

CHAPTER – III

LAND REVENUE

3.1 Results of Audit

Test check of assessment records in the offices of the Collectors, District Development Officers, Taluka Development Officers, District Inspectors of Land Records and City Survey Superintendents conducted in audit during the year 2003-04, disclosed non/short recovery and loss of revenue amounting to Rs.18.85 crore in 164 cases. These cases broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Non/short recovery of occupancy price and interest	3	12.26
2	Non-raising of demand for non agricultural assessment	13	0.23
3	Non-recovery of conversion tax and interest	87	1.68
4	Loss of revenue due to non registration of documents	51	4.40
5	Non levy of premium price due to adoption of incorrect rates of tax	1	0.26
6	Non reconciliation of credits with the treasury office	9	0.02
	Total	164	18.85

During the year 2003-04, the Department accepted and recovered under assessment of Rs.21.60 lakh in 62 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations involving Rs.44.45 crore are given in the following paragraphs.

3.2 Non recovery of occupancy price

Under the Bombay Land Revenue (BLR) Code 1879 (as applicable to Gujarat), and the Gujarat Land Revenue Rules, 1972, unoccupied land may be allotted on certain terms and conditions as may be specified in the permission order. The terms and conditions may inter alia include, payment of cost of unalienated land or to sell the same by auction before possession is handed over by the Collector on behalf of Government. Thus the Government is required to recover the price of the land before permission to occupy the land is granted.

During test check of the records of Collector, Bhuj it was noticed in October 2003, that the Collector issued orders in January 2003 for allotment of 24.62 lakh sq.mtrs of land to GIDC subject to recovery of price to be decided by the high level committee of the Government. The possession of the land was handed over to GIDC in March 2003 but till date the price of the land has not been fixed by the committee. This has resulted in non-recovery of estimated occupancy price of Rs.11.82³¹ crore.

After this was brought to the notice of the Department in November 2003 and of the Government in January 2004, the Government replied in June 2004 that the matter was presented before the cabinet on 11 March 2003 to obtain post-facto approval but final orders of allotment on the issue could not be made due to adjournment. Orders about occupancy price shall be made when the cabinet approves the matter finally and interest for delay, if any, would be recovered. The reply is not tenable in view of the fact that the possession of the land has already been handed over to GIDC in March 2003 in contravention to the provisions of the Code. The occupancy price though recoverable before permission to occupy the land is granted has not been recovered so far. Further progress in the matter is awaited (August 2004).

3.3 Non/short levy of conversion tax

Under the BLR Code, conversion tax is leviable on change in mode of use of the land from agricultural to non-agricultural purposes or from one non-agricultural purpose to another in respect of land situated in a city or town including its peripheral areas falling within one to five kilometers. Different rates of conversion tax are prescribed for residential, industrial, commercial/other uses depending upon the population of the city/town. In case of Board/Corporation etc. no permission is required and conversion tax is leviable in the year in which the land is acquired. By issue of a notification in April 2003, the rates of conversion tax were revised with effect from 1 April 2003.

³¹ Occupancy price has been estimated on the basis of land allotted in same survey number to Gas Authority of India Limited in August 2002.

During test check of the records of Mamlatdar (City) Vadodara, four^{\$} Collectors, eight[@] District Development Officers and 19[&] Taluka Development Officers, it was noticed between January and December 2003 that in 208 cases, conversion tax for change in mode of use, though leviable, was either not levied or levied at incorrect rate on 24.43 lakh sq.meters of land. Failure on the part of the departmental officials to follow the codal provisions resulted in non/short levy of conversion tax amounting to Rs.1.07 crore.

The above facts were brought to the notice of the Department between January and December 2003 and of the Government in January 2004. The Department accepted audit observations involving an amount of Rs.41.42 lakh in 108 cases and recovered an amount of Rs.6.22 lakh in 8 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (August 2004).

3.4 Loss of revenue due to correction of records of rights without registration of documents

Under the BLR Code, the Talati of a village is authorised to correct the village records changing the ownership of the property on receipt of intimation in writing from any person within three months of acquiring a property. Section 17 of the Indian Registration Act, 1908 provides that registration of every document of sale, mortgage, lease or exchange of the property of the value of Rs.100 or more is compulsory. Further, the Bombay Stamp Act, 1958, empowers every person in charge of a public office to impound any instrument, produced before him in the performance of his functions, if it appears that such instrument is not duly stamped.

