

## **Chapter-3**

### **Subject Specific Compliance Audit of Transfer of Municipal Duty levied as part of Stamp Duty to the Municipal Bodies**



## CHAPTER 3

### Urban Local Bodies Department

### 3. Subject Specific Compliance Audit of Transfer of Municipal Duty levied as part of Stamp Duty to the Municipal Bodies

#### 3.1 Introduction

There are three types of Municipal Bodies in Haryana. These are Municipal Corporations governed by Haryana Municipal Corporation Act, 1994 (HMC Act) and Municipal Councils & Municipal Committees governed under Haryana Municipalities Act, 1973 (HM Act). Section 87 (1) (c) of HMC Act, 1994 and Section 69(c) of HM Act, 1973 enable the Municipal Bodies to levy a duty at the rate of one *per cent* to three *per cent* (hereinafter referred to as Municipal Levy) on transactions of transfer of immovable property within the Municipal Area of the concerned Municipal Body. Such stamp duty is collected by the Registrar/Sub-Registrar in the shape of non-judicial stamp paper at the time of registration of the document and intimation thereof is sent to the concerned Urban Local Bodies (ULBs).

Subject Specific Compliance Audit (SSCA) was conducted for the period 2016-21 at Director of Urban Local Bodies Department (DULB); Municipal Corporations (MCs) of Gurugram, Rohtak and Yamunanagar; Finance Department of Government of Haryana (GoH) and Directorate of Local Audit Department. The objectives of the SSCA were to review the process of raising of the claims by Municipal Bodies in respect of Municipal Levy, the accounting mechanism, reconciliation process of Municipal Levy amongst the Revenue Department, DULB, concerned Municipal Bodies and office of Accountant General (Accounts & Entitlement) Haryana, the mechanism in Local Audit Department (Primary Auditor of Municipal Corporations) for deriving assurance on the transfer of Municipal Levy to the concerned Municipal Bodies.

**3.1.1** The transfer of the Municipal Levy to Directorate of Urban Local Bodies through executive instructions was commented by the Principal Accountant General (Audit), Haryana in its interim Audit Findings contained in its Inspection Reports. GoH amended Section 87 and Section 69 of the HMC Act 1994 and HM Act 1973 respectively through two separate notifications dated 22 August 2022 to authorise the State Government to notify transfer of the amounts collected under these Sections of HMC Act 1994 and HM Act 1973 to concerned Municipal Bodies as well as on behalf of concerned Municipal Bodies to the Haryana Urban Infrastructure Board for development of infrastructure in any area of the Corporation of the State (HMC Act 1994) and in any area of the Committee (HM Act 1973) as the State Government

may determine by notification. The amendment provided for being effective from 1 April 2021. Statement of objects and reasons for the amendment stated that amendment was required to remove the anomaly of government notification with the Municipal Acts as highlighted in the Inspection Reports of Principal Accountant General (Audit) Haryana in its Inspection Report dated 2 February 2022.

## **Audit Findings**

### **3.2 Methodology of Transfer adopted by State Government**

Government of Haryana at different points of time adopted different methodologies, processes and accounting procedures for transfer of the Municipal levy to the concerned Municipal Bodies.

Prior to April 2012, no budgetary provision was made for payment of share of municipal levy to the municipal bodies and payment was based on actual basis. With effect from April 2012 payment of share of Municipal Levy to concerned Municipal Bodies was made through Budgetary Provisions in Annual Budget. Budget estimation process included making provision under accounting classification Head “P-01-15-2217-80-191-96-51<sup>1</sup>” for payment to Municipal Corporations and “P-01-15-2217-80-192-92-51<sup>2</sup>” for Municipal Councils/ Municipal Committees.

No written instructions with regard to procedure requiring submission of claim by Municipal Bodies for transfer of Municipal Levy was found in record. The system of accounting and transfer of Municipal Levy during April 2012 to March 2021 was found contrary to the provision of List of Major and Minor Head of Accounts and is assessed to be irregular. Efforts to determine/find, reasons for change in procedure for transfer and accounting of Municipal Levy w.e.f. April 2012 were constrained by Scope Limitation in form of access to relevant record in office of DULB and Finance Department.

