

CHAPTER- 5: Taxes on Vehicles

5.01 Results of Audit

Test check of the records of the transport offices, conducted in audit during the year 2000-2001 revealed non/short levy of motor vehicles tax, fees, penalties, fines, etc. amounting to Rs. 311.85 crore in 812 cases, which broadly fall under the following categories:-

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of taxes	267	23.83
2.	Short levy of taxes due to wrong fixation of seating capacity (RLW)	18	0.06
3.	Non-imposition of fee and fines	84	0.03
4.	Other irregularities	443	287.93
Total		812	311.85

During the year 2000-2001, the concerned department accepted under-assessments etc., of Rs.987.87 lakh involved in 644 cases of which 557 cases involving Rs. 605.13 lakh had been pointed out in audit during 2000-2001 and rest in earlier years. A few illustrative cases and a review on "Levy and collection of taxes and fees on vehicles" involving Rs. 238.23 crore are given in the following paragraphs: -

5.02 Levy and collection of taxes and fees on vehicles

5.02.01 Introduction

The tax on vehicles is regulated under the provisions of the Bihar Motor Vehicles Taxations (BMVT) Act, 1994 and Rules made thereunder. The tax imposed under the Act includes road tax, additional motor vehicles tax and differential tax (in case of alteration of vehicles). Every owner of a registered motor vehicle is liable to pay tax at the rates specified in Schedules. The taxes are, however, not payable by an owner if he obtains exemption from payment of tax for a certain period in the prescribed manner. According to instructions issued (June 1988 and November 1990) by the State Transport Commissioner (STC), demand is to be raised against the tax defaulter and requisition for certificate is to be filed for realisation of tax dues wherever necessary.

5.02.02 Organisational set up

The STC is the head of the Motor Vehicles (Transport) Department and deals with all policy matters and administration of Acts and Rules. In performance of his duties, he is assisted by 3 Joint State Transport Commissioners at headquarters, 13 Secretary of Regional Transport Authorities (RTAs), 55 District Transport Officers (DTOs), Motor Vehicles Inspectors (MVIs), the Enforcement Wing (EW) consisting of Enforcement Officers, Inspectors and Sub Inspectors at the district level and 3 Check Posts.

5.02.03 Scope of audit

With a view to ascertaining the efficiency of the Transport Department in ensuring levy/collection of the tax/ fee in accordance with the provisions of the Act/ Rules, a test check of relevant records of S T C office, Patna and 18¹ out of 55 D.T.Os for the years 1995-96 to 2000-2001 was conducted during October 2000 to May 2001. The review also includes points noticed in regular audit of other offices conducted during previous years.

¹ Bokaro, Bettiah, Bhagalpur, Darbhanga, Dumka, Deoghar, Dhanbad, East Champaran (Motihari), Godda, Jamshedpur, Lohardaga, Nalanda (Biharsharif), Purnea, Ranchi, Sahebganj, Saran (Chapra), Rohtas (Sasaram) and Vaishali (Hajipur).

5.02.04 Highlights

- (i) Against 210343 total number of registered transport vehicles in the State the tax paying vehicles were 63183 only which comprised only 30.03 per cent of the total registered vehicles.

[Para 5.02.05(ii)]

- (ii) In 22 District Transport Offices, demand notices were not issued against 67526 owners of tax defaulter vehicles at the end of February 2001 resulting in non-realisation of tax amounting to Rs.181.39 crore.

[Para 5.02.06(a)]

- (iii) There was discrepancy of Rs.49.01 crore in 11092 cases between the figures as per records of 9 District Transport Offices as on 31 March 2000 in respect of number of certificate cases and amount involved and those shown in the records of District Certificate Officers.

[Para 5.02.10(II)]

- (iv) Arrears of Rs. 38.47 crore against 4047 vehicles belonging to Government/ Public Sector Undertakings were not paid even after 30 years.

[Para 5.02.10(III)]

- (v) There was loss of revenue of Rs. 6.18 crore due to incorrect addresses of certificate debtors in 5 District Transport Offices.

[Para 5.02.10(IV)(b)]

- (vi) Due to non-utilisation of system of issuing cheques for deposit of balance of revenue collection into Government account, an amount of Rs. 4.26 crore was retained by 16 collecting banks on 31 March 2001.

