

CHAPTER – VI

OTHER TAX RECEIPTS

6.1 Results of audit

Test check of records in various departmental offices relating to the following receipts conducted during the year 2005-06 disclosed under assessments amounting to Rs.49.47 crore in 177 cases as detailed below:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Entertainments tax	127	1.31
2	Luxury tax	23	0.82
3	Electricity duty	26	5.21
4	Review: Levy and collection of electricity duty and fees	1	42.13
	Total	177	49.47

During the year 2005-06, department accepted and recovered under assessment amounting to Rs.23.15 lakh in four cases pertaining to 2005-06 and Rs.49.68 lakh in 46 cases pertaining to earlier years.

After issue of draft review, the department in two cases recovered entire amount of Rs.2.62 crore.

A few illustrative cases involving important audit observations and review on **Levy and Collection of Electricity Duty and Fees** involving Rs.46.93 crore are given in the following paragraphs.

6.2 Review: Levy and Collection of Electricity Duty and Fees

Highlights

Despite express direction of Government, duty was levied at incorrect rate resulting in short levy of duty of Rs.14.65 crore.

(Paragraph 6.2.7)

Interest of Rs.2.29 crore was not levied on belated payment of duty

(Paragraph 6.2.9)

Duty was levied at reduced rate treating non manufacturing activity as manufacturing activity resulting in short levy of duty of Rs.6.68 crore.

(Paragraph 6.2.14)

Though Government lowered rate of duty w.e.f. 1 April 2005, this rate was applied for electricity consumed prior to this period resulting in short levy of duty of Rs.1.42 crore.

(Paragraph 6.2.15)

Incorrect exemption from payment of duty of Rs.8.02 crore was granted to Board/ Club considering them as government offices.

(Paragraph 6.2.17)

Out of 166 new industrial units situated in Ahmedabad, granted exemption, during 2001-02 to 2004-05, department took more than one year for finalisation in 39 to 50 *per cent* cases. In 21 cases exemption was granted after the period of exemption was over.

(Paragraph 6.2.21)

Recommendations

6.2.1 Following recommendations are proposed to improve the system. Government may consider to

- create an internal audit wing independent of the Collector (ED) which would ensure timely implementation of all Government's decisions and proper scrutiny of returns filed by licensees and check all cases of changes/exemptions;
- carry out mandatory periodical inspections of installations to ensure safety of general public as well as realisation of inspection fee;

- conduct periodical detailed checking of billing centers and self generation units to ensure proper recovery of duty. There should be strong deterrents in place to discourage incidents of levy of duty at incorrect rate, exemptions to boards/clubs, incorrect refund of duty etc. in the first place itself; and
- fix a reasonable time limit within which a new industrial unit willing to avail benefit of exemption must submit to the Collector (ED) all relevant details. Similarly, there should be a time limit within which the Collector (ED) should decide such cases.

Introduction

6.2.2 The levy and collection of electricity duty (duty) and fees by State Government on consumption of electrical energy by consumers is governed by the Bombay Electricity Duty Act, (BED Act) 1958 as applicable and modified in Gujarat, and the Rules made thereunder. Under the BED Act, every licensee shall collect duty on the units of energy sold for consumption from consumers through electric power supply bills and pay it to State Government by the prescribed dates. Further, every person other than licensee who consumes energy generated by him is also liable to pay duty. Fees for testing and inspection of installations connected to supply system of supplier are levied under the Indian Electricity Act, 1910 (IE Act) and the Indian Electricity Rules, 1956 (IE Rules) at the prescribed rates.

In Gujarat, a major portion of duty is levied and paid to the State Government by three licensees viz. the Gujarat Electricity Board (GEB), the Ahmedabad Electricity Company Limited (AEC) and the Surat Electricity Company Limited (SEC).

Office of the Chief Electrical Inspector and office of the Collector of Electricity Duty (Collector (ED)) are two independent offices headed by a single officer. The Collector (ED) is entrusted the work related to grant of exemption from payment of electricity duty to new industrial units and self generating units. He also issues certificates to consumers regarding chargeability of duty at reduced rate, deferment and refund of duty and also monitors collection and payment of duty by licensees and self generating units. Under the Act, he is the authority for adjudication of disputes. The Chief Electrical Inspector is entrusted the work of checking of extra high voltage installations and overall supervision of work of assistant electrical inspectors and electrical inspectors.