On being pointed out, on the advice of the office of Principal Accountant General (A&E) Haryana (February 2021), the State Government decided (June 2021) that two *per cent* stamp duty would be transferred to Municipal Bodies/ DULB Department under the accounting classification ‘Major Head 0030-02

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<sup>1</sup> Part 01 of State Scheme- P-01, Demand No-15, Major Head – 2217 Urban Development, Sub-Major Head- 80 General, Minor Head- 191 Assistance to Municipal Corporation, Sub Head- 96 Contribution to Local Bodies from the proceeds of Stamp Duty to Municipal Corporations, Detail Head- 51 for payment to Municipal Corporations.

<sup>2</sup> Part 01 of State Scheme- P-01, Demand No-15, Major Head – 2217 Urban Development, Sub-Major Head- 80 General, Minor Head- 192 Assistance to Municipal Corporation, Sub Head- 92 Contribution to Local Bodies from the proceeds of Stamp Duty to Municipal Councils and Committees, Detail Head- 51 for payment to Municipal Council/Committee.

(Stamp Non-Judicial) – 901 (Deduction to local bodies)-99 (Share of Stamp duty)-51(NA)-00’ on monthly basis, as per LMMH and similar to the system prior to April 2012.

### 3.3 Delay in claiming the Municipal Levy

During scrutiny of audit of three selected Municipal Corporations it was seen that there was delay upto 508 days in submission of claims by the Municipal Corporations during 2016-17 to 2020-2021. The delays are detailed in **Table 3.1** below.

**Table 3.1: Delay in submission of claims for Municipal Levy**

Name of Corporation	Total number of claims to be submitted during 2016-2021	Claims presented on time by Municipal Corporation	Claims not presented by Municipal Corporation	Number of claims presented with delays	Delay in submission of claims in days
Gurugram	60	12	27	21	1 to 214
Rohtak	60	22	-	38	2 to 508
Yamunanagar	60	31	3	26	1 to 111

**Note:** The period for submission of monthly bills while calculating delays has been taken as one month for the month for which due e.g. for April 2019, the delay has been taken from 1 June 2019.

### 3.4 Transfer of Municipal levy to Municipal Bodies during 1 April 2016 to 31 March 2021

#### 3.4.1 Scope Limitation

Record related to change in the system for transfer of the levy under HMC Act and HM Act with effect from April 2012 was not made available to the audit by Finance Department and DULB leading to material scope limitation. Besides, record related to the period 2012-13 to 2015-16 for the preparation of annual budget for the purpose of transfer of this levy to Municipal Bodies was also not made available by DULB leading to scope limitation.

#### 3.4.2 Budgeting and Transfer of Municipal Levy

The details of budget allocated to Municipal Corporations/Municipal Councils/Municipal Committee, Budget requirement as per instructions of the Finance Department (FD) in respect of Municipal Levy and amount transferred to Municipal Bodies as per record of Municipal Bodies as well as DULB for 2016-21 are given in the **Table 3.2**.

