

## CHAPTER- IV : TAXES ON MOTOR VEHICLES

### 4.1 Results of audit

Test check of the records of the transport offices during the year 2007-08, revealed non/short levy of motor vehicles tax, fees, penalties/fines *etc.* and other deficiencies of Rs. 141.29 crore in 201 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation of motor vehicle taxes	63	34.77
2.	Non-imposition of fines and penalties	83	3.87
3.	Irregular issue of certificate of fitness	10	1.97
4.	Non/short realisation of trade tax	9	0.30
5.	Other cases	36	100.38
<b>Total</b>		<b>201</b>	<b>141.29</b>

During the year 2007-08, the department accepted underassessment and other deficiencies of Rs. 142.94 crore in 215 cases, of which, 160 cases involving Rs. 121.93 crore were pointed out during 2007-08 and the rest during the earlier years. The department recovered Rs. 36.94 lakh in five cases.

A few illustrative cases involving tax effect of Rs. 36.18 crore are mentioned in the following paragraphs.

## 4.2 Non-realisation of motor vehicle taxes

Under the Bihar Motor Vehicle Taxation (BMVT) Act, 1994, motor vehicle 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 the payment of tax, if he is satisfied that the prescribed conditions have been fulfilled by the vehicle owner. The district transport officers (DTO) 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 37 DTOs<sup>1</sup> between April 2006 and March 2008, it was noticed that though the owners of 1,320 transport vehicles did not pay tax of Rs. 10.23 crore pertaining to the period falling between July 2002 and June 2007, yet the DTOs did not initiate any action for realisation of the 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. 30.68 crore including penalty of Rs. 20.45 crore at the rate of 200 *per cent*.

After the cases were pointed out, 34 DTOs<sup>2</sup> stated between April 2006 and March 2008 that the demand notices would be issued. DTO, Lakhisarai stated in December 2007 that demand notice has already been issued while DTO Bhabhua stated in October 2007 that certificate case would be initiated. No reply was furnished by the DTO, Supaul.

The cases were reported to the Government between November 2006 and May 2008; their reply has not been received (October 2008).

## 4.3 Non-realisation of tax against trailers

Under the provisions of the BMVT Act and Rules made thereunder, owners of trailers are required to pay road tax and additional motor vehicle tax at the specified rates. The above Act also provides that a motor vehicle used for transporting agricultural produce shall not be deemed to be used solely for the purposes of agriculture. In order to ensure the realisation of tax in time, the DTO concerned is required to raise the demand and realise tax accordingly. If

<sup>1</sup> Araria, Arwal, Aurangabad, Banka, Bettiah, Begusarai, Bhabhua, Bhagalpur, Bhojpur, Buxar, Chapra, Darbhanga, Gaya, Gopalganj, Jamui, Jehanabad, Katihar, Khagaria, Kishanganj, Lakhisarai, Madhepura, Madhubani, Motihari, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Saharsa, Sheikhpura, Sheohar, Sitamarhi, Siwan, Supaul and Vaishali.

<sup>2</sup> Araria, Arwal, Aurangabad, Banka, Bettiah, Begusarai, Bhagalpur, Bhojpur, Buxar, Chapra, Darbhanga, Gaya, Gopalganj, Jamui, Jehanabad, Katihar, Khagaria, Kishanganj, Madhepura, Madhubani, Motihari, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Saharsa, Sheikhpura, Sheohar, Sitamarhi, Siwan and Vaishali.

delay in payment of tax exceeds 90 days, penalty at the rate of twice the amount of tax due shall be imposed.

During test check of the taxation registers of six DTOs<sup>3</sup> between December 2007 and March 2008, it was noticed that though the owners of 421 trailers did not pay road tax and additional motor vehicle tax for the period between July 2002 and June 2007, yet the department did not raise any demand against the defaulting vehicle owners. This resulted in non-realisation of tax of Rs. 2.46 crore including penalty.

After the cases were pointed out, the DTOs concerned stated between December 2007 and March 2008 that demand notices would be issued. A report on further development has not been received (October 2008).

The cases were reported to the Government in April and May 2008; their reply has not been received (October 2008).

#### **4.4 Irregular issue of certificate of fitness**

Under the Central Motor Vehicle (CMV) Rules, 1989, a certificate of fitness 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>4</sup>, tax token, being an evidence of payment of tax, is required to be produced for obtaining a certificate of fitness. Further, according to the executive instructions issued by the State Transport Commissioner (STC), Bihar in April 1994, the motor vehicle inspectors (MVIs) are prohibited from granting/renewing the certificate of fitness to the transport vehicles against which tax has not been paid.

During cross verification of the entries in the fitness registers with those in the taxation registers of 10 DTOs<sup>5</sup> between July 2007 and March 2008, it was noticed that certificates of fitness were issued to 71 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. 1.97 crore including penalty pertaining to the period between July 2002 and June 2007.

After the cases were pointed out, seven DTOs<sup>6</sup> stated between July 2007 and March 2008 that the matter would be referred to the MVIs concerned for compliance. The DTOs, Bhagalpur and Darbhanga stated between September 2007 and January 2008 that the matter would be examined while the DTO, Patna stated in December 2007 that demand notices would be issued. A report on further development has not been received (October 2008).

The cases were reported to the Government in April and May 2008; their reply has not been received (October 2008).

#### **4.5 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

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<sup>3</sup> Bettiah, Darbhanga, Madhubani, Patna, Saharsa and Sitamarhi.

<sup>4</sup> Patna Zila Truck Association Vs. State of Bihar 1993 (1) PLJR 211.

<sup>5</sup> Ara, Bhagalpur, Darbhanga, Katihar, Kishanganj, Munger, Muzaffarpur, Patna, Purnea and Sitamarhi.

