

CHAPTER-V : OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of the following receipts, conducted during the year 2007-08, revealed underassessment of tax, fee, duty and loss of revenue *etc.* of Rs. 292.22 crore in 348 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
A. Land revenue			
1.	Non-fixation of <i>salami</i> and commercial rent	75	16.04
2.	Non-settlement of vested lands	83	2.58
3.	Non/short levy of cess and/or interest on arrears of cess	28	0.20
4.	Non-settlement of <i>sairats</i>	35	1.13
5.	Non-realisation of revenue due to non-renewal of leasehold <i>khas mahal</i> land	02	153.60
6.	Non levy of rent and cess due to non-fixation of rent on <i>kabil lagan</i> land	02	51.12
7.	Other cases	50	30.30
Total		275	254.97
B. Entry tax			
1.	Non/short levy of tax	37	16.65
2.	Application of incorrect rate of tax	05	0.21
3.	Irregular allowance of exemption from tax	02	3.11
4.	Other cases	17	17.06
Total		61	37.03
C. Entertainment tax/Luxury tax			
1.	Short levy of luxury tax due to suppression of turnover	1	0.05
Total		1	0.05
D. Stamp duty and registration fees			
1.	Other cases	11	0.17
Total		11	0.17
Grand Total		348	292.22

During the year 2007-08, the concerned department accepted underassessment and other deficiencies *etc.* involving Rs. 49.77 crore in 276 cases out of which 233 cases involving Rs. 48.99 crore were pointed out during the year 2007-08 and the rest during the earlier years. The departments concerned have also reported recovery of Rs. 5.81 lakh in four cases.

A few illustrative cases involving tax effect of Rs. 205.36 crore are mentioned in the following paragraphs.

A : LAND REVENUE

5.2 Non-realisation of revenue due to non-renewal of leasehold *khas mahal* land

Under the Bihar Government Estates (*khas mahal*)¹ Manual, 1953 and Government orders issued thereunder, the State Government is to issue notices to the lessees, six months prior to the expiry of original lease, to apply for renewal of such lease, whereas a lessee is required to apply for renewal thereof three months prior to the expiry of his existing lease. A lessee continuing to occupy leasehold property without the payment of rent and renewal of lease or who changes the purpose of lease or transfers his property without the approval of the competent authority is to be treated as a trespasser and shall have no claim for renewal on past terms and conditions of lease agreement and the Government may resume such land. However, the present occupier may be asked to notify his intention by a fixed date if he is desirous of taking fresh lease.

On fresh lease, *salami*² at the current market value of the land besides annual rental (one fiftieth and one twentieth of such *salami* for residential and commercial leases respectively) is leviable. In case of arrears, the lessees are liable to pay double the rent as determined in the fresh lease from the date of non-payment of the rent together with the interest on arrear rent at 10 *per cent* per annum.

Mention was made in paragraph 5.3 of the Report of the Comptroller and Auditor General of India (Revenue Receipt), Government of Bihar for the year ended 31 March 2000 on the above subject and revenue implications thereof. It was recommended that if the lessee has not paid the total rent within three months, the same may be recovered, otherwise, lease may be terminated within six months. In spite of this recommendation, no action was taken by the department.

During test check of the records of the district *khas mahal* officers, Ara and Buxar between June 2007 and May 2008, it was noticed that though the lease on 142.75 acres of *khas mahal* land held by 2,701 occupiers expired in 1956-57, yet, these lessees continued to occupy the land unauthorisedly till date. No action was taken by the department to cancel the existing leases and resume the land for fresh settlement with the present occupiers as per the provisions of the Manual. Thus, inaction on the part of the department to resume the land and settle with the present occupiers on fresh terms and conditions resulted in non-realisation of revenue of Rs. 153.60 crore for the period from 2003-04 to 2007-08 including penal rent and interest as mentioned below:

¹ *Khas mahal* means Government estate under the direct management of the Government.

² *Salami* is the Government share on the market value of land.