**Table 3.2: Shortfall in budget allocation & utilization and outstanding Municipal Levy**  
(₹ in crore)

Year	Budget requirement as per instruction of FD	Budget allocated <sup>3</sup>	Shortfall in budget allocation	Actual utilisation of budget <sup>4</sup>	Short utilisation of Budget	Outstanding Municipal Levy as per Municipal Bodies (opening balance)	Additional Due Municipal Levy as per Municipal Bodies	Municipal Levy received as per Municipal Bodies	Balance outstanding as per Municipal Bodies (Closing Balance)	Amount withdrawal as per DULB
	A	B	C=A-B	D	E=B-D	F	G	H	(F+G)-H=I	J
2016-17	1,330.05	726.00	604.05	470.2	255.80	752.94	601.82	478.10	876.66	462.06
2017-18	1,478.48	1,198.60	279.88	990.89	207.71	876.66	775.42	988.73	663.35	983.03
2018-19	1,438.35	878.40	559.95	511.1	367.30	663.35	1,036.75	523.30	1,176.80	579.79
2019-20	2,213.13	878.40	1,334.73	627.45	250.95	1,176.80	1,086.99	601.65	1,662.14	627.45
2020-21	2,748.71	2,009.40	739.31	273.39	1,736.01	1,662.14	732.55	215.71	2,178.98	482.60
<b>Total</b>	<b>9,208.72</b>	<b>5,690.80</b>	<b>3,517.92</b>	<b>2,873.03</b>	<b>2,817.77</b>			<b>2,807.49</b>		<b>3,134.93</b>

Source: Budget document of GoH and Appropriation Accounts.

It can be seen from the above Table 3.2 Column I that the outstanding Municipal Levy at the end of year due to Municipal Bodies ranged between ₹ 663.35 crore (at the end of March 2018) to ₹ 2,178.98 crore (at the end of March 2021) during 2016-17 to 2020-21. As on 31 March 2021, the Government of Haryana had not released the rightful share of municipal levies to the municipal bodies.

### 3.4.3 Retention of Municipal levy by Government of Haryana

The amount of ₹ 2,178.98 crore (Table 3.2) had been retained by the Government of Haryana pertaining to Municipal Bodies as on 31 March 2021.

Comparative analysis of the amount of stamp duty due vis a vis total revenue of the corresponding Municipal Body covered in audit for the period 2016-17 to 2020-21 is presented in the *Table 3.3* as under:

**Table 3.3: percentage of cumulative municipal levy to total revenue of MC**

(₹ in crore)

Sr. No.	Municipal Corporation	Year	Cumulative <sup>5</sup> amount of Municipal Levy due at the end of financial year	Total Revenue for the financial year	Percentage of cumulative municipal levy to total revenue of MC
A	B	C	D	E	F=(D/E)*100
1	Gurugram	2016-17	849.44	731.26	116.20
		2017-18	585.95	1227.46	47.70
		2018-19	952.39	739.13	128.90
		2019-20	1424.80	476.47	299.0
		2020-21	1696.52	466.98	363.30
2.	Rohtak	2016-17	13.60	101.55	13.40
		2017-18	13.52	157.65	8.60
		2018-19	19.57	92.89	21.10
		2019-20	34.94	78.69	44.40
		2020-21	13.99	100.47	13.90
3.	Yamunagar	2016-17	0	112.11	0.0
		2017-18	0	171.12	0.0
		2018-19	0	105.06	0.0
		2019-20	1.42	171.16	0.8
		2020-21	12.73	166.70	7.6

Source: Department's record.

<sup>3</sup> Figures from the budget allocated for respective years.

<sup>4</sup> Source: Appropriation accounts of respective year.

<sup>5</sup> Opening Balance for the year + Amount due for current year – Amount received in current year = Cumulative amount at end of year.

From the above table, it can be seen that in above selected Municipal Corporations, the due amount of Municipal Levy was retained by the Government in ranging from 0.8 *per cent* (MC, Yamunanagar) to 363.30 *per cent* (MC, Gurugram) of total revenue of the respective years. Retention of Municipal Levy by the Government has significantly impacted the overall financial position of the Municipal Bodies. Had this amount been available with the Municipal Bodies in the corresponding period of levy, the same could have been utilised for discharging the functions devolved to Municipal Bodies.

### **3.5 Deficient Procedure for Transfer of Municipal levy during April 2012 to March 2021**

#### **3.5.1 Details of the budget formation and deficiencies**

As per instructions (July 2012) of Principal Secretary to Government of Haryana, Finance Department, two new schemes were opened for the purpose of payment of Municipal Levy to Municipal Corporations and Municipal Committees/ Councils and the budget was to be provided to cover these schemes under the procedure for payment to the Municipal Bodies.

