

CHAPTER - IV

OTHER TAX RECEIPTS

4.1 Results of Audit

Test check of assessment records of the offices dealing with the following revenue receipts during 2002-03 disclosed irregular allowances of loss, non-levy of interest and deferment of advance tax etc. and under assessment, non-realisation/short realisation of revenue, amounting to Rs.37.89 crore in 238 cases under the following categories:

(Rupees in crore)

Sl. No.	Particulars	No. of cases	Amount
1.	Agricultural Income Tax	19	0.34
2.	Stamps and Registration Fees	7	0.24
3.	Taxes on Vehicles	80	2.30
4.	Land Revenue	123	34.94
5.	Professional Tax	7	0.05
6.	Taxes on Specified Land	2	0.02
	Total:	238	37.89

During the year, the Department accepted under assessment of Rs.11.11 crore in 23 cases which had been pointed out in audit in 2002-2003.

A few illustrative cases involving Rs.51.27 lakh are mentioned in the following paragraphs:

A. AGRICULTURAL INCOME TAX

4.2 Incorrect allowance of loss

Under the provision of Assam Agricultural Income Tax Act, 1939 (Act) (as amended from time to time), the loss sustained by any assessee in agricultural income for any year is allowed to be carried forward for set off against the profits or gains of the following year. However, if any assessee fails to file his return of loss for any year by 31 December of the relevant assessment year, the claim to carry forward and set off of such loss against future income of the assessee shall not be entertained.

4.2.1 Test check of assessment records of the Agricultural Income Tax Officer, Guwahati, revealed that two tea companies filed their returns for the assessment years 1999-2000 and 2000-01 in February and April 2001 respectively instead of in December 1999 and December 2000

respectively showing losses aggregating Rs.40.14 lakh. However, the Assessing Officer allowed in April 2001 carry forward and set off of such loss against future income resulting in potential loss of revenue of Rs.18.07 lakh.

On this being pointed out in audit, the Department stated in May 2003 that assessment orders had been rectified in April and May 2003 disallowing carry forward and set off of loss.

The cases were reported to the Government in March 2003; their reply has not been received (November 2003).

4.2.2 Test check of assessment records of the Agricultural Income Tax Officer, Guwahati, revealed that a tea company filed the return for the assessment year 2000-01 in April 2001 instead of in December 2000 showing loss of Rs.2.68 lakh. However, the Assessing Officer while finalising the assessment in April 2001 for the year allowed carry forward of loss and set off in 2001-02. This incorrect carry forward of loss and subsequent set off resulted in short levy of tax of Rs.1.21 lakh.

On this being pointed out, the Department raised in April 2003 a demand of Rs.1.54 lakh including interest. Final report on recovery was awaited (November 2003).

The case was reported to the Government in March 2003; their reply has not been received (November 2003).

4.3 Non-levy of interest

4.3.1 Under the Act, where in any financial year an assessee has paid advance tax less than 75 per cent of tax determined on regular assessment, simple interest at the rate of 2 per cent for each month from the 1st day of April of succeeding financial year in which the advance tax was payable upto the month prior to the month of regular assessment shall be payable by the assessee upon the amount by which the advance tax paid falls short of the tax determined on regular assessment.

Test check of the accounts of Agricultural Income Tax Officer, Guwahati, revealed that tax payable by an assessee for the assessment year 1998-99 was assessed in June 2001 at Rs.85.69 lakh. Of this, Rs.16.85 lakh was adjusted from the excess payment made on account of tax in 1990-1992 by the assessee; and the assessee had paid in March 1998 Rs.45.00 lakh as advance tax as against Rs.64.27 lakh (75 per cent of Rs.85.69 lakh) payable within March of the relevant assessment year. The assessee thus failed to pay the tax in time for which interest of Rs.6.90 lakh which was leviable was not levied.

On this being pointed out in audit, the Department raised the demand in July 2003. Report on realisation was awaited (November 2003).

The case was reported to the Government in March 2003; their reply has not been received (November 2003).

