2016 with retrospective effect and that an amount of ₹0.17 crore had been collected up to January 2017. The status of recovery of the remaining amount was awaited.

6.3 Short payment of property tax

Incorrect declarations in property tax returns and non-payment of property tax for a constructed building resulted in short payment of tax to the extent of ₹1.83 crore.

The provisions⁶⁹ of Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) provide for levy and collection of property tax on all buildings and vacant land coming under the jurisdiction of Bruhat Bengaluru Mahanagara Palike (BBMP). The State Government notified (January 2009) BBMP Property Tax Rules, 2009 to introduce self-assessment of property tax under Unit Area Value system. In case of short payment of property tax, the assessee was liable to pay twice the difference of tax as penalty along with interest at two *per cent* per month on the tax evaded.

Test-check of records (February 2014, March 2014 and January 2015) in offices of three Assistant Revenue Officers⁷⁰ (AROs) and further records collected during June and July 2016 showed the following cases of short payment of property tax:

- 1) Different rates were determined for different areas or streets by classifying them into zones, nature of use to which the vacant land or building is being put and for different classes of buildings and vacant lands. For this purpose, the jurisdictional area of BBMP was classified into six value zones (A, B, C, D, E and F) and properties were grouped into 18 categories (five residential and 13 non-residential). The depreciation was allowed on the basis of the age of a building.

It was observed that Shri V. Anantha Raju (Reliance Mart, Arakere) had paid (2008-16) property tax @ ₹8 per square feet (sq ft) by classifying the property (tenanted area-54,000 sq ft and car parking area-3,500 sq ft) under 'D' Zone / Category VI and adopting a depreciation rate of nine *per cent*. Scrutiny of the property tax returns and joint physical inspection (17 March 2016) of the premises revealed that the building was constructed in the year 2003 and located in 'C' Zone and was equipped with central air

⁶⁹ Section 108-A of the KMC Act, 1976

⁷⁰ Arakere, Bytarayanpura (Yelahanka) and Nagapura

conditioning facility (Category VIII). Accordingly, the applicable rate was ₹12 per sq ft with the applicable rate of depreciation being six *per cent*. It was also seen that the assessee had declared less built-up area to the extent of 22,646 sq ft (tenanted–16,484 sq ft and car parking–6,162 sq ft). The incorrect declarations resulted in short payment of property tax of ₹107.21 lakh during 2008-16.

The ARO, Arakere stated (4 July 2016) that the demand notice had been issued (4 July 2016) to the assessee to pay ₹107.21 lakh along with penalty and interest. The status of payment of the differential amount was awaited (February 2017).

- 2) As per the extant provisions (Handbook on Property Tax Self-Assessment Scheme), if a building is completed after 1st October of any year, property tax on constructed building is payable for the second half of the year. In respect of a building completed prior to 1st October, property tax is to be paid for the full year. Till completion of the building, the property tax is payable at the rate applicable for vacant site.

Scrutiny of property tax returns (March 2014) in the office of the ARO, Bytarayanpura (Yelahanka) showed that a building (Sobha Chrysanthemum) had been completed during December 2010 and hence, the property tax on the constructed building (tenanted–9,08,893 sq ft and car parking–85,350 sq ft) was payable (₹13.73 lakh @ ₹1.20 per sq ft) for the second half of the year 2010-11. It was, however, seen that the property tax of ₹1.45 lakh was paid (April 2010) for the land component only for the full year 2010-11. This resulted in non-payment of property tax of ₹13.00 lakh⁷¹ on the constructed building which was completed during December 2010.

The State Government accepted the audit observation and stated (January 2016) that the demand notices had been issued (August 2014, November 2015 and December 2015) and a sum of ₹2.54 lakh had been collected. The status of recovery of the remaining amount was awaited (February 2017).

- 3) Buildings or lands which were exempted⁷² from property tax were grouped under Category XVI and were required to pay service charges at 25 *per cent* of the prescribed rates. The owners of the properties seeking exemption were required to apply to the Commissioner, BBMP in the prescribed application form along with the payment of service charges prescribed under Category XVI. If the exemption was refused then the applicant was liable to pay tax at the regular rates.