During test check of the records of the District Development Officer, Bhavnagar, Mamlatdar, Khambhat, three[#] Collectors and 10^{*} Taluka Development Officers, it was noticed between March and December 2003 that entries regarding rights of properties, valued at Rs.95.84 crore in 111 cases, were carried out by the Talaties between 2000-01 and 2002-03 in the village records of rights. Such entries of transfers/charges were made in favour of persons, financial institutions, banks etc., on the basis of intimations received from them though these intimations were not supported by valid registered documents. In 18 other cases, the concerned Collectors/District/Taluka Development Officers while according permission for non agricultural purposes did not impound the unregistered/unstamped irrevocable powers of attorney of properties in their favour produced by the parties before them.

^{\$} Ahmedabad, Bhavnagar, Jamnagar and Kheda.

[@] Bhavnagar, Himatnagar, Kheda, Mehsana, Navsari, Rajkot, Surat and Vadodara.

[&] Bhanvad, Bhavnagar, Dabhoi, Dhandhuka, Dholka, Harij, Himatnagar, Kalyanpur, Kalol, Kadi, Mangrol, Miyagam-Karjan, Patan, Paddhari, Savli, Songadh, Sidhpur, Unjha and Vansda.

[#] Bhavnagar, Jamnagar and Mehsana.

^{*} Dholka, Khambhat, Kalol, Lalpur, Lakhtar, Mehsana, Paddhari, Savli, Sidhpur and Valsad.

Non-inclusion of corresponding provision in the Code making the production of registered documents compulsory for carrying out corrections in the village records and failure on the part of the departmental officials to exercise the powers conferred upon them under the Bombay Stamp Act, 1958 resulted in loss of revenue in the form of stamp duty and registration fees amounting to Rs.5.00 crore.

The above facts were brought to the notice of the Department between July and December 2003 and of the Government in January 2004; their replies have not been received (August 2004).

3.5 Non/short recovery of non-agricultural assessment

Under the BLR Code and the Rules made thereunder, land revenue is payable at the prescribed rates on all lands unless specifically exempted from payment. For determining the rates of non-agricultural assessment (NAA), cities, towns and villages have been divided into five classes “A” to “E” according to their population. Different rates depending on use of land are prescribed for each class of city/town/village. Peripheral areas falling within five kilometers of class “A” city and one kilometer of class “B” and “C” town/village are classified alongwith respective cities and towns. Certain industrial and adjoining areas which are notified by the Government are also classified as class “B” areas irrespective of the population of the concerned areas. All payments of land revenue shall be made to the officers of the village in which such revenue is due and noted in the prescribed forms/registers. The Code provides for issue of demand notice, distraint and sale of defaulter’s movable/immovable property etc., by Village Officer for non payment of land revenue.

During test check of the records of four[#] Mamlatdar Offices and three^{\$} Taluka Development Offices, it was noticed between December 2002 and October 2003 that in 39 cases, on land measuring 22.55 lakh sq.mtrs. used for non-agricultural purposes during the period between 1998 and 2003 by housing societies, semi-Government bodies, associations, individuals etc., NAA was either not levied or was levied at incorrect rates. Failure to observe the codal provisions and initiate action resulted in non/short recovery of NAA of Rs.19.63 lakh as detailed below:

[#] Anand, Surat, Vadodara and Wadhwan.
^{\$} Dholka, Gandhinagar and Sami.

Sl. No.	Name of the Taluka/place No.of cases	Period	Area of land (sq.mtr. in lakh)	Amount (Rs. In lakh)			Nature of irregularity
				Recoverable	Recovered	Not/ short recovered	
1	Anand, Dholka, Surat, and Wadhwan 28	Between 1998-99 and 2001-02	9.47	10.23	Nil	10.23	NAA was not levied on land used for commercial and residential purposes.
2	Gandhinagar, Sami and Vadodara 11	Between 1998-99 and 2002-03	13.08	12.89	3.49	9.40	NAA was levied at lower rates and incorrect rates due to upgradation of villages.
	Total 39		22.55	23.12	3.49	19.63	

The above facts were brought to the notice of the Department between January and November 2003 and of the Government in January 2004; their replies have not been received (August 2004).

