

**CHAPTER IV**  
**TAXES ON VEHICLES**

## CHAPTER IV

### TAXES ON VEHICLES

#### 4.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the Tamil Nadu Motor Vehicles Rules, 1989 and the Tamil Nadu Motor Vehicles Taxation Act and Rules, 1974. The Department is headed by the Transport Commissioner of the State, and implementation of the Act and Rules are carried out by the Regional Transport Offices (RTOs). The monitoring and control at Government level is exercised by the Additional Chief Secretary, Home (Transport) Department.

#### 4.2 Internal audit

Internal audit is a vital component of internal controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well. Internal audit is functioning in the Department since 1978. The Department is having a system of internal audit to ensure cent *per cent* audit of all the offices. There are 12 audit units, each headed by an Assistant Accounts Officer. The periodicity of audit of all offices is 'annual' and as against the target of 86 offices, audit of 73 units were conducted during 2017-18.

As at the end of 31 March 2018, 3,194 paragraphs involving money value of ₹ 4.50 crore were outstanding as detailed in Table 4.1.

**Table 4.1**

(₹ in crore)

Year	Opening Balance		Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2015-16	4,474	4.25	176	0.03	1,061	1.36	3,589	2.91
2016-17	3,589	2.91	807	0.11	980	0.46	3,416	2.56
2017-18	3,416	2.56	4,062	2.95	4,284	1.01	3,194	4.50

*Source: Reply of the Department*

It is suggested that action may be taken for speedy clearance of old outstanding objections.

### **4.3 Results of Audit**

Test check of records of 21 departmental offices (including 17 RTOs) out of 93, conducted during the period from April 2017 to March 2018 revealed under assessment of tax, fees and other observations amounting to ₹ 4.05 crore in 125 cases, which broadly fall under the following categories:

**Table 4.2**

(₹ in crore)			
<b>Sl. No.</b>	<b>Category</b>	<b>No. of cases</b>	<b>Amount</b>
1	Non/short collection of tax	93	3.96
2	Non/short collection of penalty	3	0.03
3	Others	29	0.06
	<b>Total</b>	<b>125</b>	<b>4.05</b>

*Source: As per data maintained in office of the AG(E&RSA), Tamil Nadu, Chennai*

During the course of the year 2017-18, the department accepted under assessments and other deficiencies in 71 cases and recovered ₹ 1.22 crore, out of which ₹ 0.05 crore in one case was pointed out during the year and the rest in earlier years.

Few illustrative cases involving 488 vehicles (13 *per cent*) out of a test checked universe of 3,652 vehicles (within a total population of 37,579 vehicles), across five categories, with a money value of ₹ 1.26 crore are discussed in the following paragraphs.

### **4.4 Audit Observations**

#### **4.4.1 Non-realisation of taxes from the owners of maxi cabs and goods vehicles**

As per Section 3 of the Tamil Nadu Motor Vehicles Taxation Act (TNMVT Act), tax shall be levied on every motor vehicle used or kept for use in the State of Tamil Nadu at the rate specified for such vehicle in the Schedules to the Act. As per Section 8 of the TNMVT Act, the tax due under this Act shall be paid by the owner of the vehicle within such period, not being less than seven days or more than 45 days from the commencement of the quarter, half-year as may be prescribed. Section 15 of the TNMVT Act provides for payment of penalty, if the tax due in respect of any motor vehicle is not paid within the prescribed period. Rule 3 of the TNMVT Rules provides that so long a transport vehicle is covered by permit issued by any transport authority, the vehicle shall be deemed to be kept for use in the State. Rule 8 of the TNMVT Rules provides for collection of penalty equal to the amount of quarterly tax where the delay in payment of tax is beyond 45 days after the expiry of the prescribed period. As per Section 15-A of the TNMVT Act, the licensing officer may, at any time, within a period of five years, from the expiry of the period to which the tax relates, issue notice to the owner of the motor vehicle and after making such inquiry as he may consider necessary, direct such owner or other person to pay the whole or any portion of such tax, which has not been paid.

Generation of reports from VAHAN<sup>41</sup> database regarding non-payment of taxes followed with further verification in “e-Services”<sup>42</sup> of the Department revealed that, in seven<sup>43</sup> RTOs, the owners of 31 maxi cabs and 135 goods vehicles (17 *per cent*), out of 953 test checked, did not pay the quarterly tax amounting to ₹ 14.23 lakh relating to the period from 1 April 2015 to 31 March 2017. However, no action was initiated by the RTOs for recovery of the tax from the defaulting vehicle owners. This resulted in non-realisation of tax of ₹ 14.23 lakh. Besides, penalty of ₹ 14.23 lakh for delay in payment of tax was also leviable.