We observed that the President, International Society for Krishna Consciousness (ISKCON) had classified the ISKCON Guest House (Property Identification Number: 14-1-6/5 and built-up area–43,300 sq ft) under exempted category (Category XVI) and paid the service charges of ₹3.02 lakh (@ ₹37,799 per annum) during the period 2008-09 to 2015-16.

⁷¹ ₹13.73 lakh - ₹0.73 lakh (for the second half)

⁷² As per Section 110 of KMC Act, 1976

It was, however, seen that the Commissioner, BBMP had not granted any exemption to the Guest House (June 2016). Thus, the property was liable for assessment at the applicable rates (Category IX @ ₹8 per sq ft) and the property tax payable for the period 2008-09 to 2015-16 was ₹66.15 lakh⁷³ (@ ₹8,26,857 per annum). Thus, availing of ineligible exemption resulted in short payment of property tax to the extent of ₹63.13 lakh.

The ARO, Nagapura accepted the audit observation and stated (26 April 2016) that demand notice was issued (21 April 2016) for payment of the differential amount of ₹21.17 lakh and penalty thereon, and that action would be taken to recover the amount. The reply is not satisfactory as the demand notice was issued after classifying the property under Category I (residential) whereas the applicable category for the Guest House was Category IX.

Thus, the incorrect declarations in the property tax returns and non-payment of property tax for the constructed building resulted in short payment of tax to the extent of ₹1.83 crore⁷⁴.

These matters were referred to the State Government in March and April 2016; replies are awaited (February 2017).

6.4 Avoidable payment of service tax on exempted solid waste management packages

Payment of service tax for solid waste management packages which were exempted, resulted in avoidable loss of ₹1.38 crore to the City Corporation, Ballari.

Section 58 of Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) lists the obligatory functions of the Corporations. Of these, under the solid waste management (SWM) activity, the following are included among the obligatory functions of the Corporation: watering and cleansing of all public streets and public places in the city and the removal of all sweepings therefrom; collection, removal, treatment and disposal of sewage, offensive matter and rubbish and the preparation of compost manure from these; and construction, maintenance and cleaning of drains and drainage works and of public privies⁷⁵, water closets, urinals and similar conveniences. Further, as per the provisions of the Finance Act, 1994, the SWM activity is exempt⁷⁶ from the whole of the service tax leviable.

⁷³ In the absence of the details regarding average rate (room tariff) per day, the property tax payable has been worked out at the lowest rate applicable to Category IX (iii)-where the average rate (room tariff) per day is ₹999 and less.

⁷⁴ ₹107.21 lakh + ₹13.00 lakh + ₹63.13 lakh = ₹183.34 lakh (₹1.83 crore)

⁷⁵ Toilet located in a small shed outside a house or other building

⁷⁶ Prior to 1.7.2012, service tax was levied on specified services and SWM activity was not included in the list of taxable services as defined in Section 65 (105) of the Finance Act, 1994. With effect from 1.7.2012, service tax regime based on negative list was introduced and SWM activity (Serial number 25 of Section 66 B of the Finance Act, 1994) was exempted as per the Service Tax Mega Exemption Notification No.25/2012-Service Tax dated 20.6.2012.

Audit scrutiny (January-February 2016) of the SWM records in the City Corporation (CC), Ballari for the years 2013-14 and 2014-15 and further records collected during May 2016 showed that the CC, Ballari had prepared estimates for four packages (Packages I & III during 2010-11 and Packages II & IV during 2012-13) valuing ₹5.99 crore for the work of sweeping of roads, streets, footpath and pavements and open roadside drains/mouth of shoulder drains. The estimates included, *inter alia*, labour and other costs along with service tax @ 10.30 per cent (for Packages I & III) and 12.36 per cent (for Packages II & IV).

Tenders were invited during December 2012 and March 2013. As the SWM activity was exempt from the service tax, the estimated cost/tendered values had to be exclusive of service tax. Instead, the estimated cost/tendered values were inclusive of service tax and the contracts were awarded (November 2013) to three contractors after negotiations. The total annual contract value of the four SWM packages was ₹5.99 crore (inclusive of service tax).

The contracts were initially valid for a period of one year from the date of commencement of work (February 2014) and were renewable after each year of completion. Accordingly, the contracts were extended for all the four packages.

The CC, Ballari incurred an expenditure of ₹13.28 crore on the four packages from February 2014 to March 2016 (26 months) which included the exempted service tax of ₹1.38 crore on the four packages.