Scope of audit

Audit conducted test check of records of Collector (ED), Gandhinagar, three* out of seven offices of the Electrical Inspector, 10* out of 17 offices of the

* Ahmedabad, Mehsana and Rajkot

* Ahmedabad-II, Bharuch, Himmatnagar, Jamnagar, Junagadh, Mehsana, Surat, Surendranagar, Vadodara and Valsad.

assistant electrical inspector, 36[♦] out of 76 billing centres of State Electricity Board and both the billing centres of two private companies. The units were selected on the basis of revenue collection of the licensee. Audit was conducted for the period from 2000-01 to 2004-05 between April and December 2005.

Audit objectives

6.2.3 A review of records was conducted with a view to:

- assess the effectiveness of levy and collection of electricity duty;
- assess the adequacy of system of issue of licences and inspection of electrical installations and collection of fees;
- assess the procedure of refund/adjustment of duty;
- assess effectiveness of procedure of monitoring exemption of duty.

Organisational set up

6.2.4 The overall control on levy and collection of duty and fees rests with the Principal Secretary, Energy and Petrochemicals Department. Chief Electrical Inspector and Collector (ED) Gandhinagar is the head of the department. He is assisted by Deputy Chief Electrical Inspector, assessment officer and administrative officer at headquarters and by seven electrical inspectors and 17 assistant electrical inspectors at district level for conducting inspection of electrical installations. At field level, duty inspectors are responsible for ensuring correctness of levy and collection of duty at billing centres of licensees. These duty inspectors have also been assigned the work of checking of readings in meters of self generating units of electricity and collection of duty thereof.

Trend of revenue

6.2.5 The budget estimates and actual realisation of taxes and duties on electricity during last five years ending March 2005 were as under:

(Rupees in crore)

Year	Budget estimates	Actual realisation	Variation increase (+) decrease (-)	Percentage of variation
2000-01	1700.00	1520.99	(-) 179.01	(-) 10.53
2001-02	1711.00	1656.52	(-) 54.48	(-) 3.18
2002-03	1735.43	1383.84	(-) 351.59	(-) 20.26
2003-04	1590.53	1592.18	(+) 1.65	Negligible
2004-05	1646.05	1829.07	(+) 183.02	(+) 11.12

♦ Ankleshwar(2), Bavla, Bharuch(2), Dhrangadhra, Gandhinagar, Himatnagar(3), Jamnagar(2), Junagadh(2), Kadi, Kalol, Khambhalia, Mehsana, Morbi, Navsari(2), Rajkot(3), Sabarmati, Surat(3), Surendranagar, Vadodara(3), Valsad, Vapi(2), Veraval

The variation between budget estimates and actuals for the year 2000-01 was due to reduction in rate of duty during 2000-01. The variation between budget estimates and actuals for the year 2002-03 was mainly due to abolition of tax on sale of electricity under the GTSE Act with effect from 1 April 2002 and reduction in rate of duty applicable for commercial purposes and for unspecified category of consumers. For the year 2004-05 actual realisation was more than budget estimates mainly due to enhancement of rate of duty for self generation by 100 *per cent* and in consumption of electricity by various consumers.

Position of arrears

6.2.6 The position of arrears of revenue at the end of five years ended 31 March 2006 as furnished by the department was as under:

(Rupees in crore)

Year	Opening balance as on 1 April	Addition during the year	Recoveries i.e. clearance during the year	Amount outstanding at the close of the year i.e. 31 March
2001-02	13.92	-	-	13.92
2002-03	13.92	-	-	13.92
2003-04	13.92	370.23	-	384.15
2004-05	384.15	77.71	40.00	421.86
2005-06	421.86	82.68	26.87	477.67

Analysis of the amount outstanding as on 31 March 2006 was as under:

- Recovery of Rs.367.50 crore was pending with High Court of Gujarat.
- Recovery of Rs.3.07 crore was pending with BIFR.
- Recovery of Rs.75.66 crore was pending in appeal with Government.
- Recovery of Rs.0.92 crore was pending action under land revenue code.
- Recovery of Rs.30.52 crore on account of tax on sale of electricity was pending for reasons which were not made available to audit.

Short levy of duty due to application of incorrect rate

6.2.7 As per the BED Act in case of consumption of electricity generated by self, duty is leviable at rates prescribed in Schedule II to the BED Act, whereas electricity consumed from other generating entities attracts duty at rates prescribed in Schedule I to the BED Act. The schedule II rate upto July 2004 was 40 paise per unit while schedule I rate was 20 *per cent* of consumption charges. Thereafter schedule II rate was revised at 80 paise per unit. As per sub section 2 of section 3, duty on electricity generated jointly by industrial undertaking for their own use was exempted for 10 years from the date of production of electricity.