After Audit pointed this out (between September 2017 and March 2018), RTO, Tambaram reported collection of ₹ Rs.0.29 lakh in respect of two maxi cab vehicles.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply is awaited (March 2019).

#### **4.4.2 Non-collection of life time tax from owners of old tourist motor cab**

As per Section 3 of The TNMVT Act read with Class 5-A of the First Schedule, tax of ₹ 6,500 for five years was payable in respect of tourist motor cab. By an amendment made in April 2012, Seventh Schedule was introduced in the TNMVT Act to provide for levy of life time tax in respect of tourist motor cab. The rate of tax in respect of old tourist motor cab was fixed at 8.5 *per cent* of the cost of vehicle, if the cost of vehicle did not exceed ₹ 10 lakh and at 14.5 *per cent* of the cost of vehicle, if the cost of the vehicle exceeded ₹ 10 lakh. The registered owners of such vehicles were required to pay life time tax at specified rates at the time of renewal of permit or during the currency of the existing permit.

Scrutiny of records in five<sup>44</sup> RTOs revealed that the owners of 81 vehicles (seven *per cent*) out of 1,146 test checked, had not renewed permits of old tourist motor cabs which were due for renewal during the period from April 2012 to March 2017. Since these vehicles were covered by valid permits as of April 2012, the owners of these vehicles were liable to pay life time tax in respect of these vehicles, notwithstanding the non-renewal of permits thereafter. The Department, however, failed to issue demand notices for recovery of life time tax from the owners of the vehicles. The amount of life time tax due in respect of 81 vehicles calculated on the basis of details of cost of vehicles available in the records worked out to ₹ 32.61 lakh.

After Audit pointed this out, the RTOs of Chennai (South East) and Chennai (South West) stated that action would be taken to collect the tax. Three<sup>45</sup> RTOs stated that tax would be collected from the owners on their visit to the

<sup>41</sup> Vahan is an application developed by NIC for registration of vehicles, issue of permits, collection of road tax and to record fitness of vehicles

<sup>42</sup> “e-Services” is the web portal of the Transport Department containing details of information on vehicles and particulars of payment of tax.

<sup>43</sup> Chennai (East), Chennai (North East), Chennai (South), Chennai (South East), Coimbatore South, Kanchipuram and Tambaram

<sup>44</sup> Chennai (East), Chennai (Central), Chennai (South East), Chennai (South West) and Sholinganallur

<sup>45</sup> Chennai (East), Chennai (Central) and Sholinganallur

concerned offices for renewal of permit or other permit related activities. The reply is not acceptable as the vehicles were covered by valid permits as of April 2012 and therefore the owners of these vehicles were liable to pay life time tax in respect of these vehicles, notwithstanding the non-renewal of permits.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).

#### **4.4.3 Non collection of tax in respect of Construction Equipment Vehicles**

As per clause 6C of First Schedule to the TNMVT Act, tax in respect of construction equipment vehicles, was collectable at ₹ 10,000 per annum.

Scrutiny of departmental records in 10<sup>46</sup> offices revealed that tax of ₹ 24.90 lakh relating to the years 2014-15 to 2016-17 was not paid by the owners of 212 (50 per cent) out of 424 construction equipment vehicles test checked.

After Audit pointed this out, the Department stated that since construction equipment vehicles are classified as non-transport vehicles, the owners of the vehicles were permitted to pay tax anywhere in the State. Further, the owners were permitted to remit the tax in Treasuries / Banks all over the State, where the taxes are collected manually, for which the database is not available in the RTO offices. Three<sup>47</sup> RTOs, however, reported collection of ₹ 1.70 lakh in respect of 11 vehicles.

The department's reply was not tenable as Rule 3 of the TNMVT Rules provides that in respect of a non-transport vehicle, so long as the vehicle remains on the records of the Registering Authority, it is deemed to be used or kept for use in the State of Tamil Nadu. The provision to pay tax anywhere in the State is only a citizen service, which did not, in anyway, take away the onus on the part of the jurisdictional Regional Transport Officer to ensure collection of tax.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).