[Para 5.02.12 (b)]

- (vii) Non-reconciliation between the departmental figures and the figures shown in the Finance Accounts in respect of tax receipts resulted in huge revenue amounting to Rs.48.76 crore remaining out of Government account.

[Para 5.02.13]

5.02.05(i) Variation between Budget estimates and actuals

A comparison between the figures of Budget estimates for receipts and actuals as per Finance Accounts revealed variations as indicated below:-

(Rupees in crore)			
Year	Budget estimates	Actual receipts	Variation
1995-96	190.00	157.80	(-) 17 %
1996-97	200.00	160.84	(-) 20 %
1997-98	193.90	174.07	(-) 10%
1998-99	220.00	164.96	(-) 25 %
1999-2000	257.99	178.47	(-) 31 %

The actuals were always low against the Budget estimates and the variations ranged between 10 per cent and 31 per cent.

(ii) Position of registration / tax paying vehicles

Information of the total number of transport vehicles registered, paying tax and not paying tax in the State as furnished by the department revealed that at the end of 1995-96 the total number of registered transport vehicles in the State was 170422 of which 47928 (28.12 per cent) had been paying the tax. The number of registered transport vehicles at the end of 1999-2000 was 210343 and that of paying tax was 63183 (30.03 per cent). It would be seen that while there was increase (23.42 per cent) in registered transport vehicles during this period, the percentage of tax paying vehicles did not increase in this ratio.

On this being pointed out, the department stated (June 2001) that the vehicles registered 20-25 years ago were not expected to remain in running condition but they were not deregistered. The reply of the department is not convincing in view of the fact that no action was taken by the department for cancellation of registration of vehicles unworthy for road use.

5.02.06 (a) Lack of control over unpaid taxes

Under the provisions of the BMVT Act, 1994, the tax is to be paid to the Taxing Officer in whose jurisdiction the vehicle has been registered. In case of change of place of residence/ business, the owner can pay tax to the new Registration Authority subject to production of "No Objection Certificates" (NOC) from the previous Taxing Officer as prescribed. Penalty is leviable for non-payment of tax within time. As per STC instructions (June 1988 and November 1990), certificate proceedings are to be initiated against the tax defaulters where necessary.

In 22 District Transport Offices², there were 68474 tax defaulter vehicles as on 31 March 2001 involving tax dues of Rs 182.85 crore for the period between April 1973 and February 2001. Further, though there was nothing on record about change of addresses of owners or surrender of documents of vehicles for securing exemption from payment of tax during the period of non-payment of tax in 67526 cases involving tax dues of Rs 181.39 crore, even primary steps of issuing demand notices were not taken by the concerned DTOs for realisation of dues. In cases where demand notices were issued neither any amount was recovered nor any action was taken for instituting certificate proceedings.

(b) Non/short realisation of tax

According to provisions of the BMVT Act, 1994 and Rules made thereunder, every owner of a registered motor vehicle shall pay road tax or /and additional motor vehicles tax on such vehicle at the rate specified in Schedule I and II. During test check of records of 6 offices of DTOs,³ it was noticed that in respect of 67 motor vehicles, road tax and additional motor vehicles tax for the period between February 1992 and August 2003 were either not levied or levied at lower rates resulting in non/short realisation of revenue amounting to Rs 9.07 lakh (Road tax Rs.0.21 lakh and Additional Motor Vehicles tax Rs.8.86 lakh) besides penalty.

(c) Short realisation of tax due to incorrect grant of concession

Under the Motor Vehicles (MV) Act, 1988, a transport vehicle owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities, is taxable at concessional rate. As per executive instructions issued by the STC in July 1994, unless an educational institution is recognised either by the State of Bihar or Central educational institution, this facility will not be given. This facility was, however, withdrawn by the department (May 1998) and as per instruction issued in September 2000, the tax is to be levied/realised on the basis of actual seating capacity with effect from 14 May 1998.