During test check of records of Collector (ED), Gandhinagar, it was noticed in April 2005 that Gujarat Industries Power Company Ltd. (GIPCL), as licensee, was cogenerating electricity for its own use and four other participating companies. As per provisions of the Act, these companies were granted exemption in March 1993 for 10 years from 6 February 1992 to 5 February 2002 subject to certain terms and conditions. On completion of exemption period, GIPCL was to collect duty from all participating companies along with its own share of duty and pay the same to Government.

There was change in equity participation and composition of ownership in the company due to which Collector (ED) after getting approval from Government and Legal Department cancelled exemption vide order dated 27 November 2001 effective from 5 June 2000. All participating units were ordered to pay duty as per schedule I rate. GIPCL on behalf of all participating companies filed a review petition on January 2002 before Government which is still pending.

After completion of exemption period, the companies were required to pay duty of Rs.40.83 crore as per rates prescribed in schedule I for the period from February 2002 to June 2004. However the companies paid Rs.26.18 crore during this period at the rate of schedule II. This resulted in short levy of duty of Rs.14.65 crore. The department did not make any effort to recover duty at the rates prescribed in schedule I. This resulted in short realisation of Government revenue to that extent.

After this was pointed out, the department accepted audit observation in May 2005 and recovered Rs.95.22 lakh from one company in March 2006 and stated in May 2006 that recovery proceedings in respect of another company have been initiated.

Non payment of duty collected by licensee

6.2.8 Under Sections 3 and 8 of the BED Act, every licensee shall levy and collect duty from consumers of electricity and pay to Government. Duty so collected but not paid within 40 days after the expiry of calendar month shall be deemed to be in arrears and interest at the rate of 24 *per cent* per annum upto 31 March 2002 and 18 *per cent* per annum thereafter shall be payable on such arrears.

During test check of records of Collector (ED) for the year 2004-05, it was noticed that during five months of July, August, October 2004, January, and February 2005, the AEC Ltd. did not pay to Government an amount of Rs. 3.20 crore collected from consumers. AEC Ltd. retained this amount and stated in its monthly return filed with the Collector (ED) that outstanding electricity charges recoverable from *nagarpalikas* had been made good by this amount. The retention of the amount was incorrect and resulted in non recovery of Rs.3.43 crore including interest of Rs.23.23 lakh due upto 31 March 2005. The department had made no efforts to recover the amount.

After this was pointed out, the department accepted audit observation in May 2005 and recovered Rs.3.20 crore. Regarding interest, the department has

stated that the licensee has applied for waiver and the same was under consideration of Government.

Short levy of interest on belated payment of duty

6.2.9 Under Rule 3 of the BED (Gujarat) Rules 1986 (the Rules) and explanation given thereunder, the licensee shall pay the duty within 40 days after the expiry of the calendar month for which duty is levied. Government may by special order extend the period of payment upto 15 days subject to the condition that 80 *per cent* of payment on the basis of duty paid in the previous month shall be made within the prescribed period of 40 days. As per Government order dated 23 November 1987, SEC was permitted to extend the period of payment subject to above condition.

During test check of records of Collector (ED), it was noticed that the SEC had not paid 80 *per cent* of the duty collected in respect of previous calendar month within the prescribed time limit of 40 days in 57 months spread over a period of five years between 2000-01 and 2004-05. Hence the licensee was not eligible for the benefit of conditional grace period of 15 days for payment of balance amount of duty for these months and was liable to pay interest on delayed payment. For the delay in payment of duty, interest of Rs.2.29 crore was leviable for the period from 2000-01 to 2004-05. This also reflected that the returns filed by the licensee were not properly scrutinised and monitored.

After this was pointed out, Government stated in May 2006 that Collector (ED) had issued notice to SEC to make payment of Rs.2.29 crore.

Short levy of electricity duty due to typing error

6.2.10 Schedule-I of the BED Act prescribes rate of duty chargeable to different category of consumers. Part-II of the schedule authorises Collector (ED) to adjudicate cases on any disputes on applicability of rates.