#### **4.4.4 Short realisation of tax due to misclassification of Private Service Vehicles as Educational Institution Vehicles**

As per Section 2 (11) of the Motor Vehicles Act, (MV Act), "educational institution bus" means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution, in connection with any of its activities. As per class 8(a) of First Schedule to TNMVT Act, the rate of tax in respect of vehicles owned by schools is ₹ 50 per person per quarter, and in respect of vehicles owned by colleges and other educational institutions, the rate of tax is ₹ 100 per person per quarter.

---

<sup>46</sup> Ambattur, Chennai (Central), Chennai (East), Chennai (South East), Chennai (South West), Chennai (West), Kanchipuram, Meenambakkam, Ramnad and Tambaram

<sup>47</sup> Ambattur, Ramnad and Tambaram

The Honourable Madras High Court held in January 2008 that the educational institution must own the vehicle and vehicles held in the name of Trust cannot be treated as ‘educational institution vehicles’(EIVs).

On a test check of the permit registers relating to 648 (21 *per cent*) vehicles out of total of 3,152 vehicles, Audit noticed in three<sup>48</sup> offices that, 24 vehicles (four *per cent*) owned by Trusts/Societies were classified as educational institution vehicles and permits were accordingly issued. These vehicles were classifiable as “private service vehicles” and attract tax of ₹ 500 per seat per quarter. The incorrect issue of permits and collection of tax at the rates applicable to EIVs led to short realisation of revenue of ₹ 21.15 lakh during the period 2016-17.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).

#### **4.4.5 Loss of revenue due to Misclassification of Contract Carriages as Private Service Vehicles**

As per Section 2(33) of the MV Act, ‘private service vehicle’ (PSV) means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward, but does not include a motor vehicle used for public purposes. As per Section 2(30) of the Act *ibid*, “owner” means a person in whose name a motor vehicle is registered, and in relation to a motor vehicle, which is the subject of a hire-purchase agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement. Section 2(7) of the Act *ibid* defines Contract carriage as a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum--

- a. on a time basis, whether or not with reference to any route or distance; or
- b. from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey

Government of Tamil Nadu, while clarifying (September 2002) on the issue of the PSV permits to leased vehicles owned by the companies, stipulated that the company should enter into an agreement with the registered owner and take over their vehicle on lease for company’s use. The Government of Tamil Nadu issued instructions in 2004 that there should be a lease deed evidencing transfer of vehicle and the lessee (in the capacity of “owner” of the vehicle in pursuance of the agreement) shall also have the liability to pay all taxes, fees, penalties, fines, damages, insurance claims and other necessities and requirements arising out of MV Act and its related rules.

During test check of records relating to 481 (25 *per cent*) out of a total of 1,902 PSVs, Audit noticed in the offices of RTO, Ambattur and Tambaram that

<sup>48</sup> Chennai (West), Kanchipuram and Sholinganallur

permits were issued to five motor vehicles classifying the same as PSV vehicles based on the agreement entered into between the companies and the original owners of the vehicles. Accordingly, tax of ₹ 500 per seat per quarter applicable to PSV as per class 8 (b) of the First Schedule to the TNMVT Act was collected in respect of these vehicles on the basis of permits issued.

Scrutiny of the agreements, however, revealed that the identity of specific vehicle, which was proposed to be given on lease was not mentioned. The liability of payment of tax vested with the original owner of the vehicle, which was in contravention of the instructions of the Government. The vehicles were not intended to be possessed by the lessee as there was contract agreement on per passenger charges, timings relating to entry and exit into and from the owner's premises, maintenance and insurance, etc. The agreements, therefore, were basically in the nature of a contract, and instead of the lease ownership of vehicle, only the services of the lessor were agreed upon. These vehicles should have been treated as contract carriages and tax of ₹ 3,000 per seat per quarter should have been collected as per Part II of Schedule VII of the TNMVT Act. However, tax of ₹ 500 per seat per quarter applicable to PSV was collected in respect of the vehicles. This resulted in a loss of revenue of ₹ 18.53 lakh relating to the period 2015-16 and 2016-17.

After Audit pointed this out, the RTO, Tambaram stated that the fresh lease agreements would be obtained from the permit holders.

The reply of the Department is not acceptable as the grant of permits was based on invalid lease deeds and since the vehicles were not in possession / control of the Employer / Company, whose staff were to be transported, the same could not be treated / classified as Private Service Vehicles. Reply from RTO, Ambattur was awaited.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).