<sup>6</sup> Ara, Katihar, Kishanganj, Munger, Muzaffarpur, Purnea and Sitamarhi.

months at a time, he can be exempted from payment of tax by the competent authority provided his claim for exemption is supported by the surrender of documents such as the registration certificate, certificate of fitness, 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 period without the payment of tax. Non-payment of tax beyond 90 days attracts penalty at twice the amount of tax due.

During test check of the records of three DTOs between July and December 2007, it was noticed from the taxation/surrender register and other relevant records that extension of surrender period ranging between 19 and 39 months was irregularly granted to 31 vehicles surrendered between December 2003 and August 2005. Consequently, tax amounting to Rs. 47.48 lakh including penalty for the period between March 2004 and June 2007 though realisable was not realised. The details are mentioned below:

(Rupees in lakh)				
Sl. No.	Name of DTOs No. of vehicles	Period of tax calculated	Irregularities	Tax effect
1.	<u>Patna</u> 13	01 April 2004 to 30 June 2007	Extension ranging between 19 and 39 months was granted after the expiry of the initial surrender period without obtaining a fresh undertaking. Further, of these 13 vehicles, in one case, the initial surrender was irregularly accepted on the basis of photocopy of registration certificate and certificate of fitness.	17.02
2.	<u>Purnea</u> 10	01 January 2005 to 30 June 2007	Extension ranging between 19 and 30 months was granted after the expiry of the initial surrender period without obtaining a fresh undertaking. Further, of these 10 vehicles, the initial surrender were irregularly accepted without taking registration certificate or on the basis of the photocopy of registration certificate in six cases and in one case surrender was accepted without realising the tax due upto the date of surrender.	16.17
3.	<u>Bhagalpur</u> 8	04 March 2004 to 30 June 2007	Extension ranging between 19 and 39 months was granted after the expiry of the initial surrender period without obtaining a fresh undertaking. Further, of these eight vehicles, registration certificate was not surrendered in one case at the time of initial surrender filed.	14.29
<b>Total</b>	<b>31</b>			<b>47.48</b>

After the cases were pointed out, the DTOs concerned stated between July and December 2007 that demand notices would be issued and action taken accordingly. 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 the documents. A report on further development has not been received (October 2008).

The cases were reported to the Government in May 2008; their reply has not been received (October 2008).

#### **4.6 Non/short realisation of trade tax from the dealers of motor vehicle**

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 dealer. Non-payment of tax within the due date attracts penalty ranging between 25 and 200 *per cent* of the tax due. Further, the STC instructed (May 2001) all the DTOs to initiate legal action for realisation of tax and renewal of trade certificate.

During test check of the records of nine DTOs<sup>7</sup> between January 2007 and February 2008, it was noticed that in case of 85 dealers of motor vehicles, trade tax at the prescribed rate was either not deposited or deposited short in respect of 35,293 vehicles (28,898 : two wheelers and 6,395 : three/four wheelers) possessed by them between the period 2002-03 to 2006-07. The DTOs also did not take any action against the defaulting traders. This resulted in non/short realisation of trade tax of Rs. 29.80 lakh including penalty.

After the cases were pointed out, all the DTOs stated between January 2007 and February 2008 that demand notices would be issued. A report on further development has not been received (October 2008).

The cases were reported to the Government between August 2007 and May 2008; their reply has not been received (October 2008).

#### **4.7 Non-realisation of tax due to irregular issue of duplicate registration certificate/transfer of ownership**

According to the executive instruction of the STC, Bihar issued from time to time, the latest being issued in September 1996, to avoid tax evasion, the transfer of ownership, issue of duplicate registration certificate, endorsement/termination of hypothecation of motor vehicle should be made by the concerned RA after payment of the prescribed fee and upto date tax in respect of a transport vehicle and with one time tax in case of a personalised vehicle.

During cross check of the registration registers and the taxation registers of DTOs, Munger and Patna between October 2007 and December 2007, it was noticed that transfer of ownership, issue of duplicate registration certificate *etc.* were allowed/issued in respect of eight transport vehicles without ensuring upto date payment of tax. This omission not only violated the STC's order but also resulted in non-realisation of tax of Rs. 24.86 lakh including penalty for the period between September 2002 and June 2007.

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<sup>7</sup> Ara, Araria, Buxar, Lakhisarai, Motihari, Muzaffarpur, Patna, Purnea and Saharsa.

After the cases were pointed out, the DTOs concerned stated between October and December 2007 that demand notices would be issued. A report on further development has not been received (October 2008).

The cases were reported to the Government in May 2008; their reply has not been received (October 2008).

#### **4.8 Non/short realisation of additional registration fee**

As per the BMV Rules, 1992, if the owner of a vehicle applies for a preferred registration number out of sequence, an additional fee of Rs. 100 shall be levied. The Government of Bihar vide a notification in June 2003 revised the rate of additional fee to Rs. 5,000 in each case. The notification also prescribed the amount of additional fee ranging between Rs. 5,000 and Rs. 25,000 for special registration numbers specified therein.

During test check of the records in five DTOs<sup>8</sup> between May 2006 and February 2008, it was noticed that the additional registration fee in respect of 101 vehicles registered between June 2003 and November 2006 was either not realised or realised at pre-revised rates. This resulted in non/short realisation of additional registration fee of Rs. 5.24 lakh.

After the cases were pointed out, the DTOs concerned stated between May 2006 and February 2008 that notices would be issued to the vehicle owners for recovery of the dues. A report on further development has not been received (October 2008).

The cases were reported to the Government between April and May 2008; their reply has not been received (October 2008).

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<sup>8</sup> Ara, Araria, Muzaffarpur, Sheikhpura and Sheohar.