The CC, Ballari replied (July 2016) that since the minimum wages were increased, the difference in the minimum wages applicable was compensated by adjusting the service tax which was included in the package cost awarded to the contractors.

The reply of the CC, Ballari is not acceptable as SWM activity was exempt from service tax and payment of differential amount due to revision in minimum wages was provided for separately in the agreements. Further, the payments made to the contractors for the period from April 2015 onwards were on the basis of the revised minimum wages applicable and the difference of minimum wages for the period 1.4.2014 to 31.3.2015 amounting to ₹53.35 lakh was paid separately during October 2015. Consequently, the CC, Ballari was put to an avoidable loss of ₹1.38 crore.

The State Government stated (March 2017) that directions had been given to CC, Ballari and other ULBs not to pay service tax on exempted items of SWM packages.

6.5 Loss of revenue due to non-levy of penalty on cess component

Failure to devise the property tax assessment forms appropriately in City Corporation, Mangaluru and City Municipal Council, Udupi resulted in non-levy of penalty on the cess component and consequent loss of revenue of ₹1.21 crore (2010-11 to 2015-16).

The provisions⁷⁷ of Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) and Karnataka Municipalities Act, 1964 (KM Act, 1964) provided for levy and collection of property tax on all buildings and vacant land coming under the jurisdiction of a city corporation/municipal council. The property tax was payable within 90 days after commencement of every year. In case of delay, the assessee was liable to pay a penalty at the rate of two *per cent* per month on the tax remaining unpaid. Further, as per Cess Acts, the property tax was payable along with cess of 24 *per cent*⁷⁸ and the provisions for levy, assessment and recovery of property tax were applicable *mutatis mutandis* to the levy, assessment and recovery of these cesses. Hence, in case of delay, the penalty at the rate of two *per cent* per month was also leviable on the corresponding cess component of property tax being paid belatedly. The percentage of cess increased (with effect from 2013-14) to 26 *per cent* with the levy⁷⁹ of the urban transport cess (@ two *per cent*). The city corporation/municipal council was entitled to deduct 10 *per cent* of the cess recovered (excluding urban transport cess) as the cost of collection and the balance was to be remitted to the heads of account concerned.

Scrutiny of records (January and April 2016) in the offices of the Commissioner, City Corporation, Mangaluru (CC) and the Municipal Commissioner, City Municipal Council, Udupi (CMC) showed that the CC/CMC had collected (2010-11 to 2015-16) penalty of ₹502.05 lakh⁸⁰ (@ two *per cent* per month) for delayed payments of property tax. It was, however, seen that the penalties were levied only on the property tax amounts and not on the corresponding cess components. This was due to the fact that the property tax assessment forms devised by the CC/CMC did not provide for levy of penalty on the cess components. This contravened the provisions of Cess Acts which mandated levy of penalty on cess also. The proportionate penalty leviable and collectable on the cess components worked out to ₹91.46 lakh⁸¹ in the CC and ₹29.40 lakh⁸² in the CMC.

⁷⁷ Section 103 and Section 112 of KMC Act, 1976 and Section 94 and Section 105 of KM Act, 1964

⁷⁸ Health Cess @ 15 *per cent* (The Karnataka Health Cess Act, 1962); Library Cess @ 6 *per cent* (The Karnataka Public Libraries Act, 1965) and Beggary Cess @ 3 *per cent* (The Karnataka Prohibition of Beggary Act, 1975)

⁷⁹ As per Rule 3 of the Karnataka Municipalities (Urban Transport Fund) Rules, 2013 which came into force *vide* Notification dated 20.8.2013

⁸⁰ CC, Mangaluru-₹381.07 lakh (2012-15) and CMC, Udupi-₹120.98 lakh (2010-16)

⁸¹ ₹381.07 lakh x 24% = ₹91.46 lakh

⁸² @ 24 *per cent* on ₹102.57 lakh (2010-15) + @ 26 *per cent* on ₹18.41 lakh (2015-16), as the CMC had collected urban transport cess with effect from 2015-16

Thus, the failure of the CC/CMC in devising the property tax assessment forms appropriately and non-levy of penalty on the cess component resulted in loss of revenue of ₹1.21 crore. This included ₹9.15 lakh (@ 10 per cent) due to the CC and ₹2.90 lakh⁸³ due to the CMC as collection charges.