(Rupees in lakh)

Sl. No.	Name of the district town	Area of lease land (in acres)	No. of original lessee	Salami payable on renewal	Penal rent payable for five years	Penal interest	Total
1	Ara	34.11	1,242	2,902.90	580.58	87.09	3,570.57
2	Buxar	108.64	1,459	9,584.60	1,916.92	287.54	11,789.06
Total		142.75	2,701	12,487.50	2,497.50	374.63	15,359.63

After the cases were pointed out, the Deputy Collector Land Reforms (DCLR), Ara stated in May 2008 that this is due to not taking timely action previously. However, action is being taken in accordance with the instructions of the department. The Anchal Adhikari (AA), Buxar stated in May 2008 that departmental action to levy and collect revenue is being taken.

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

5.3 Non-levy of rent and cess due to non-fixation of rent on *kabil lagan* land

Under the Bihar Tenancy (BT) Act, 1885, the Government may, in any case if it thinks fit, make an order directing that a survey be made and *khatian*³ be prepared by a revenue officer in respect of a land in any local area, estate of tenure or part thereof. The revenue officer may revise the *khatian* at the draft stage after giving a reasonable opportunity to the party concerned at any time before the final publication of records of right.

In case of land which were declared *kabil lagan*⁴ in the finally published *khatian*, the AA is required to prepare the case records for fixation of rent of *kabil lagan* land under his jurisdiction and forward it to the DCLR for approval. Under the provisions of the Bihar Urban Land Tax Act, 1965, rent at the rate of 0.2 to 0.5 per cent of the value of the land together with the applicable cess at the rate of 145 per cent⁵ of rent is leviable on every land owner of urban land annually for residential and commercial use respectively.

During test check of the records relating to the fixation of rent of *kabil lagan* land in two town *anchal* offices, Buxar and Gaya and DCLR office at Ara between March and May 2008, it was noticed that 11,223 plots covering area of 2,532.99 acres of land were declared *kabil lagan* in the finally published *khatian* (published between June 1992 and March 2005). But, rent on *kabil lagan* land was not assessed till the date of audit, which resulted in non-levy of rent and cess amounting to Rs. 51.12 crore for the period 2003-04 to 2007-08 as mentioned below:

³ *Khatian* (records of right) is the main document of the record containing for all classes of proprietors and tenants and all other information as prescribed in Section 102 of the Bengal Tenancy Act.

⁴ *Kabil lagan* holdings are those, which are legally assessable to rent but on which rent has not been assessed so far, such as new reclamations, new settlements and encroachments which are recognised.

⁵ Education cess: 50 per cent; health cess: 50 per cent; road cess: 25 per cent and agriculture cess: 20 per cent.

(Rupees in lakh)

Sl. No.	Name of the district town	No. of wards	No. of plots of <i>kabil lagan</i> land	Area involved (in acres)	Value of land	Non-levy of residential rent at the rate of 0.2 per cent of the value of land for five years	Non-levy of cess for five years	Total
1	Ara	9	2,679	178.97	18,800.40	188.00	272.61	460.61
2	Buxar	13	4,662	2,204.08	1,67,976.12	1,679.76	2,435.65	4,115.41
3	Gaya	7	3,882	149.94	21,883.33	218.83	317.31	536.14
Total			11,223	2,532.99	2,08,659.85	2086.59	3,025.57	5,112.16

After the cases were pointed out, the AA, Gaya stated in March 2008 that process of rent fixation had been initiated while AA, Buxar and DCLR, Ara stated in May 2008 that due to defects in *khatian* and non-availability of rates, rent fixation could not be initiated. A report on further development has not been received (October 2008).

