

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 and Employment Guarantee Cess, etc. The administration is governed by Acts and Rules framed separately for each tax head.

6.2 Results of audit

In 2017-18, test check of the records of 89 units out of 283 auditable units relating to State Excise, Entertainments Duty, Taxes and Duties on Electricity, State Education Cess and Employment Guarantee Cess, Profession Tax, Repair Cess, etc., showed short levy of licence fees, entertainments duty and other irregularities amounting to ₹ 102.70 crore in 340 observations, which fall under the following categories as indicated in **Table 6.2**.

Table 6.2

Sr. No.	Category	No. of observations	Amount (₹ in crore)
1	Short/non levy and collection of Licence Fees and Excise Duties	117	3.26
2	Non/short realisation of Entertainments Duty	125	6.86
3	Non/short recovery of State Education Cess and Employment Guarantee Cess	17	88.60
4	Non/short recovery of Taxes and Duties on Electricity, Repair Cess, Maharashtra Tax on Buildings (with Larger Residential Premises), Profession Tax, etc.	81	3.98
Total		340	102.70

Individual results of some major tax receipts are given as follows:

Entertainments Duty

There are 80 auditable units in the Revenue Department tasked with collection of Entertainments Duty. Out of these, audit selected 43 units for test check wherein there are 8,372 licences. Of these, audit test checked records of all these licences (100 per cent) and noticed 981 cases (approx. 12 per cent of the audited sample) of non/short recovery of Entertainments Duty, interest, etc. of ₹ 6.86 crore.

State Education Cess and Employment Guarantee Cess:

State Education Cess and Employment Guarantee Cess is recovered by Municipal Corporations from the property Tax Bills and is credited to the Government Treasury. There are 23 Municipal Corporations in the State of Maharashtra, out of these, audit selected eight corporations for test check

during 2017-18 and noticed that two corporations had not deposited the amount collected for Education Cess and Employment Guarantee Cess amounting to ₹ 88.24 crore into the Government account. These cases are illustrative only as these are based on test check of records.

The Department accepted underassessment and other deficiencies of ₹ 15.49 crore in 283 observations which were pointed out during 2017-18 and earlier years. The Department also recovered an amount of ₹ 13.94 crore in respect of 224 observations accepted during 2017-18 and earlier years, of which an amount of ₹ 43.40 lakh pertained to observations made during 2017-18 and the rest to earlier years.

In addition to this, the Department also intimated recovery of ₹ 3.53 crore during the year by way of explanatory memoranda in respect of paragraphs pertaining to Audit Reports 2011-12 and 2012-13.

A few illustrative cases involving ₹ 90.82 crore are discussed in the succeeding paragraphs.

Education Cess and Employment Guarantee Cess

6.3 Non-remittance of Education Cess and Employment Guarantee Cess

Under the provisions of Sections 4 and 6(b) of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, read with Rule 4 of Education (Cess) Tax on Lands and Buildings (Collection and Refund) Rules, 1962, amounts of Education Cess and Employment Guarantee Cess and penalty collected by any Municipal Corporation during any calendar week are required to be credited into the Government account before the expiry of the following week.

During the scrutiny of the Tax Collection Registers of two Municipal Corporations (Nagpur and Pune) during July 2017 and December 2017, Audit noticed that the corporations had not credited Education Cess and Employment Guarantee Cess amounting to ₹ 88.24 crore collected during the periods 2015-16 and 2016-17 into the Government Account.

This was brought to notice of concerned corporations in August 2017 and January 2018; their reply has not been received.

The matter was brought to the notice of the Government in July 2018; their reply has not been received (October 2019).

Entertainments Duty

6.4 Non-recovery of Entertainments Duty from permit rooms/beer bars with live orchestra

As per Section 3(11A) of the Maharashtra Entertainments Duty Act, 1923, there shall be levied and paid in advance by the tenth of every calendar month by the proprietor of every permit room or beer bar with live orchestra, the Entertainments Duty in respect of entertainment in such permit room or beer bar with live orchestra, to the State Government, at the rates of ₹ 50,000 per month in case of areas within the limit of Municipal Corporations. As per

Section 9B of the Act, penal interest was also leviable @18 *per cent* for the first 30 days, and @24 *per cent* per annum thereafter for delayed payment of tax.