In 12 District Transport Offices,⁴ transport vehicles not registered in the name of college, school or any educational institution recognised by Bihar/Central educational institution were charged to tax at concessional rate. The taxes at lower rates were realised from these institutions even after

² Aurangabad, Begusarai, Bhagalpur, Bokaro, Deoghar, Dumka, Gaya, Giridih, Godda, Jamshedpur, Lohardaga, Motihari, Muzaffarpur, Nalanda, Nawadah, Patna, Purnea, Ranchi, Rohtas (Sasaram), Sahebganj, Saran (Chapra) and Vaishali (Hajipur).

³ Bokaro, Dhanbad, Gaya, Godda, Jamshedpur and Vaishali (Hajipur).

⁴ Bokaro, Bettiah, Bhagalpur, Dumka, Dhanbad, Gaya, Godda, Jamshedpur, Nalanda, Ranchi, Rohtas (Sasaram) and Vaishali (Hajipur).

withdrawal of the facility for payment of tax at concessional rate resulting in short realisation of tax of Rs53.05 lakh in respect of 72 vehicles for the period between January 1994 and October 2003.

5.02.07 *Non-levy/ realisation of trade tax from dealers*

Under the provisions of the BMVT Act, 1994, a tax at the annual rate as specified in Schedule III shall be paid by a manufacturer of or a dealer in motor vehicles in respect of the motor vehicles in his possession in the course of his business as a manufacturer or dealer.

In the offices of 9 DTOs⁵, it was noticed that 59 dealers of motor vehicles had not paid trade tax amounting to Rs 53.82 lakh for the period between 1994-95 and 2000-01. The department had not taken any action to realise the same. This resulted in non-realisation of trade tax of Rs 53.82 lakh. Of this, one dealer⁶ alone accounted for Rs 36.22 lakh.

5.02.08 (a) *Loss of revenue due to non-assignment of registration mark*

Under the provisions of the MV Act, 1988 and Rules made thereunder, where a motor vehicle belonging to other State is intended to be kept in the State for a period exceeding twelve months, the owner on furnishing declaration to that effect is to submit an application accompanied by a 'No Objection Certificate' alongwith appropriate fee at any time within twelve months or within a period of thirty days from the date of expiry of twelve months for assignment of new registration mark to the vehicle. If the owner fails to apply within the prescribed period, he is required to pay a sum which may extend to one hundred rupees and three hundred rupees for the first and second or subsequent offences respectively.

In the offices of 10 DTOs⁷, it was noticed that 5357 motor vehicles pertaining to other States had been plying in the State for more than twelve months. No action to assign them new registration marks was taken by the department. This resulted in non-realisation of revenue of Rs 12.50 lakh including fine of Rs 5.36 lakh during 1995-96 to 1999-2000.

⁵ Bokaro, Bhagalpur, Dhanbad, Dumka, East Champaran (Motihari), Godda, Jamshedpur, Saran (Chapra) and Vaishali (Hajipur).

⁶ M/s TELCO Ltd, Jamshedpur.

⁷ Bokaro, Bettiah, Bhagalpur, Dhanbad, East Champaran (Motihari), Jamshedpur, Patna, Purnea, Saran (Chapra) and Rohtas (Sasaram).

(b) Loss of revenue due to non-deposit of tax/fee

Under the provisions of the BMVT Rules, 1994 and executive instructions issued (May 1980 and September 1996), the Taxing Officer, after satisfying that the payable amount has been tendered by the vehicle owner at the bank will issue necessary documents/certificates for which the money has been paid. However, verification of such deposit from Bank Scroll is a must before issue of any document by the DTO.

In 2 offices of DTOs (Bhagalpur and Muzaffarpur), on verification of Bank Scrolls it was noticed (between November 1999 and January 2001) that in respect of 62 cases though the amounts shown to have been deposited were actually not deposited with the banks, the DTOs had issued tax token / driving licences during the period between January 1993 and May 2000 without verifying deposits from the banks. This resulted in loss of revenue of Rs.2.03 lakh for the period between January 1993 and May 2000. However, at the instance of audit, Rs.0.06 lakh was realised by the DTO, Muzaffarpur in November 1999.

On this being pointed out (between November 1999 and February 2001), the DTO, Muzaffarpur stated (November 1999) that demand notice would be issued in other cases while the DTO, Bhagalpur stated (February 2001) that one staff was suspended and action would be taken to cancel the driving licences issued against these payments.