During test check of records of Collector (ED), it was noticed that an industrial consumer was consuming electricity at high tension voltage. Major portion of electricity was consumed for motive power and a very small portion of electricity was consumed towards office lighting. The licensee was charging duty at correct rate of 20 *per cent* on motive power consumption and at higher rate of 40 *per cent* on office lighting. Aggrieved by levy of duty at higher rate on office lighting, the consumer applied to the Collector (ED) to determine correct rate of duty chargeable on office lighting. The appeal was decided and the applicable rate of duty for office lighting was reduced to 20 *per cent* of consumption charges. While communicating the same to the licensee it was typed as 10 *per cent*. On the basis of this letter the licensee charged duty at the rate of 10 *per cent* on entire consumption of electricity. This resulted in short levy of electricity duty of Rs.25.13 lakh for the period from May 2003 to March 2005.

After this was pointed out, the department accepted audit observation and issued corrigendum to the original order in May 2005. Government in May

2006 intimated recovery of Rs.14.50 lakh. Particulars of recovery of remaining amount have not been received (October 2006).

Loss of revenue due to non inspection

Electrical installations

6.2.11 As per Rule 46 of the IE Rules, where an installation is connected to supply system of supplier, every such installation shall be periodically inspected and tested at an interval not exceeding five years either by an inspector or by the supplier as may be directed by the State Government. Fees at prescribed rates depending upon the connection load at the supply system are to be recovered. There is no monetary penal provision or levy of interest on late/non payment of inspection fees.

During test check of records of Chief Electrical Inspector, it was noticed that out of 56.37 lakh electrical installations required to be inspected, only 9.06 lakh installations were inspected by the department during the period from 2000-01 to 2004-05 leaving a shortfall of 47.31 lakh installations as detailed below :

Year	Inspection due	Inspection done	Inspection not done	Percent- age of non inspection	Inspection to be carried as per GAD norms based on staff (120/month/inspector) (staff strength)
2000-01	10,69,340	2,04,580	8,64,760	81	1,52,640 (106)
2001-02	11,02,405	1,91,858	9,10,550	82	1,42,560 (99)
2002-03	11,43,553	1,72,730	9,70,823	85	1,42,560 (99)
2003-04	11,80,936	1,68,694	10,12,242	86	1,42,560 (99)
2004-05	11,41,147	1,68,426	9,72,721	85	1,20,960(84)
Total	56,37,384	9,06,288	47,31,096		

It can be seen from the above that though the department had achieved target of inspection based on staff strength, 81 to 86 *per cent* of the installations remained uninspected.

Failure to inspect installations not only jeopardized public safety but also resulted in non realisation of inspection fees of Rs.23.66 crore worked out at the lowest rate of Rs.50 applicable to low voltage installations.

After this was pointed out, the department stated in May 2006 that shortage of manpower was the main reason for this shortfall. However, they would explore the possibility of outsourcing such inspections.

Non realisation of inspection fee

6.2.12 According to the provisions of IE Rules, and notifications issued thereunder, inspectors are required to inspect all high tension, medium voltage installations and all low voltage electrical installations in factory premises and in all public places of amusement including cinema theatres *etc.* once in a

year. Inspection fee at prescribed rates is required to be recovered in advance or at the time of inspection carried out by departmental officers.

During test check of records of eight[¥] offices of the assistant electrical inspector, it was noticed between April 2004 and November 2005 that though inspections of electrical installations were carried out by the inspectors, inspection fee of Rs.28.59 lakh for the period 2001-02 to 2004-05 was not recovered in 655 cases.

After this was pointed out, the department accepted audit observations and issued notices for recovery of the fees involving Rs.27.61 lakh in 646 cases and recovered Rs.16.21 lakh in 376 cases. In nine cases, reply has not been received (October 2006).

Billing centres

6.2.13 Major portion of duty is levied and collected at billing centres of licensees. Licensees after collecting duty from consumers are required to deposit the same into Government account within the prescribed time limit of 40 days. Duty inspectors posted in field have been assigned the task of ensuring accuracy in levy and collection of duty in these billing centres. Along with these, duty inspectors have to perform other multifarious duties *viz.*, checking of sites in case of exemption/rate reduction applications, confirming meter readings at self generating units and ensuring payment of duty at correct rate and all other work assigned by the Collector (ED). For this purpose 14 posts of duty inspectors have been created.

Short levy of duty due to application of incorrect rate on consumers engaged in activities other than industrial purpose

6.2.14 Section 2(bb) of the BED Act defines “industrial undertaking” as an undertaking engaged predominantly in the manufacture or production of goods. Rate of duty on consumption of electricity for manufacturing activities was 20 *per cent* and for non manufacturing activities was 60 *per cent* upto 31 March 2002. The rate of 60 *per cent* was reduced to 45 *per cent* from 1 April 2002.