The State Government accepted the audit observation regarding non-levy of penalty on cess component and stated (March 2017) that measures were being taken to revise the property tax assessment forms.

6.6 Non-levy of property tax on advertisement structures

City Corporation, Davanagere, City Corporation, Mangaluru and City Municipal Council, Udupi failed to realise revenue aggregating ₹89.61 lakh due to non-levy of property tax on advertisement structures during the year 2015-16.

The provisions⁸⁴ of the Karnataka Municipal Corporations Act, 1976 (KMC Act) and the Karnataka Municipalities Act, 1964 (KM Act) stipulate that property tax shall be levied every year on all buildings or vacant land or both situated within the municipal area unless exempted. The definition⁸⁵ of building, as per these Acts, includes, *inter alia*, a house, out-house, fixed platform, plinth, door step and any other such structure, including telecommunication tower or advertisement structures by whatever name called, whether of masonry, bricks, wood, mud, metal or any material whatsoever. Accordingly, property tax was to be levied on advertisement structures erected or fixed on properties.

Test-check of records (March 2015, January 2016 and April 2016) in the offices of City Corporations (CCs), Davanagere and Mangaluru and City Municipal Council (CMC), Udupi and further information collected during January 2017 showed that these CCs/CMC had the details of advertisement hoardings erected/fixed on private lands/buildings. It was, however, seen that these CCs/CMC had not assessed property tax on these advertisement structures. This not only contravened the provisions of the Acts but also deprived these CCs/CMC of revenue.

As per the information furnished by these CCs/CMC, there were 1,016 advertisement hoardings during the year 2015-16, on which the loss of revenue worked out to ₹89.61 lakh, as detailed in **Table 6.6:**

⁸³ ₹120.98 lakh x 24% x 10% = ₹2.90 lakh (as retention of 10 per cent as collection charges was not applicable to urban transport cess)

⁸⁴ Sections 103(b)(i) and 108 of KMC Act, and Sections 94(b)(i) and 101 of KM Act

⁸⁵ As per Section 2(1A) of KMC Act and Section 2(3) of KM Act, amended vide Karnataka Act No. 6 of 2015 (January 2015)

Table 6.6: Loss of revenue due to non-levy of property tax on advertisement structures in CCs, Davanagere and Mangaluru and CMC, Udupi during the year 2015-16

(₹ in lakh)

Name of the ULB	Number of advertisement hoardings erected in 2015-16	Property tax leviable per annum @ ₹7,000 [¥]	Cess @ 26 per cent	Loss of revenue
CC, Davanagere	122	8.54	2.22	10.76
CC, Mangaluru	763	53.41	13.89	67.30
CMC, Udupi	131	9.17	2.38	11.55
Total	1,016	71.12	18.49	89.61

[¥] In the absence of rates fixed by these CCs/CMC, the minimum rate of ₹7,000 per annum being levied by Bruhat Bengaluru Mahanagara Palike (BBMP) has been adopted. This rate is subject to fixation of rates by these CCs/CMC.

Source: Information furnished by CCs, Davanagere and Mangaluru and CMC, Udupi

Thus, despite the availability of enabling provision for levying property tax on advertisement structures, these CCs/CMC failed to tap this source of revenue generation to augment their resources.

The Commissioner, CC, Mangaluru accepted the audit observation and stated (January 2017) that as per the resolution passed (December 2016) by the Standing Committee for Taxation, Finance and Appeals, the property tax on advertisement structure would be collected with effect from 1 April 2016. The Commissioner, CC, Davanagere and Municipal Commissioner, CMC, Udupi, also accepted (May 2016 and January 2017) the audit observations and stated that action would be taken to levy property tax on advertisement structures. Further progress in these cases was awaited (January 2017).

The State Government stated (March 2017) that appropriate action would be taken to levy property tax on advertisement structures as per the extant provisions.

6.7 Loss of revenue due to non-levy of health cess on advertisement tax

Non-levy of health cess on advertisement tax resulted in loss of revenue amounting to ₹77.56 lakh which included collection charges of ₹7.76 lakh due to the City Corporation, Mangaluru during the period 2012-13 to 2015-16.

The provision⁸⁶ of the Karnataka Municipal Corporations Act, 1976 stipulates imposing of a tax on advertisement.