5.02.09 Incorrect grant of certificates of fitness

Under the provisions of the BMVT Act, 1994 and Rules made thereunder, if the tax payable in respect of a motor vehicle has not been paid during the prescribed period, the person liable to pay such tax shall pay, together with arrears of tax, a penalty at the prescribed rates. The MV Act, 1988 provides that a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness (CF) granted by the prescribed authority. Further, as per instructions of the STC issued from time to time, the latest one being issued in February 1999, the MVI is to ensure up-to-date payment of tax before issue of CF.

In the course of cross verification of CF registers in MVI offices with Taxation Registers / computer statements furnished by 4 offices of DTOs⁸ it was noticed that in respect of 24 vehicles, CFs were granted though a sum of Rs 9.20 lakh was outstanding against them for realisation. This resulted in non-realisation of tax amounting to Rs 9.20 lakh between October 1990 and March 2000 for various periods.

⁸ Begusarai, Dumka, Giridih and Ranchi.

5.02.10 (I) Pending arrears

The position of total arrears outstanding, their year-wise break-up and stages at which these were pending were not furnished by the STC office. However, as per information furnished by the department, there were certified arrears of Rs 183.40 crore on 31 March 2001 of which Rs 183.33 crore were more than 5 years old.

(II) Correctness of certified arrears

Under the provisions of the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914, the Requiring Officer (RO) sends proposals for filing of certificates to the Certificate Officers (CO) and enters the details of such cases in Register 9. These are in turn entered in Register 10 maintained by the COs for issue of certificates for realisation of dues. According to instructions of the Board of Revenue, monthly comparison of Register 9 with Register 10 is a must.

A test check of records of offices of 9 DTOs⁹ revealed that 32750 certificate cases involving Rs 150.10 crore were pending for disposal as on 31 March 2000. Against this, 21658 certificate cases involving Rs 101.09 crore were shown as pending in respective District Certificate Offices. Thus, 11092 cases involving Rs 49.01 crore remained unregistered. No action was taken by the department to reconcile the difference.

(III) Non-realisation of arrears

As per information made available by the STC office, the position of tax arrears in respect of the motor vehicles belonging to government departments, corporations, undertakings, etc. in 3 offices involving Rs.38.47 crore was as below: -

(Rupees in lakh)					
Sl. No.	Name of District Transport Office	Name of Institution	No. of vehicles	Period of tax dues (between)	Amount
1	Ranchi	Heavy Engineering Corporation Ltd.	27	April 1973 and April 1993	59.45
		MECON Ltd.	08	January 1970 and July 1999	3.29
		CMPDI Ltd.	106	October 1974 and April 1999	115.40
2	Dhanbad	Bharat Coking Coal Ltd.	586	December 1977 and December 1999	624.91
3	STC, Bihar, Patna	BSRTC	NA	N A	1489.82
		Government Departments	3320	April 1961 and March 2000	1554.19
Total			4047		3847.06

⁹ Dhanbad, Gaya, Hazaribagh, Jamshedpur, Muzaffarpur, Nalanda (Biharsharif), Patna, Ranchi and Saran (Chapra).

The figures of the tax dues lying against other institutions were not available with the department.

On this being pointed out (May 2001), the STC stated (May 2001) that demand notices to Government departments have been issued (March 1999 and October 2000) while in other cases information was being collected from DTOs and would be intimated later.

(IV) Non –recovery of tax under certificate cases

(a) Non-furnishing of information by Requiring Officer

Under the BMVT Act, 1994, unpaid motor vehicles tax dues can be recovered by certificate procedure as arrears of land revenue by sending a requisition to the CO by the RO. The PDR Act, 1914, the Rules made thereunder and the Board's executive instructions provide for furnishing by the RO correct addresses of the defaulting vehicle owners against whom certificates are to be enforced. Further, the RO is required to send report on any case called for by the CO.

In 2 District Transport Offices (*Bokaro* and *Saran*), it was noticed that on certificate cases in respect of 39 motor vehicles filed in respective certificate offices for recovery of tax dues pertaining to the period between April 1976 and January 1998 information regarding correct addresses of defaulter owners were called for by COs from ROs (between June 1994 and February 2001). But no compliance has been sent so far (April 2001). These cases involved revenue of Rs.17.59 lakh.