During test check of records of 10[♥] billing centres of GEB, it was noticed that in respect of 21 consumers, though electricity was consumed for non manufacturing activities and duty leviable was Rs.11.47 crore, duty levied was Rs.4.79 crore at the rate applicable to manufacturing activities. Application of incorrect rate of duty resulted in short levy of electricity duty of Rs.6.68 crore for the period between 2000-01 and 2004-05.

After this was pointed out, the department accepted audit observation for Rs.3.19 crore in respect of nine consumers and recovered Rs.2.52 crore from eight consumers. In one case department could not make recovery as it was pending in a court of law while in another case department did not accept audit

[¥] Ahmedabad-II, Bharuch, Jamnagar, Mehsana, Rajkot, Surat, Vadodara and Valsad.

[♥] Ankleshwar(2), Bavla, Bharuch, Khambhalia, Jamnagar(2) and Vadodara (3)

observation and stated that water from pumping stations was used for manufacturing activities as such industrial rate was applied. The reply was not acceptable as pumping of water is not a manufacturing activity.

Short levy of duty due to incorrect application of reduced rate prior to the period of eligibility

6.2.15 Government reduced rate of duty from 20 *per cent* to 15 *per cent* for high tension industrial consumers and from 45 *per cent* to 35 *per cent* for residual category consumers from 1 April 2005.

During test check of the records of 21[^] billing centres of GEB it was noticed in case of 1,922 high tension consumers that though reduced rate of duty was effective from 1 April 2005, same was levied for the electricity consumed between 20 March and 31 March 2005. This resulted in short levy of duty of Rs.1.42 crore.

After this was pointed out, the department accepted audit observation in all cases and recovered Rs.96.80 lakh from 1,362 consumers. Particulars of recovery of balance of Rs.45.20 lakh have not been received (October 2006).

Incorrect refund of duty

6.2.16 As per the provisions of Rule 12 of the rules, only Collector (ED) can grant refund of duty for the period prior to 12 months from the date of application for refund.

During test check of records of GEB (O & M), Vadodara it was noticed that the licensee refunded Rs.1.08 crore for 55 months in October 2004 being the duty paid by one consumer for the period from March 1999 to September 2003 on the basis of application made by the consumer in March 2004. As the refund was to be granted by the Collector(ED) and that too for a maximum period of previous 12 months prior to the date of application, the refund of Rs.1.08 crore granted by the licensee was not in order. Further, had the consumer approached the Collector (ED) for refund, he would have got refund of Rs.18.27 lakh only for 12 months being the payment made for April 2003 and onwards.

After this was pointed out, the Collector (ED) in April 2006 directed the licensee to recover duty. Particulars of recovery have not been received (October 2006).

[^] Ankleshwar, Bharuch, Dabhoi, Himatnagar, Jamnagar(2), Kadi, Kalol, Khambhalia, Morbi, Rajkot(3), Surat(3) and Vadodara(5)

Effectiveness of monitoring of exemption of duty

Non levy of duty due to incorrect grant of exemption

6.2.17 As per sub section 2 of section 3 of the BED Act and rules made thereunder, duty is not leviable on units of electricity consumed by Government of Gujarat, municipal corporation, municipality, local board, notified area, committee or Panchayat. The Gujarat Water Supply and Sewerage Board (GWSSB) does not fall under any of the above categories and is liable to pay duty on its connections.

6.2.17.1 During test check of the records of five* divisions of GEB, it was noticed that duty was not levied and collected from 13 high tension connections of GWSSB. This resulted in non levy of duty of Rs.7.71 crore for the period between April 2000 and March 2005.

After this was pointed out, the department stated in May 2006 that GWSSB was pumping out water from tube well and supplying drinking water to nagarpalikas/panchayats and hence it is exempted under section 3(2)(ia) of the Act. Reply is not acceptable as section 3(2)(ia) does not cover GWSSB within the meaning of local bodies, panchayats etc.

6.2.17.2 During test check of records of GEB (O&M) City Division-II, Rajkot it was noticed that Government of Gujarat constructed an auditorium and released HT connection in April 1998 and exemption from payment of duty was granted to the auditorium. This auditorium was run by the State Government till December 1998 and handed over to a club in January 1999 for its operation, maintenance, letting and overall management. As per condition no.5 of the agreement, the club was liable to pay taxes, electricity bills etc. As the auditorium was handed over to a private party, it could no longer be said that electricity was consumed by the Government of Gujarat and hence the club was not eligible for exemption and liable to pay duty at prescribed rate. However, the club continued to avail the benefit of exemption. This resulted in non levy of duty of Rs.31.03 lakh for the period from 2000-01 to 2004-05.