4.3.2 As per Section 35-H of Assam Agricultural Income Tax Act, 1999 (as amended), where, in any financial year, the assessee who is liable to pay advance tax, fails to pay the same within the time prescribed, he shall be liable to pay simple interest at the prescribed rate.

Test check of assessment records of the Agricultural Income Tax Officer, Guwahati, revealed that in two cases, tax of Rs.1.20 crore for the assessment year 1999-2000 was assessed between October 2000 and June 2001. But the assesses failed to deposit the advance tax on or before the due dates and were liable to pay interest of Rs.3.42 lakh, which was not levied.

On this being pointed out in audit, the Department stated in May 2003 that demand had been raised in April 2003. Further reply was awaited (November 2003).

The cases were reported to the Government in March 2003; their reply has not been received (November 2003)

B. STAMPS AND REGISTRATION FEES

4.4 Irregular exemption of stamps and registration fees

Registered co-operative societies are allowed exemption from payment of stamp duty and registration fee under the Assam Co-operative Societies Act, 1949, in respect of various documents, subject to the condition that documents are registered by or on behalf of the registered societies and that these relate to the business of the societies.

Test check of records of the Senior Sub-Registrar, Kamrup, Guwahati revealed that for sale of flats to 10 members of a society viz. Pubali Housing Co-operative Society Limited registered in 1992 under Assam Co-operative Act, 1949, land owner promoter representing himself as the Secretary of the Society executed 10 sale deeds in favour of the members concerned instead of in favour of the society itself. The deeds were registered without levying stamp duty of Rs.4.38 lakh and registration fee of Rs.2.74 lakh. As the deeds were not executed in favour of the society for its business, exemption of duties were irregular leading to loss of revenue of Rs.7.12 lakh.

The matter was reported to the Department and the Government in April 2003; their replies have not been received (November 2003).

C. TAXES ON MOTOR VEHICLES

4.5 Short realisation of vehicles tax

Under Assam Motor Vehicle Taxation (Amendment) Act, 1994, the motor vehicle tax on articulated vehicles having gross weight between 22,660 kilograms (kgs) to 26,400 kgs and between 26,400 kgs to 36,600 kgs is payable at the rate of Rs.3,500 and Rs.5,750 per quarter respectively effective from April 1994.

Test check of records of the District Transport Officer (DTO), Kamrup West Zone, Guwahati, revealed that motor vehicle tax in respect of 12 articulated vehicles having gross weight ranging between 25,000 kgs and 35,200 kgs was not calculated and realised at correct rates during the period September 1997 to September 2001. This resulted in short realisation of tax to the tune of Rs.2.30 lakh.

On this being pointed out, the DTO stated in July 2002 that demand notices to the owner of the vehicles had been issued in January and February 2002. However, the report on realisation of tax was awaited (November 2003).

The matter was reported to the Department and the Government in April 2002; their replies have not been received (November 2003).

D. LAND REVENUE

4.6 Non-realisation of penalty

Under the Assam Land and Revenue Regulation, 1886, a person in unauthorised possession of Government land without any bonafide claim of right can be evicted by issuing a notice by the Deputy Commissioner concerned for vacation of land within 15 days of its issue. Any person disobeying the notice shall be liable to a maximum penalty of Rs.1,000 in each case and in case of continued disobedience, a further penalty which may extend to Rs.250 for each day during which such breach continues shall be leviable.

Test check of records in respect of encroachment cases under the Additional Deputy Commissioner (LR), Kokrajhar, revealed that in respect of 10 encroachment cases for the year 2001-02, eviction notices were issued on 18 September 2001, but the cases remained unsettled till March 2003. The penalty of Rs.12.25 lakh leviable for disobedience of notice in these cases was not levied. Failure of the Department to invoke the provisions of the Act resulted in non-realisation of Government revenue of Rs.12.25 lakh.

The matter was reported to the Government and the Department in April 2003; their replies have not been received (November 2003).