(b) Loss of revenue due to non-traceability of certificate debtors

There is no provision in the PDR Act to drop a certificate proceeding once initiated. However, in 5 offices of DTOs¹⁰ on cross check with records of respective certificate offices, it was noticed that 559 certificate cases involving tax dues of Rs.618 lakh for the period between April 1973 and April 1998 were filed in the concerned Certificate Offices between 1984-85 and 1998-99. Out of these, 50 cases involving Rs 29.40 lakh were dropped and 509 cases of Rs 588.60 lakh were returned to ROs between August 1997 and January 2001 due to incorrect address of certificate debtors. This resulted in non-execution of certificates involving Rs 618 lakh due to non-pursuance of cases by ROs.

¹⁰ Aurangabad, *Bokaro*, *Dumka*, *Purnea* and *Rohtas* (*Sasaram*).

5.02.11 *Non- checking of defaulter vehicles*

Under the provisions of the Bihar Motor Vehicles Rules,1992, the Enforcement Officer and Mobile Squad Inspectors shall exercise within their jurisdiction, all powers under the Act and Rules made thereunder. This was reiterated in various executive instructions issued by the department from time to time with particular emphasis on checking of local vehicles.

(I) As per information furnished by the department, the checking of vehicles by Enforcement Wing (EW) is as below:-

Year	Total no .of tax defaulter vehicles	Total no. of tax defaulter vehicles checked	Percentage of checking of tax defaulter vehicles (col 3 to 2)
1995-96	1064304	8900	3.82
1996-97	962911	7972	3.53
1997-98	1000958	2245	1.24
1998-99	853172	1582	0.72
1999-2000	1270142	948	0.52

It would be evident from the above that the percentage of checking of tax defaulter vehicles ranged between 0.52 and 3.82 only.

(II) *Non-realisation of revenue on furnishing the list of defaulters to EW*

As per Chief Secretary's letters (November 1991 and January 1999), District Magistrates/Collectors are required to get prepared a list of defaulter vehicle owners and distribute among the subordinate officers under their jurisdiction to seize and prosecute such defaulters in court.

In the offices of DTOs, *Ranchi* and *Dhanbad*, it was noticed that a list of 908 and 1139 defaulter vehicles respectively were given to EW in October 1998 and February 2001 covering tax period between October 1997 and September 1998 and between April 2000 and March 2001 respectively for checking and seizing these vehicles. However, the EW did not submit any report on action taken to the concerned DTOs. It was also noticed in *Ranchi* office that out of 908 vehicles 567 vehicles were still on defaulter list. This resulted in non-realisation of tax dues of Rs.260.03 lakh.

5.02.12 *Disposal of bank drafts received from other States*

As per the Bihar Financial Rules, all receipts must be brought to account without delay and should be credited to Government Account. A register for the bank drafts received from other States is required to be maintained in STC office. These bank drafts are sent to various banks for collection and transfer to the State Bank of India (SBI), Secretariat Branch, Patna. As per

Government instructions (June and November 1978), the SBI, Secretariat Branch, Patna is required to receive the collections from collecting banks and deposit the same to Government account at the end of each week. Further, as per STC instruction (March 1996), the amount deposited in banks is to be transferred to Government account in such manner that all receipts stand transferred to Government account within the same financial year. In case of failure of transfer of collection by banks to Government account, the STC issues cheques against defaulter banks for credit of collections to the SBI, Secretariat Branch. As per Reserve Bank of India instruction (June 1995), interest at the rate of 11.30 per cent per annum is payable by banks on delayed remittances to Government account.

(a) *Non- realisation of revenue for want of revalidation of bank draft*

1018 bank drafts involving Rs.27.17 lakh received from other States on account of composite fee were returned by the banks to the STC between April 2000 and March 2001 for revalidation which were, however, not got revalidated by the department (May 2001) resulting in non-realisation of revenue of Rs 27.17 lakh.

(b) *Non-issue of cheque against balance at banks*

There are 20 banks in Patna where bank drafts relating to composite fee are deposited. In 16 banks¹¹, there was a closing balance of Rs.426.20 lakh as on 31 March 2001 which was collected during 1999-2000 to 2000-01. In respect of the remaining 4 banks the details of closing balance were being called for (May 2001) by the STC from the respective banks.