After this was pointed out, the department directed the licensee in October 2005 to recover duty as pointed out by audit. Government further stated in May 2006 that the matter was referred to Youth and Cultural Department and recovery particulars will be intimated after final decision.

Non levy of duty due to incorrect exemption

6.2.18 Under Section 13 of the BED Act, electricity consumed or sold to Government of India and electricity consumed in construction, maintenance and operation of Railways is exempted from payment of duty. As per Rule 10 of the rules, where meter for indicating consumption of electrical energy for different purposes is not provided, the levy of duty should be reckoned as if electricity is consumed for the single purpose for which higher rate of duty is

* Bharuch, Himmatngar, Khambhalia, Morbi and Rajkot

leviable and duty shall be charged for entire electricity consumed for combined purpose.

During test check of the records of GEB (O&M) Valsad it was noticed that duty was not levied and collected for residential/commercial consumption of electricity from two connections of Railways (Valsad) treating them as part of exemption. No separate meters or sub meters were installed to identify consumption of electricity for non government use. In the absence of this, duty was leviable on entire consumption of electricity. This resulted in non levy of duty of Rs. 1.24 crore for the period between April 2000 and March 2005.

After this was pointed out, the department accepted audit observation in May 2006 and stated that recovery proceedings have been initiated through licensee. Particulars of recovery have not been received (October 2006).

Non levy of duty after expiry of exemption period

6.2.19 Under the BED Act and the Rules made thereunder, a consumer is entitled for exemption for the period mentioned in the exemption certificate. Immediately on completion of said period, he is liable to pay duty at prescribed rates. Duty inspectors posted at field level have been specifically instructed by the Collector (ED) to keep a close watch on these matters.

6.2.19.1 During test check of records of five[♥] divisions of GEB it was noticed that in five cases, exemption from payment of duty was continued for one to four months between October 2001 and March 2005 even after expiry of the exemption period. This resulted in non levy of duty of Rs. 9.29 lakh.

After this was pointed out, the department accepted audit observation in all cases and recovered Rs.2.49 lakh in two cases in April 2006. Particulars of recovery in remaining cases have not been received (October 2006).

6.2.19.2 At GEB (O&M) Rural Division, Surat, it was noticed that a new consumer (without exemption certificate) of a factory who purchased the unit from a consumer having exemption certificate was given exemption from April 2004 to August 2004. This resulted in non levy of duty of Rs. 7.02 lakh.

After this was pointed out, the department stated in April 2006 that the licensee issued supplementary bill in February/March 2006 and payment was awaited.

Government stated in May 2006 that exemption certificate issued in favour of original company was applicable as only name has been changed. Reply was not acceptable as original unit was sold to new one. As per conditions of the certificate under rule 11(2) of the rules, sale of unit should be brought to the notice of the Collector. Further it was not a simple change of name but a change in ownership of factory.

[♥] Ankleshwar, Bharuch, Khabhalia, Jamnagar and Surat(Rural)

Internal Control

6.2.20 Internal control in a department provides assurance for prompt and efficient service and adequate safeguards against evasion of taxes and duties. It is meant to promote enforcement of compliance of Acts, Rules and departmental instructions to detect and prevent irregularities. It also helps in creation of reliable financial and management information system. It is, therefore, the responsibility of the department to ensure that a proper internal control mechanism is instituted, reviewed and updated from time to time to make it effective.

Operational control

6.2.21 Operational control system is instituted for reviewing efficient and effective functioning of the department.

During test check of records of Collector (ED) Gandhinagar, it was noticed that during 2001-02 to 2004-05, 166 new industrial units situated at Ahmedabad were granted exemption from payment of duty for a maximum period of five years. A chart showing receipt and finalisation of such cases is shown below:

Year	Total no. of cases finalised	Time taken in finalisation of application			
		0 to 1 year	1 to 2 years	2 to 3 years	More than 3 years
2001-02	48	24	12	6	6
2002-03	25	14	8	1	2
2003-04	45	23	16	1	5
2004-05	48	29	10	2	7
Total	166	90	46	10	20

It would be seen from the table that more than one year was taken in finalisation of application in 39 to 50 *per cent* of cases. In 21 cases exemption was granted after the completion of eligible period of exemption resulting in refund of duty already paid for the period of exemption. As the rationale behind giving exemption is to help a new industrial unit in initial years of its establishment, such delays defeated the very purpose of exemption. As no time limit has been fixed for finalisation of application, inordinate delay resulted in failure of operational control.