3.6 Non/short recovery of premium

The Government decided in July 1983 to permit land holders, holding the land under new and restricted tenure under the Bombay Tenancy and Agricultural Land Act, 1948, (as applicable to Gujarat) to convert their land into old tenure and to sell/transfer the same subject to payment of premium computed on the difference between the estimated sale price of the land and the occupancy prices recovered at the time of allotment of the land. This was further subject to payment of difference on actual sale price. The premium recoverable is 70 per cent of the difference when the land held for more than 20 years is permitted to be sold for non-agricultural purposes. From March 1996, the land situated in areas other than six Municipal Corporations/cities covered under the Gujarat Urban Land Ceiling Act/ Nagarpalika areas were also permitted to be sold/transferred for agricultural purpose subject to payment of premium at 60 times of Akar (assessment).

During test check of the records of Collector (LR), Gandhinagar, Mamlatdars Dholka and Surat (City), it was noticed between November 2002 and February 2003 that land measuring 2.89 lakh sq.mtrs. held under new and restricted tenure in 13 cases was allowed to be sold/transferred but premium at the prescribed rate was either not recovered or was recovered at incorrect rates. This resulted in non/short recovery of premium of Rs.15.45 lakh (Rs.48.03 lakh minus Rs.32.58 lakh).

The above facts were brought to the notice of the Department between February and April 2003 and of the Government in January 2004; their replies have not been received (August 2004).

3.7 Non crediting of education cess to the Government accounts by Municipal Corporations/Municipalities

Under the provisions of the Gujarat Education Cess Act, 1962, education cess in the form of surcharge for the purpose of providing the cost of promoting education in the State, is levied on all lands (agricultural/non-agricultural) and on lands and buildings situated in urban areas. This cess is collected by Land Revenue Authorities in rural areas and by Municipal Corporations/Municipalities in urban areas. The cess, thus realised by Municipal Corporations/Municipalities, is required to be credited into Government accounts. The Collector of the district has to monitor the education cess collected by the Municipal Corporations/Municipalities under his jurisdiction. Overall monitoring is to be done by the Director of Municipalities. If the amount collected is not credited to Government account by local authorities, the Government may direct the Bank/Treasury where such local authorities have account to pay such sum from such moneys as may be standing to credit of the local authority to the Government account.

During test check of records of the Director of Municipalities, Gandhinagar, it was noticed in January 2004 that though five[§] Municipal Corporations and 54[®] Municipalities had collected education cess of Rs.68.62 crore they credited only Rs.42.41 crore into Government accounts at the end of 30 September 2003. Failure to enforce the provision of the Act resulted in short recovery of education cess of Rs.26.21 crore from the Municipal Corporations/Municipalities.

The above facts were brought to the notice of the Department and of the Government in March 2004; their replies have not been received (August 2004).

The above matters were followed up with reminders to the Principal Secretary in April/June 2004 and Chief Secretary in July 2004. However, in spite of efforts, no reply was received from Government except in one case.

[§] Ahmedabad, Bhavnagar, Jamnagar, Rajkot and Surat.

[®] Anand, Ankleshwar, Anjar, Borsad, Bagasara, Bhuj, Bilimora, Bharuch, Chandkheda, Chhotaudepur, Dabhoi, Dehgam, Dwarka, Dahod, Devgadhabaria, Deesa, Godhra, Ghatlodia, Gandhidham, Halol, Idar, Jodhpur, Jetpur, Jambusar, Kalol, Kali, Khedbrahma, Khambhat, Karjan, Kapadwanj, Kutiyana, Lunawada, Mehsana, Mahuva, Modasa, Nadiad, Navsari, Patan, Petlad, Padra, Porbandar, Palanpur, Ranip, Rajpipla, Sarkhej, Savarkundla, Surendranagar, Sidhpur, Talod, Unjha, Umreth, Visnagar, Valsad and Wankaner.