

Chapter - IV: Motor Vehicle Tax and Stamp Duty

4.1 Results of audit

Test check of records relating to motor vehicle tax and stamp duty conducted during the year 2005-06 revealed short levy of duty and loss of revenue and other irregularities involving Rs.31.38 crore in 16 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
A	Motor Vehicle		
1.	Loss of revenue	15	0.11
B	Stamp Duty		
1.	Short realisation of stamp duty	1	31.27
	Total	16	31.38

Two cases involving Rs.11.37 lakh are given in the following paragraphs.

A. Motor Vehicle Tax

4.2 Loss of revenue due to private vehicles being irregularly used for commercial purposes

Section 192A of the Motor Vehicles Act 1988, stipulates that whoever drives a motor vehicle and causes or allows a motor vehicle to be used in contravention of sub section (1) of Section 66 and in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine which may extend to Rs.5,000 but shall not be less than Rs.2,000. Vehicles being operated for commercial purposes are liable to pay road tax, fitness fee, registration fee and fine at the prescribed rate.

Test check of records in July 2006 of the Transport Department relating to the period 2005-06 revealed that 679 private vehicles were being used for commercial purposes. Of these, the department had challaned 566 private vehicles and they were fined by the respective traffic courts. However, 113 out of 679 vehicles irregularly used as commercial vehicles escaped notice and were never challaned by the department resulting in a loss of revenue of Rs.11.37 lakh on account of fine, fitness fee and road tax chargeable for registration.

The matter was referred to the department and Government in July 2006; reply is awaited as of October 2006.

B. Stamp Duty

4.3 Short levy of stamp duty and registration fee

Section 27 of the Indian Stamp Act, 1899, stipulates that consideration as well as all other facts and circumstances affecting the chargeability of any instrument with duty shall be fully and truly set forth in the instrument. Section 47 (A) of the Act provides that if the registering officer, while registering any instrument, has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the collector for determination of the value or consideration and the proper duty payable thereon. The collector shall thereafter determine the value of the property/consideration and the calculated amount of duty shall be payable by the person liable to pay the duty. In April 1999, the Union Ministry of Urban

Affairs and Employment, Department of Urban Development, notified the market rates of land in different areas of Delhi/New Delhi and circulated it to Government of Delhi. The notification further envisaged that in respect of localities not covered by it, rates for comparable areas would be applied.

Test check of records in March 2006 of sub registrar offices of nine zones under the office of the Inspector General of Registration and the Divisional Commissioner Delhi revealed that the value of land/property in 4,792 cases i.e. sale deeds/agreements to sell and general power of attorney with consideration executed during the year 2004-05 were less as compared to the market value of land in different areas of Delhi/New Delhi notified by the Central Government. This resulted in short levy of stamp duty including registration fee of Rs.31.27 crore.

After this was pointed out, Government stated in August 2006 that in absence of circle rates in Delhi, people invariably take the liberty to disclose only the consideration amount thereon as per their mutual understanding. Government added that the rates notified in April 1999 by the Union Ministry covered only 109 colonies and were largely for the purpose of deciding misuse and damage charges. Hence, they cannot be taken as criteria for charging stamp duty on registration of documents. However, a proposal to fix circle rates for levy of stamp duty was under active consideration of Government.

The reply is not tenable because lack of circle rates admittedly leaves open the possibility of under valuation of properties and the rates notified by the Union Ministry of Urban Affairs and Employment, Department of Urban Development for various areas could have been taken cognizance of while determining the quantum of stamp duty dues. Further, in respect of localities not covered by the notification, rates for comparable areas could have been applied.

Thus, failure on part of the department to take into account market rates for valuation of land/property notified by the Union Ministry at least till the notification of circle rates for the purpose of levying stamp duty on registration of documents resulted in short levy of stamp duty of Rs.31.27 crore.