Internal audit

6.2.22 There was no separate internal audit mechanism for the field offices. In absence of such mechanism existing administrative staff was doing internal audit. Chief Electrical Inspector fixed target for inspection by his office in respect of six field offices per annum during the period of review. There was no basis for fixing this target. As against the target of six offices per year prescribed for inspection, no inspection was carried out during 2002-03,

whereas three and four offices were inspected during 2003-04 and 2004-05 respectively. Objections were of administrative nature like non maintenance of certain registers viz., stamp register, grant register, appellate register etc., purchase of certain office items beyond monetary limit, non posting of inspection fees recovered and non closing of casual leave register. Compliances to these reports by field offices were watched periodically and settled.

Conclusion

6.2.23 Audit noticed non implementation of Government orders, retention of duty collected from consumers by licensee, exemption to ineligible units and levy of duty at incorrect rates resulting in short realisation of duty. The department could not arrange checking of all electrical installations. There was no effective system of monitoring and no internal audit wing has been created in the department.

Department needs to create an internal audit wing. Licensees should be made accountable regarding levy of duty at correct rates. A time limit for finalisation of exemption cases should be fixed. Department should carry out mandatory inspections to ensure safety of general public as well as realisation of inspection fee.

Acknowledgement

6.2.24 The findings of the review were sent to the department and Government in April 2006 with the request to discuss the points in Audit Review Committee. The meeting of Audit Review Committee was held in May 2006. It was attended by representatives of Government headed by Principal Secretary Energy and Petrochemicals Department while department was represented by Chief Electrical Inspector. Almost all audit observations were accepted by Government and in some cases full recovery was made. The views of Government have been taken into consideration while drafting the review.

ENTERTAINMENTS TAX

6.3 Non levy of entertainments tax

Under the Gujarat Entertainments Tax (GET) Act, 1977 and the Rules made thereunder, entertainment includes any exhibition, performance, amusement, game or sport to which persons are admitted on payment. Every proprietor is required to pay tax and submit monthly returns by 15th of succeeding month. In case of delay in payment of tax, simple interest at the rate of 24 *per cent* per annum is leviable on unpaid amount of tax for the period of delay.

“Ropeway” as clarified by Government in April 1992 and August 2001 falls within the definition of entertainment if it is used for the purpose of entertainment. The Department of Information and Broadcasting vide resolution dated 4 February 1991 as part of the tourism policy exempted units

engaged in entertainment activities and set up between 1 January 1991 and 31 December 1996, from payment of entertainments tax subject to fulfilment of certain conditions.

Chimney Hotel and Ropeway Pvt. Ltd. set up a ropeway in April 1994 at Saputara in Dangs district which attracted entertainments tax. However it was noticed during test check of records of Collector, Dangs in March 2005 that no tax was recovered from April 1994 to January 2006 as the company claimed that no entertainments tax is payable as the ropeway set up was being used for transportation purpose and not as entertainment. Simultaneously the company claimed (September 1991) exemption from payment of entertainments tax under the tourism policy. The committee after deliberations granted entertainments tax exemption of Rs.3.46 lakh in May 2001. After protracted correspondence at Government level to finalise the issue, Government on 28 November 2005 clarified that as ropeway at Saputara was not being used for going to religious place, it attracted entertainments tax and instructed to recover the tax. However, no demand for entertainments tax was raised (March 2006). Entertainments tax including interest to be collected for above period worked out to Rs.4.10 crore[#].

The matter was referred to Government in March 2005. Government in November 2005 instructed the Collector to raise the demand and collect the entertainments tax as ropeway at Saputara was not being used for going to religious place and it attracted entertainments tax. However, report on raising of demand and recovery made has not been received (October 2006).

6.4 Non recovery of entertainments tax from cable operators

Under the GET Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. As per GET (Exhibition by means of cable television and antenna) Rules, 1993, each operator has to register with the department and file quarterly return in advance accompanied by copies of challan for payment of tax. Assessment of return filed has to be made by the department before commencement of the succeeding quarter and demands for non/short payment of tax are to be raised against the defaulters. For non payment of tax within the prescribed time, the Act provides for levy of interest at the rate of 24 *per cent* per annum.