No action was taken by the department for deposit of collection to Government account by issuing cheque against the banks. This resulted in undue financial aid to banks.

(c) *Delay in deposit of revenue collection by banks*

The collecting banks did not credit the revenue collection through the SBI, Secretariat Branch into Government account within the prescribed time and the delay ranged from more than 1 month to 48 months. The department failed

¹¹ Allahabad Bank, Andhra Bank, Bank of India, Bank of Baroda, Bank of Maharashtra, Corporation Bank, Central Bank of India, Indian Overseas Bank, Indian Bank, Oriental Bank of Commerce, Punjab and Sind Bank, Punjab National Bank, State Bank of Patiala, State Bank of Bikaner and Jaipur, Union Bank of India and Vijaya Bank.

to take effective measures to ensure timely deposit of revenue by banks. This resulted in loss of revenue in the form of interest of Rs 321.16 lakh for different periods falling between 1994-95 and November 2000.

5.02.13 Revenue remaining out of Government Account

As per the Bihar Financial Rules, it is the duty of the controlling officer (STC) to see that all sums due to the Government are regularly and promptly assessed, realised and credited to Government account. In order to ensure that amount credited to Government account has been properly accounted for, reconciliation between departmental figures and those booked in the Accountant General (A&E) office is required to be done regularly.

From information furnished by the STC, it was noticed that there was large discrepancy between the figures of revenue collection reported to Finance Department by the department and those shown in the Finance Accounts of Government of Bihar for the years 1998-99 and 1999-2000 as detailed below:

(Rupees in crore)			
Year	Departmental figure	Figures as per Finance Account	Difference
1998-99	188.15	164.96	(-) 23.19
1999-2000	204.04	178.47	(-) 25.57
Total	392.19	343.43	(-) 48.76

This indicated that Rs.48.76 crore remained unreconciled during 1998-99 and 1999-2000. Similar discrepancy of Rs.62.13 crore for the years 1993-94 to 1997-98 was pointed out in para 5.2.12(a) of the Audit Report of the Comptroller and Auditor General of India (Government of Bihar-Revenue Receipts) for the year 1997-98. The department stated (June 1998) that the work of reconciliation of difference would be entrusted to some responsible officer. The discrepancy, however, persisted. The department did not take any action to reconcile the discrepancy.

The cases were reported to the Government (July and December 2001); their reply has not been received (November 2001).

5.03 Non-realisation of tax from vehicles involved in surrender

Under the BMVT Act, 1994 and Rules made thereunder, when the owner of a motor vehicle does not intend to use his vehicle for certain period not

exceeding six months at a time, he can be exempted from payment of tax by the competent authority provided that his claim for exemption is supported by the required documents such as certificate of registration, fitness certificate, tax token, etc. For the period of non-use of vehicle he is entitled for exemption from payment of tax after following the prescribed procedure. He shall also from time to time furnish undertaking to the concerned Taxation Officer of the extension, if any, of the said period.

(a) In 2 District Transport Offices (Bhagalpur and Motihari), it was noticed (February and March 2001) that documents of 34 motor vehicles were surrendered between March 1997 and April 2000 for non-use. But even after expiry of the specified period the vehicles were kept under surrender without fresh undertaking for extension in contravention of the provisions of the Act. In the absence of fresh undertaking for extension of surrender beyond six months, the vehicle owners were liable to pay tax of Rs. 14.45 lakh for the period from April 1997 to December 2000.

On this being pointed out (February and March 2001), the concerned DTOs stated (February and March 2001) that action would be taken to cancel surrenders. Further reply has not been received (March 2003).

(b) In District Transport Office, Bhagalpur it was noticed (February 2001) that in respect of 11 motor vehicles, road tax and additional motor vehicles tax were not realised for different period falling between January 1993 and December 2000 though the applications for exemption from payment of tax were rejected (between April 1996 and December 2000) on the ground that the vehicles were not found parked at the specified places, as reported by the Motor Vehicle Inspector/District Transport Officer. This resulted in non-realisation of tax amounting to Rs. 12.15 lakh.

On this being pointed out (February 2001), the DTO Bhagalpur stated (February 2001) that demand notices would be issued for realisation of tax dues. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).