

## CHAPTER IV: TAXES ON MOTOR VEHICLES

### 4.1 Results of audit

Test check of the records of the transport offices during the year 2006-07, revealed non/short levy of motor vehicles tax, fees, penalties/fines etc. of Rs. 41.63 crore in 172 cases, which broadly fall under the following categories:

**(Rupees in crore)**

<b>Sl. No.</b>	<b>Categories</b>	<b>No. of cases</b>	<b>Amount</b>
1.	Non-imposition of fines and penalties	09	0.97
2.	Non/short levy of tax	01	0.01
3.	Other cases	162	40.65
<b>Total</b>		<b>172</b>	<b>41.63</b>

During the year 2006-07, the department accepted underassessment and other deficiencies in 116 cases involving Rs. 28.49 crore which was pointed out during the year 2006-07.

A few illustrative cases involving tax effect of Rs. 30.44 crore are mentioned in the following paragraphs.

## 4.2 Irregular issue of certificate of fitness

Under the Central Motor Vehicle (CMV) Rules, 1989, fitness certificate for a transport vehicle cannot be granted unless the vehicle owner obtains a tax clearance certificate in such form as may be prescribed by the State Government. As held by the Patna High Court<sup>1</sup>, tax token being an evidence of payment of tax, is required to be produced for obtaining certificates of fitness (CF). Further, according to the executive instructions issued by the State Transport Commissioner (STC), Bihar in 1994, the motor vehicle inspectors (MVIs) are prohibited from grant/renewing certificate of fitness to transport vehicles against which tax has not been paid.

During cross verification of the entries in CF registers with those in the taxation registers of eight District transport offices<sup>2</sup> (DTOs) between August 2006 and March 2007, it was noticed that CF were issued to 95 transport vehicles without ensuring upto-date payment of tax. The omission not only violated the rules and STC's order but also resulted in non-realisation of tax of Rs. 2.74 crore including penalty pertaining to the period between July 2002 and July 2006.

After the cases were pointed out, six DTOs<sup>3</sup> stated between August 2006 and March 2007 that the matter would be referred to the MVIs for compliance. DTO, Saharsa, stated in March 2007 that the matter would be examined and action taken accordingly while DTO, Patna, stated in January 2007 that demand notices would be issued. Further replies have not been received (November 2007).

The cases were reported to the Government in April 2007; their reply has not been received (November 2007).

## 4.3 Non-realisation of motor vehicle taxes

Under the Bihar Motor Vehicle Taxation (BMVT) Act 1994, motor vehicles tax is to be paid to the registering authority (RA) in whose jurisdiction the vehicle is registered. The vehicle owner can pay the tax to the new RA in case of change of residence/business, subject to the production of no objection certificate (NOC) from the previous RA. Further, the RA may exempt the vehicle owner from payment of tax, if he is satisfied that the prescribed conditions have been fulfilled by the vehicle owner. DTOs are required to issue demand notice to ensure timely realisation of tax and in case of non-response to the demand notice, certificate proceedings are to be initiated as per the executive instructions issued by the department from time to time. Non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due.

During test check of the taxation registers of 30 DTOs<sup>4</sup> between July 2006 and March 2007, it was noticed that though owners of 1,198 transport vehicles did

<sup>1</sup> Patna Zila Truck Association Vs. State of Bihar 1993 (1) PLJR 211.

<sup>2</sup> Banka, Begusarai, Katihar, Motihari, Munger, Muzaffarpur, Patna and Saharsa.

<sup>3</sup> Banka, Begusarai, Katihar, Motihari, Munger and Muzaffarpur.

<sup>4</sup> Araria, Aurangabad, Banka, Begusarai, Bhabhua, Bhagalpur, Bhojpur, Buxar, Chapra, Darbhanga, Gaya, Gopalganj, Jehanabad, Jamui, Katihar, Khagaria, Kishanganj, Lakhisarai, Madhepura, Motihari, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Saharsa, Samastipur, Sheikhpura, Siwan and Vaishali.

not pay tax of Rs. 9.13 crore pertaining to the period falling between July 2002 and June 2006, yet the DTOs did not initiate action towards realisation of dues from the defaulting vehicle owners. In none of the cases, change of addresses of the owners or surrender of documents for securing exemption from payment of tax was found on record. This resulted in non-realisation of tax of Rs. 9.13 crore. Besides, penalty of Rs. 18.25 crore at the rate of 200 *per cent* was also leviable.