During test check of records of five^{*} collectors and three[∇] *mamlatdar* offices, it was noticed between January 2004 and September 2005 that in 209 out of 1,935 cases, entertainments tax of Rs.24.12 lakh was not paid during 2003-04 to 2004-05. No demands were raised. No system to watch receipt of returns and issue notices was being followed. Failure to follow the prescribed procedure resulted in non/short recovery of Rs.27.09 lakh including interest[▲].

[#] Non levy of entertainments tax including interest for the period 2000-01 to 2005-06 works out to Rs.44.12 lakh (Rs.25.16 lakh tax and Rs.18.96 lakh interest).

^{*} Ahmedabad, Bhuj, Navsari, Rajkot and Vadodara

[∇] Dholka, Godhra and Surat.

[▲] Interest has been calculated upto 31 March of audit period

After this was pointed out between February and October 2005, the department accepted audit observations in all cases and recovered an amount of Rs.6.59 lakh in 72 cases. Particulars of recovery in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

6.5 Non recovery of service charge irregularly availed

Under the GET Act and the Rules made thereunder, entertainments tax shall be paid by the proprietor of a cinema house weekly within 14 days of the end of the week. Government vide notification dated 9 February 2004 granted exemption from payment of entertainments tax to the extent of Rs.3 and Rs.2 per ticket to the proprietors of air conditioned/air cooled cinema and non air conditioned/non air cooled cinema house respectively subject to condition that the tax has been paid in time and in the manner prescribed in Rule. Department further clarified in circular dated 20 February 2004 that the proprietor of cinema house not paying tax within prescribed time limit was not eligible for exemption. This exemption is not admissible to multiplex cinemas. Further the exemption of Re.1 per ticket which multiplex cinemas were availing was also discontinued with effect from 9 February 2004.

During test check of records of three^s collectors and four^w *mamlatdars*, it was noticed between October 2004 and October 2005 that 20 cinema houses were allowed to avail benefit of exemption, popularly known as service charge, though they had not paid tax within the prescribed time limit during 2003-04 and 2004-05. Further three multiplex cinemas though not eligible were also granted this exemption. Incorrect allowance of exemption resulted in irregular availment of service charge of Rs.20.64 lakh.

After this was pointed out between December 2004 and November 2005, the department accepted audit observations in 21 cases involving an amount of Rs.15.62 lakh and recovered an amount of Rs.5.21 lakh in 11 cases. Particulars of recovery and replies in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

6.6 Non/short levy of entertainments tax and interest

Under the GET Act and the Rules made thereunder, if payment of tax is delayed, simple interest at the rate of 24 *per cent* per annum is chargeable on the unpaid amount of tax for the period of delay.

During test check of records of two[#] collectors and *mamlatdar*, Patan, it was noticed between February and October 2005 that two cinema houses either did not pay or paid short the tax and two cinema houses paid the tax late with

^s Ahmedabad, Bhuj and Surat

^w Halol, Kalol (PMs), Padra and Patan

[#] Bhuj and Vadodara

delays ranging from four to 231 days during 2003-04 and 2004-05. In case of other three cinema houses at Bhuj, tax was levied at incorrect rate. Failure on the part of the department to raise demands for tax and/or interest resulted in non/short levy of tax of Rs.13 lakh, including interest*.

After this was pointed out between June and November 2005, the department accepted audit observations in four cases involving an amount of Rs.10 lakh and recovered an amount of Rs.6.36 lakh in two cases. Particulars of recovery and reply in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

LUXURY TAX

6.7 Non/short levy of luxury tax/ interest

Under the Gujarat Taxes on Luxuries (Hotels and Lodging Houses) Act, 1977 and the Rules made thereunder, tax is leviable on full tariff of a room as declared by the proprietors of hotels irrespective of whether the room was let out free or at concessional rates. Where any proprietor fails to pay the amount of tax due within time and in the manner provided in the Act, he shall be liable to pay simple interest at the rate of two *per cent* per month or part thereof for the period for which tax remained unpaid.

During test check of records of two[#] Collectors (Luxury Tax), it was noticed between June and July 2005 that luxury tax including interest was not paid by four hotel owners during the period 2004-05 while in 13 cases interest was either not levied or levied short. This resulted in non/short levy of luxury tax and interest of Rs.8.95 lakh.

After this was pointed out in September 2005, the department accepted audit observations in six cases involving an amount of Rs.6.43 lakh and recovered an amount of Rs.4.26 lakh in four cases. Particulars of recovery and replies in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

* Interest calculated upto 31 March of audit period

Ahmedabad and Vadodara.