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

B : ENTRY TAX

5.4 Short levy of entry tax due to suppression of import value

Under the Bihar tax on entry of goods into local areas for consumption, use or sale therein (BTEG) Act, 1993 read with the Bihar Finance (BF) Act, 1981, if the prescribed authority has reasons to believe that a dealer has concealed, omitted or wilfully failed to disclose the particulars of turnover or has furnished incorrect particulars of such turnover, the said authority shall assess or reassess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

Cross verification of the utilisation of road permits, purchase statement, trading account *etc.* with the returns filed by a dealer of commercial taxes circle, Gaya in August 2007 revealed that though the dealer imported/purchased scheduled goods of Rs. 12.75 crore during 2004-05, yet he admitted the entry tax on the import value of Rs. 8.59 crore only. Thus, the dealer suppressed the import/purchase value of scheduled goods of Rs. 4.16 crore. The assessing authority (AA), while finalising the assessment in March 2007 failed to detect the suppression which resulted in short levy of entry tax of Rs. 33.31 lakh including minimum leviable penalty.

The case was reported to the department and the Government in May 2008; their reply has not been received (October 2008).

5.5 Application of incorrect rate of entry tax

Under the BTEG Act, the State Government, by a notification issued in August 2003, revised the rates of tax on entry of goods into the local areas. As per the revised rates, entry tax on cement was leviable at the rate of 12 *per cent* with immediate effect.

During test check of the records of Gaya circle in August 2007, it was noticed that a dealer imported cement valued at Rs. 4.23 crore during the year 2003-04 as shown in the monthly/annual returns. The AA, however, while finalising the assessment in December 2006 levied entry tax at the pre-revised rate of five *per cent* on the entire turnover instead of levying higher rate of 12 *per cent* on the turnover relating to the period from September 2003 to March 2004. This resulted in short levy of entry tax of Rs. 14.92 lakh.

The case was reported to the department and the Government in May 2008; their reply has not been received (October 2008).

5.6 Non-imposition of penalty

Under the BTEG Act read with the BF Act and the Rules framed thereunder, every dealer who is liable to pay tax under the BTEG Act, shall furnish a true and complete return in respect of all the scheduled goods and tax payable thereon. The BF Act provides that if the prescribed authority detects any escaped turnover before assessment, he shall direct the dealer to pay, in addition to the tax assessed by way of penalty, a sum not exceeding two times but not less than an amount equal to the amount of tax. Further, all the provisions relating to returns, assessment, reassessment, escaped turnover, recovery of tax, offences and penalties *etc.* under the BF Act, is applicable *mutatis mutandis* under the BTEG Act. According to the executive instructions issued by the department in November 1998 and May 2002, the AAs were required to review the returns and initiate proceedings against the defaulting dealers under the relevant provisions of the BF Act.

In Gaya commercial taxes circle, it was noticed (August 2007) during cross check of the returns under the BTEG Act of a dealer engaged in road construction work with his returns under the BF Act that the dealer had not disclosed import of scheduled goods of Rs. 1.50 crore under the BTEG Act during 2004-05. The AA, however, failed to review the returns and detect the aforesaid concealment of import value which resulted in non-levy of minimum penalty of Rs. 10.87 lakh.

The case was reported to the department and the Government in May 2008; their reply has not been received (October 2008).

C : LUXURY TAX

5.7 Short levy of luxury tax due to suppression of turnover

Under the provisions of the Bihar Taxation on Luxuries in Hotels Act, 1988, if any proprietor fails to pay the tax within the due or extended date he shall be liable to pay, by way of penalty, a sum calculated at the rate of Rs. 50 for every day of default or an interest at the rate of two and half *per cent* of the amount of tax due for every month or part thereof whichever is higher.

During test check of the records of the Gaya commercial taxes circle in August 2007, it was noticed that a hotel had received rent of Rs. 1.81 crore during 2004-05 and 2005-06, but the dealer had shown turnover of Rs. 1.34 crore only in his returns during the same period, thereby suppressing the turnover by Rs. 46.93 lakh. The AA, while finalising the assessment in October 2006 did not detect the suppression which resulted in short levy of luxury tax of Rs. 5.29 lakh including interest.

The case was reported to the department and the Government in May 2008; their reply has not been received (October 2008).