After the cases were pointed out, 26 DTOs<sup>5</sup> stated between July 2006 and March 2007 that demand notices would be issued which would be followed by certificate proceedings. DTOs, Khagaria and Jehanabad stated in November 2006 that action would be taken after verification. DTO, Jamui stated in November 2006 that demand notices had been issued. DTO, Araria stated in December 2006 that replies would follow. The replies were, however, silent about the reasons for not initiating action against the vehicle owners for realisation of tax till it was pointed out in audit. A report on further development has not been received (November 2007).

The cases were reported to the Government between January and June 2007; their reply has not been received (November 2007).

#### **4.4 Non-realisation of tax from vehicles involved in surrender**

Under the BMVT Act and the rules made thereunder, when the owner of a motor vehicle does not intend to use his vehicle for a period not exceeding six months at a time, he can be exempted from the payment of tax by the competent authority provided his claim for exemption is supported by the surrender of documents such as registration certificate (RC), CF, tax token etc. for the period of non-use of the vehicle. The vehicle owner shall also, from time to time, furnish an undertaking to the concerned taxation officer for extension, if any, of the said period. The taxation officer is required to carry out physical verification of the parking place of the vehicle atleast once in a month in a random manner and record a memo of inspection in the case record of the vehicle. If at any time, during the period covered by an undertaking, the motor vehicle is found to be used or is kept at a place other than the place mentioned in the undertaking, such vehicle shall, for the purpose of this Act, be deemed to have been used throughout the said period without the payment of tax.

During scrutiny of the records of three DTOs between July 2006 and March 2007, it was noticed from the taxation/surrender register and other relevant records that in respect of 23 vehicles involved in surrender, tax of Rs. 14.61 lakh was not realised from their owners as mentioned below:

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<sup>5</sup> Aurangabad, Banka, Begusarai, Bhabhua, Bhagalpur, Bhojpur, Buxar, Chapra, Darbhanga, Gaya, Gopalganj, Katihar, Kishanganj, Lakhisarai, Madhepura, Motihari, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Saharsa, Samastipur, Sheikhpura, Siwan and Vaishali.

(Rupees in lakh)

Sl. No.	Name of DTOs	No. of vehicles	Period of tax involved	Irregularities	Tax effect
1.	Nalanda	06	01.02.2003 to 31.03.2006	Extension ranging between 28 and 39 months was granted after the expiry of the initial surrender period without obtaining a fresh undertaking.	8.31
2.	Muzaffarpur	13	04.11.2004 to 30.06.2006	Extension ranging between 16 and 20 months was granted after the expiry of the initial surrender period without obtaining a fresh undertaking. Further, of these 13 vehicles, CF was not surrendered in one case at the time of initial surrender filed.	4.47
3.	Motihari	04	01.12.2004 to 30.06.2006	Extension ranging between 13 and 18 months was granted after the expiry of the initial surrender period without obtaining a fresh undertaking. Further, surrender of one out of four vehicles was irregularly accepted on the basis of photocopy of RC.	1.83
<b>Total</b>		<b>23</b>			<b>14.61</b>

After the cases were pointed out, two DTOs<sup>6</sup> stated between December 2006 and March 2007 that notices would be issued to the vehicle owners regarding cancellation of surrenders. The DTO, Nalanda, intimated in May 2007 that demand notices had already been issued for realisation of tax. The replies, however, do not explain the reasons for irregular extension of initial surrender period without obtaining fresh undertaking from the vehicle owners for subsequent periods and acceptance of surrender without proper documents/photocopies of documents. A report on further development has not been received (November 2007).

The cases were reported to the Government in April and May 2007; their reply has not been received (November 2007).