As per provision⁸⁷ of the Karnataka Health Cess Act, 1962, health cess may be levied and collected at the rate of 15 paise in the rupee on taxes on advertisements. Further, as per Section 4A of the Karnataka Health Cess Act, 1962 where the health cess is recovered by a local authority, such local

⁸⁶ Section 103 (vi) under Chapter X (Taxation)

⁸⁷ Item 3 of Schedule-B referred to in Section 3 (iii)

authority shall be entitled to deduct 10 *per cent* of the amount recovered as the cost of collection and the balance shall be paid to the State Government.

Audit scrutiny (January 2016) of the records of the City Corporation, Mangaluru (CC) and further records collected during September-October 2016 showed that an amount of ₹517.04 lakh was collected by the CC as advertisement tax during the period 2012-13 to 2015-16. However, the applicable health cess (@15 *per cent* of the advertisement tax collected) for the above period had not been levied and collected by the CC.

This resulted in loss of revenue to the extent of ₹77.56 lakh in the form of health cess. This included collection charges of ₹7.76 lakh due to the CC @ 10 *per cent* of the health cess, had it been collected.

The State Government stated (March 2017) that action had been taken by the CC to recover the dues with retrospective effect from April 2016. It also stated that an amount of ₹10.66 lakh had been collected till the end of January 2017 and notices issued to the defaulters to pay the health cess.

6.8 Denial of benefit of rebate on cess component of property tax

Failure of the City Corporation, Mangaluru in allowing the mandatory rebate of five *per cent* on the cess component of property tax resulted in over-assessment of tax to the extent of ₹35.09 lakh during the period from 2012-13 to 2015-16.

The provisions⁸⁸ of Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976) provided for levy and collection of property tax on all buildings and vacant land coming under the jurisdiction of a City Corporation. The property tax was payable within 90 days after commencement of every year. A rebate of five *per cent* was allowed⁸⁹ on the tax payable if the tax was paid within one month from the date of commencement of the year (*i.e.* within April). Further, as per Cess Acts⁹⁰, the property tax was payable along with cess of 24 *per cent* and the provisions of the law and the rules, orders and notifications applicable to the levy, assessment and recovery of the property tax would apply to the levy, assessment and recovery of these cesses. Accordingly, the cess component would also be eligible for rebate of five *per cent* if the tax was paid within the month of April.

Audit scrutiny of records (January 2016) in the office of the Commissioner, City Corporation, Mangaluru (CC) showed that the property tax assessment form devised by the CC was not correct as the rebate for early payment (within April) was allowed only on the property tax and not on the corresponding cess component. This was in contravention of the provisions of

⁸⁸ Section 103(b)(i) and Section 112(3) of KMC Act, 1976

⁸⁹ As per Section 112A(1) of KMC Act, 1976

⁹⁰ Health Cess @ 15 *per cent* (The Karnataka Health Cess Act, 1962);
Library Cess @ 6 *per cent* (The Karnataka Public Libraries Act, 1965) and
Beggary Cess @ 3 *per cent* (The Karnataka Prohibition of Beggary Act, 1975)

the Cess Acts which mandated that the cess component was also eligible for the rebate of five *per cent*. It was seen that a sum of ₹34.81 crore was collected as property tax during the months of April from 2012-13 to 2015-16, after allowing the rebate only on the property tax amount. This included cess amount of ₹7.02 crore which also qualified for the rebate of five *per cent*. After allowing the rebate on the property tax and the cess amount, the tax due from the assesseees would be ₹34.46 crore whereas the tax paid was ₹34.81 crore (detailed in **Appendix 6.7**).

Thus, as a result of an error in the property tax assessment form devised by the CC, the assesseees were denied the benefit of rebate on the cess component and tax was over-assessed to the extent of ₹35.09 lakh during 2012-16.

The State Government accepted (March 2017) the audit observation regarding non-allowance of rebate on the cess component and stated that all the ULBs had been instructed (December 2016) to consider cess component while allowing rebate on property tax.



Bengaluru
The 23 May 2017

(L Angam Chand Singh)
Principal Accountant General
(General and Social Sector Audit)
Karnataka

Countersigned



New Delhi
The 25 May 2017

(Shashi Kant Sharma)
Comptroller and Auditor General of India