(i) The procedure involved Director Urban Local Bodies (DULB) to function as designated Budget Controlling Authority (BCA) for these schemes and was to distribute the budget to various Deputy Commissioners in the State on the basis of sale of Non-Judicial Stamp Papers during the last financial year.

(ii) To cover these schemes, the online budget was to be allotted to the concerned Deputy Commissioner (DDO) for releasing to Municipal Bodies under their jurisdiction. Then, the DDO would follow the process of determining the actual amount payable to each Municipal Body on the basis of actual sale of Non-Judicial stamp papers and the bills would be presented in treasury for payment to each Municipal Body. In case of shortage of funds, the DDO would approach to the DULB for the same. Thereafter, the DULB would itself review the budget position of each DDOs and expenditure incurred by them in online budget system and further make distribution or if required undertake re-distribution of the budget.

Audit observed that the position in respect of selected Municipal Corporations (Gurugram, Rohtak and Yamunanagar) at the office of DULB confirmed the above findings that while preparing the annual budget for Municipal Levy as share of stamp duty, the DULB did not follow the instructions as laid down by the Finance Department. The budgetary projections prepared for Municipal Corporation, Gurugram were short of its requirements and shortfall ranged between ₹ 373.62 crore to ₹ 1,254.20 crore. For Municipal Corporation, Rohtak this shortfall was ranging between ₹ 5.43 crore to ₹ 31.46 crore and for

Municipal Corporation, Yamunanagar this was ranging between ₹ 0.52 crore to ₹ 10.48 crore during 2016 -17 to 2020 -21. The excess budget of ₹ 1.05 crore was also prepared in 2020-21 for Municipal Corporation, Rohtak and ₹ 4.67 crore in 2017-18 and ₹ 6.21 crore in 2018-19 for Yamunanagar (*Appendix 3.1*).

Thus, there was no uniformity in budget preparation across municipal bodies and showed weak internal controls.

(iii) Audit further observed that the budget estimation for next financial year under the scheme, contribution to Local Bodies from the proceeds of the Stamp Duty to Municipal Bodies was prepared by the DULB on the basis of estimation of 10 *per cent* increase in Budget provisions of the previous financial year. This was against the prescribed procedures as detailed above.

### **3.6 Internal Control issues resulting in excess transfer of Municipal levy to Municipal bodies in few cases**

Though the cumulative total of municipal levies from the Government of Haryana to municipal bodies was ₹ 2,178.98 crore, following instances of irregular excess withdrawal of municipal levies from Government of Haryana to municipal bodies were also noticed.

- Against the due share of stamp duty, the Municipal Corporation, Karnal had drawn excess share of Municipal Levy of ₹ 36.71 crore as on 31 March 2016. Despite the excess payment to Municipal Corporation, Karnal, ₹ 13.91 crore in 2016-17, ₹ 16.45 crore in 2017-18 and ₹ 5.46 crore in 2018-19 were released. The entire amount of excess payment was adjusted in 2019-20 against its due share. Further, it was seen that despite the excess payment in 2015-16, the DULB allocated the budget for releasing the share of stamp duty during 2017-18 and 2018-19.
- Excess payment of share of stamp duty was made to Municipal Corporation, Faridabad in March 2016 and March 2020 and the same was adjusted in next month.
- It was further observed that during 2019-20 and 2020-21, Municipal Council, Kaithal claimed an amount of stamp duty of ₹ 8.65 crore against its share of ₹ 4.78 crore relating to period September 2019 to April 2020. The reasons for the same were not available on record.
- Excess payment of share of stamp duty was made to Municipal Council, Mandi Dabwali of ₹ 1.05 crore during 2015-16 and same was adjusted against the share of stamp duty for the year 2018-19.
- Excess payment of share of stamp duty was made to Municipal Committee in Narayangarh, Indri, Kharkhoda, Hathin, Nissing, Taraori, Pehowa, Nilokheri, Gharunda and Assandh during the year 2016-17 to 2020-21.