#### **4.5 Non/short realisation of trade tax from the dealers of motor vehicles**

Under the provisions of the BMVT Act and rules framed thereunder, tax at an annual rate as prescribed shall be paid by a manufacturer or a dealer in respect of motor vehicles which are in his possession in the course of his business as a manufacturer/dealer. Non-payment of tax within the due date attracts penalty ranging between 25 and 200 *per cent* of the tax due.

Scrutiny of the records of two DTOs<sup>7</sup> between October and December 2006 revealed that in case of 12 dealers of motor vehicles, trade tax at the prescribed rate was either not deposited or deposited short in respect of 9,360 two wheelers and 151 three/four wheelers possessed by them between the period 2002-03 and 2005-06. The DTOs also did not raise any demand on the defaulting traders. This resulted in non/short realisation of trade tax of Rs. 12.46 lakh including penalty.

After the cases were pointed out, DTO, Begusarai, stated in December 2006 that verification would be done after obtaining challans from the dealers. The

<sup>6</sup> Motihari and Muzaffarpur.

<sup>7</sup> Begusarai and Munger.

DTO, Munger stated in October 2006 that demand notices would be issued. Further replies have not been received (November 2007).

The cases were reported to the Government in April 2007; their reply has not been received (November 2007).

#### **4.6 Irregular issue of tax token**

Under the BMVT Act, the taxation officer shall grant a receipt and a tax token in the prescribed form to every person who pays the prescribed tax. Further, the taxation officer shall not accept tax or penalty, if any, in respect of a motor vehicle for the current period and issue tax token unless arrear of tax and penalties due have been fully paid/settled.

During test check of the taxation register of DTO, Sheikhpura in February 2007, it was noticed that the DTO issued tax token to 19 transport vehicles after accepting tax for the current period without realising the arrear tax and penalties pertaining to the period from June 2002 to October 2006. Since none of the vehicles claimed exemption from payment of tax after surrendering the documents in original, issue of tax token on realisation of current tax without realising arrear dues was in contravention of the Act and resulted in non-realisation of the Government revenue of Rs. 5.32 lakh.

After the cases were pointed out, the DTO stated in February 2007 that notices would be issued to the vehicle owners. Further reply has not been received (November 2007).

The case was reported to the Government in May 2007; their reply has not been received (November 2007).

#### **4.7 Irregular issue of special agreement card**

Under the Motor Vehicle (MV) Act, 1988 read with BMV Rules, the Government of Bihar, Department of Transport in October 2003 launched a special agreement card (SAC) scheme popularly known as the 'Golden Card'. These prepaid cards were of different values depending upon the load bearing capacity of goods carriage which included fees for weighing and unloading of excess goods and storage of such goods etc. According to the scheme and the STC's executive instructions, the said cards were non-transferable and were to be issued for a calendar month to vehicles registered in Bihar having valid RC, CF, insurance, permit and tax token and also to vehicles registered in other states having temporary permits for plying in Bihar for not less than 28 days.

Test check of the records relating to SAC in three DTOs<sup>8</sup> between December 2006 and March 2007 revealed that 8,573 cards of different series valuing Rs. 2.31 crore were issued by these DTOs during the period from October 2003 to November 2006 without ensuring upto date payment of tax, CF, insurance and valid permit. No record was maintained to indicate details of the vehicles to which SACs were issued. Thus, irregular issue of 8,573 SACs valued as Rs. 2.31 crore were open for use by the transporters for different

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<sup>8</sup> Motihari, Muzaffarpur and Saharsa.

vehicles in contravention of the conditions laid down for use of SACs leading to the scope of leakage of Government revenue.

After the cases were pointed out, two DTOs<sup>9</sup> stated between December 2006 and March 2007 that the matter would be referred to the ex-DTOs, while DTO, Muzaffarpur stated in March 2007 that the matter would be examined with reference to the provisions of rules and regulations. The replies of the DTOs Motihari and Saharsa are not tenable as the incumbent DTOs are the competent authorities to examine records, take action and furnish appropriate replies to the audit observations. Further, replies have not been received (November 2007).

The cases were reported to the Government between May and June 2007; their reply has not been received (November 2007).

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<sup>9</sup> Motihari and Saharsa.