Scrutiny of Recovery Register and relevant records in five¹ offices falling within the limits of Municipal Corporation of Greater Mumbai between April 2017 and October 2017 revealed that Entertainments Duty was not paid by the proprietors of 19 permit room/beer bars with live orchestra. The non-recovery during various periods between August 2015 and June 2017 amounted to ₹ 54.50 lakh.

On this being brought to notice between May 2017 and November 2017, four offices communicated (July 2017 and May 2018) recovery of ₹ 40 lakh in respect of 15 permit rooms/beer bars. Report on action taken on recovery of the remaining amount has not been received.

The matter was brought to the notice of the Department in July 2018; their reply has not been received (October 2019).

6.5 Non-recovery of Entertainments Duty in case of dishonored cheques

Entertainments Duty payable under the provisions of the Maharashtra Entertainments Duty Act, 1923 is recovered by the Department in cash as well as by cheque. If a cheque tendered for payment of Entertainments Duty is dishonoured for any reason whatsoever, the Department has to immediately recover the amount in cash along with interest from the tenderer. Further, action may also be taken under the provisions of Section 138 of the Negotiable Instruments Act, 1881 in case the cheque is dishonoured for reason of insufficient funds in the bank account.

During test check of the records of five offices² between April 2017 and October 2017, Audit noticed from the cheque/ dishonoured cheque register that in 22 cases, cheques issued for payment of Entertainments Duty by various dealers aggregating ₹ 28.19 lakh between July 2016 and April 2017 had been dishonoured by the concerned banks, for insufficient funds in two cases, and bank account being blocked in other two cases. In the remaining cases, reasons were not furnished. The concerned officers neither took any action to recover the dues from the dealers in cash nor initiated proceedings as contemplated under the Negotiable Instruments Act. This resulted in non-realisation of Entertainments Duty aggregating ₹ 28.19 lakh and interest thereon.

After Audit pointed out the cases between May 2017 and November 2017, the Department accepted the observations and communicated (January 2018 and May 2018) recovery of ₹ 18.74 lakh in seven cases. Report on action taken on recovery of the remaining amount has not been received.

The matter was brought to the notice of the Department in July 2018; their reply has not been received (October 2019).

¹ Resident Dy. Collector - Mumbai (Zone III): Taluka Magistrate - Andheri (Zone III), Kurla at Mulund (Zones VIII, X, XII).

² Taluka Magistrates – Andheri (Zone III); Borivali (Zone V); Kurla at Mulund (Zones VIII, X, and XII).

6.6 Non-recovery of Entertainments Duty from cable operators

Under Section 3(4) of the Maharashtra Entertainments Duty Act, 1923 (MED Act), Entertainments Duty is payable by the cable operators at the rates prescribed by the Government from time to time. These cable operators were required to file monthly returns in Form 'E' with the Collector, along with the payment of Entertainments Duty. As per Section 4B(4) of the MED Act, if the return is not filed within the prescribed time, the State Government may, after giving the cable operator a reasonable time, assess the Entertainments Duty due from the cable operators to the best of its judgment. The cable operators are liable to pay interest for delayed payment of the tax.

Test check of cable operator recovery registers of seven offices³ between April 2017 and November 2017 revealed that 228 cable operators had neither filed the returns nor paid the Entertainments Duty. The collectors had not made any effort to assess the operators. This resulted in non-recovery of tax amounting to ₹ 1.75 crore for various periods between February 2015 and June 2017.

After Audit pointed out these cases, the concerned collectors accepted the audit observations and communicated (between May 2017 and December 2017) recovery of ₹ 50.71 lakh (including interest of ₹ 4.55 lakh) from 65 cable operators. Report on action taken on recovery of the remaining amount has not been received.

The matter was brought to the notice of the Department in September 2018; their reply has not been received (October 2019).



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Mumbai
The 11 December 2019

Countersigned



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Comptroller and Auditor General of India

New Delhi
The 12 December 2019

³ Resident Deputy Collector (BEDA) – Mumbai (Zone VIII), and Nanded; Taluka Magistrate – Andheri (Zone III), Kurla at Mulund (Zones VIII, X, and XII); and Entertainments Duty Officer, Pune (Zone I).