The Deputy Commissioners had not followed the process of determining the actual payable amount after getting it verified from respective sub registrars.

### **3.7 Non-drawal of Municipal levy in respect of Municipal Committee Kundli**

Municipal Committee, Kundli was formed in October 2018, but its share of Municipal Levy was not released to it due to problem in software at the level of office of Registrar. In this regard, the DULB, has not taken any action from 2018 to 2021 for rectifying the issue of software and reconciling the share of stamp duty at Municipal Committee, Kundli.

### **3.8 Transfer of a part of Municipal levy to Director of Urban Local Bodies**

Finance Department issued (July 2020) instructions and Urban Local Bodies Department issued a follow up notifications (two in number) in March 2021 on these instructions of Finance Department that Municipal Levy would be charged at the rate of two *per cent* of transaction value and out of two *per cent* stamp duty, one *per cent* would be transferred directly to the Urban Local Bodies (Municipal Bodies) concerned and balance one *per cent* of Municipal levy would go to the common account of the Urban Local Bodies Department.

It is assessed that these notifications are inconsistent with the provisions of HMC Act and HM Act and the impact would continue to reduce the receipts on account of Municipal Levy to all the Municipal Body to the extent of 50 *per cent* of the Municipal Levy *i.e.* one *per cent* stamp duty which would be managed by the DULB for which no accounting procedure has been prescribed.

This process has been further modified by legislative amendments (effective from 1 April 2021) issued through two notifications dated 22 August 2022 with respect to Section 69 of Haryana Municipal Act, 1973 and Section 87 of Haryana Municipal Corporation Act, 1994. As per the amendments, out of the total stamp duty collected (two *per cent*), one *per cent* shall be paid to the Municipal Bodies and balance one *per cent* to the Haryana Urban Infrastructure Development Board. The amendments have been carried out (with retrospective effect) due to absence of legislative provisions to support Government notification of July 2020 providing for transfer of Municipal Levy to Directorate of Urban Local Bodies.

Article 243W of the 74<sup>th</sup> Constitutional amendment authorised the State Legislatures to enact laws to endow local bodies with powers and authority as may be necessary to enable them to function as institutions of self-Government and make provisions for devolution of powers and responsibilities. The main objective was to empower ULBs through the creation of a robust Institutional framework as well as transfer of functions, funds and functionaries.

The Government notification (July 2020) and amendments (22 August 2022) have led to transfer, accumulation and utilisation of amount received in respect of the Municipal Levy in a centralised fund. It is assessed to have adverse impact on the financial position of the Municipal Bodies as the funds will not be available on the real time basis. The unavailability of the adequate resources will hinder the smooth execution of the functions devolved and Municipal Bodies will be forced to meet the financial requirements through Supplementary budgets/other sources including compromising in execution of functions entrusted to it.

The funds transferred to Haryana Urban Infrastructure Development Board are at discretion of the State Government and can be used beyond the jurisdictional area of Municipal Body for which they have been collected.

## Miscellaneous

### 3.9 Maintenance of Accounting Process for Collection and Transfer of Municipal levy

Rule 12.17 and 2.18 of Punjab Budget Manual, Government of Haryana provides that Head of the Department should maintain a ledger account in Form- 31, which will show sum initially allotted and supplementary grant and on the other side deduction made by re-appropriation.

Further, Head of the Department will prepare a monthly account in Form -29, of expenditure working up the total monthly expenditure under each primary and secondary unit. Thereafter, the statement will be prepared and forwarded to the Accountant General (A&E) along with statement of the disbursing officer.

No subsidiary accounts have been maintained in Sub Registrar (SR) offices. Only the records of transaction/registered instruments are being kept in the office of Sub-Registrar. During the audit of Sub-Registrar/Registrar, it was seen that treasury bills and vouchers are being kept with Head Registry Assistant (HRA) and one ordinary register of bills was also available in HRA branch. However, no other subsidiary records/account was seen to be maintained.

### 3.10 Non-reconciliation of share of stamp duty

Rule 12.20 of Punjab Budget Manual, GoH provides that the reconciliation of departmental figures with the booked figures in the office of the Accountant General has two objects:

- (i) To ensure that the departmental accounts are sufficiently accurate to secure efficient departmental financial control; and

(ii) To ensure the accuracy of accounts maintained in the Accounts office from which the final published accounts are compiled.

Besides, Finance Department also issued (September 2002) budget reconciliation guidelines and provided that it is in the interest of the department to reconcile their receipts and expenditure with the Accountant General office to avoid excess expenditure and proper booking of Government expenditure in the accounts of Accountant General. The department is required to submit a monthly report to Finance Department on reconciliation of accounts.

During the audit of DULB, it was seen that the DULB, was the Budget Controlling Authority (BCA) for the purpose of payment of two *per cent* on sale of Non-judicial stamp paper to Municipal Corporations/Councils/committees for two schemes under head P-01-15-2217-80-191-96-51 for Municipal Corporations and P-01-15-2217-80-192-92-51 for Municipal Committees/ Councils. DULB was required to carry out the reconciliation in respect of aforesaid two schemes on monthly basis and report the same to the Finance Department (FD).

As given in Table 3.2 in paragraph 3.4.2, as per figures appear in the Appropriation Accounts for the respective years for the period 2016-17 to 2020-21, total ₹ 2,873.03 crore had been transferred to the Municipal Bodies as Municipal Levy. However, as per information provided by the DULB, total ₹ 3,143.93 crore had been transferred to Municipal Bodies as Municipal Levy during the same period.

It has been observed that required reconciliations were not carried out by the Department and no report thereof was submitted to the FD. Thus, in the absence of the reconciliation, the department could not assure itself for accuracy of Departmental figures.

### **3.11 Limitations in Audit by Director Local Audit Department**

Director Local Audit Department is the primary auditor for Municipal Bodies required to certify the Financial Statement of the Municipal Bodies. As per information provided by the Local Audit Department (January 2022) that the Stamp Duty is the income of the Municipal Corporations/Councils/Committees. This duty is collected by Revenue Department and transferred to Local Bodies (Department). Local Audit checks the calculations and accounting of the duty into the relevant record and register. Further, it was also apprised that the record of reconciliation of stamp duty (MC share) is duly stamped & verified by the Revenue Authorities. No other record is within the purview of audit of Local Audit Department against which reconciliation of same could be done. It is seen that Director Local Audit Department has claimed mandate limitation in respect of assessment, receipt of collection and transfer of Municipal Levy. It is assessed in audit that it is incumbent on Director, Local Audit Department to

derive assurance in the matter in view of materiality involved. It is up to Director, Local Audit Department to determine methodology and could include seeking assurance from the Accounting Authorities, Finance Department, DULB, concerned Deputy Commissioners entrusted with the work of transfer of this levy and / or from Primary Auditors of the State Government. The change of procedure in transfer of this levy w.e.f. April 2012 was contrary to the provision of HMC Act and HM Act and resulted in denial of the amount due to Municipal Bodies and should have been an area to be highlighted by the Local Audit Department in its functions as a Primary Auditor of the Municipal Bodies.

### **3.12 Conclusion**

It is seen that the outstanding Municipal Levy at the end of year due to Municipal Bodies ranged between ₹ 663.35 crore (at the end of March 2018) to ₹ 2,178.98 crore (at the end of March 2021) during 2016-17 to 2020-21. There were delays in transfer of funds to Municipal Bodies and deficiencies/absence of internal controls in the entire processes adopted by the various functionalities of State Government were observed.

The matter was discussed in exit conference (17 May 2022) held with the office of Additional Chief Secretary, Finance Department, Principal Secretary, Urban Local Bodies Department and Director, Urban Local Bodies Department. Department replied that action of various entities are being coordinated for examination and removal of inconsistencies.