

CHAPTER VI: OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records of the concerned departmental offices, conducted during the year 2006-07, disclosed short realisation or loss of revenue amounting to Rs.271.42 crore in 312 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
State Excise			
1	Error in computation	16	1.21
2	Non/short recovery of licence fee	10	0.36
3	Granting of excessive production loss/ wastage	06	0.13
4	Loss due to departmental vending of arrack	09	6.11
5	Loss due to non-levy of stamp duty	07	49.45
6	Other irregularities	37	4.32
	Total	85	61.58
Entry Tax			
1	Non/short levy of tax	124	5.05
2	Non-levy of interest/penalty	21	0.83
	Total	145	5.88
Taxes on Agricultural Income			
1	Short levy of tax due to incorrect carry forward and set-off of loss/depreciation and other irregularities	18	0.35
	Total	18	0.35
Professions Tax			
1	Non/short levy of tax	12	0.09
	Total	12	0.09
Other Taxes and Duties on Commodities and Services			
	Other tax receipts (Health Cess, Education Cess, Entertainments Tax and Luxury Tax)		
1	Review: Assessment, Levy and collection of Entertainments tax	1	10.98
2	Luxury tax (Incorrect grant of deferment, non/short levy of tax and non/short levy of interest)	24	40.10
3	Non/short levy of tax, interest, etc.	26	0.64
4	Non/short remittance of cess	1	151.80
	Total	52	203.52
	Grand Total	312	271.42

During the course of the year 2006-07, the departments accepted under assessment of tax amounting to Rs.12.81 crore involved in 283 cases and recovered Rs.5.11 crore involved in 200 of them which were pointed out in audit in earlier years.

A few illustrative cases having monetary effect of Rs.204.21 crore including the results of a Review on **Assessment, Levy and collection of Entertainments tax** (Rs.10.98 crore) are mentioned in the following paragraphs. Of this, Rs.3.54 lakh was recovered.

6.2 Assessment, levy and collection of entertainments tax

Highlights

Leakage of revenue of Rs.9.32 lakh due to lack of databank on film distributors

(Paragraph 6.2.7.2)

Leakage of revenue of Rs.3.60 crore due to lack of a system to ascertain the status of a remade Kannada film from CBFC for availing exemption before authenticating tickets.

(Paragraph 6.2.8)

Non- prescription of time limit for finalisation of assessments under the Karnataka Entertainments Tax Act led to accumulation of assessments.

(Paragraph 6.2.9)

Entertainments tax of Rs.7.27 crore along with interest was not levied on amusement parks.

(Paragraph 6.2.13)

6.2.1 Introduction

The Karnataka Entertainments Tax Act 1958 (KET Act) and the Karnataka Entertainments Tax Rules 1959 (KET Rules), framed thereunder govern levy and collection of entertainments tax (ET) in the State.

Under the KET Act, ET is leviable on cinematograph shows including video shows, horse races, cable television at the rate prescribed from time to time and on any amusement, recreation or any entertainment performance or pageant or a game or sport whether held indoor or outdoor to which persons are admitted on payment, at the rate of 20 *per cent* on each payment for admission.

However, no tax was leviable from 1 August 2004 to 31 March 2006 where the payment for admission was less than Rs.50 in respect of any amusement or recreation parlour in the limits of Bangalore Urban Agglomeration or a City Municipal Corporation and Rs.250 in respect of any amusement or recreation parlour in other areas. With effect from 1 April 2006, tax is being levied on

all recreation parlours/amusement parks charging admission fee of Rs.50 and above throughout the State.

A review of the functioning of the Commercial Taxes Department regarding assessment, levy and collection of ET was conducted which revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

6.2.2 Organisational set up

The assessment, levy and collection of ET, penalty and other dues under the KET Act are administered by the Commercial Taxes Department (CTD) under the administrative control of the Finance Department. The CTD is headed by the Commissioner of Commercial Taxes (CCT) and assisted by 12 Joint Commissioners of Commercial Taxes (JCCTs) at the divisional level. At the circle level, there are 70 commercial tax officers (CTOs) responsible for assessment and collection of ET.

6.2.3 Audit Objectives

The review seeks to ascertain whether:

- there are adequate procedures to ensure filing of returns and payment of tax by persons organising entertainment shows/events while granting permission for such shows/events by the authority competent in that behalf;
- the assessment, levy and collection of ET were done in accordance with the KET Act and KET Rules;
- internal controls have been prescribed to gather and utilise all the information necessary for proper levy and collection of ET;
- systems for effective and timely pursuance of arrears of demands have been laid down; and
- there is an effective internal audit system.

6.2.4 Scope and methodology of audit

A review of the assessment, levy and collection of ET by 46 CTOs out of 70 CTOs for the period from 2001-02 to 2005-06 was conducted during the period from July 2006 to March 2007. All the divisions were selected for review. In Bangalore, all the 13 CTOs falling under four Bangalore City divisions were selected. In respect of remaining eight divisions 33 CTOs were selected at random. One lakh eighteen thousand five hundred sixty weekly returns due and filed by 456 theatres and 118 monthly returns due and filed by four amusement parks under these CTOs were checked. The main findings of the review are mentioned in the following paragraphs.

6.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Finance Department and CTD in providing necessary information and records for audit. The draft review report was forwarded to the Government and department in May 2007 and was discussed in the Audit Review Committee meeting held in July 2007. Deputy Secretary to the Government, Finance Department represented the Government while the Commissioner of Commercial Taxes represented the department. Views of the Government/department have been incorporated in relevant paragraphs.

Audit findings

6.2.6 Trend of revenue

The Karnataka Budget Manual stipulates that in the preparation of the budget, the aim is to achieve as close an approximation to the actuals as possible. It is therefore, essential that not merely should all items of revenue and receipts that can be foreseen be provided but also only so much and no more should be provided as is expected to be realised, including past arrears, in the budget year.

The budget estimates (BE), actual realisation of revenue, variations in receipts of ET over BE and percentage of variation for the years 2001-02 to 2005-06 were as under:

(Rupees in crore)				
Year	BE	Actuals	Variation of actuals over BE (3-2)	Percentage of variation
(1)	(2)	(3)	(4)	(5)
2001-02	79.99	48.93	(-) 31.06	(-) 38.83
2002-03	83.78	45.82	(-) 37.96	(-) 45.31
2003-04	45.04	61.63	(+) 16.59	(+) 36.83
2004-05	38.30	247.53	(+) 209.23	(+) 546.29
2005-06	39.05	88.06	(+) 49.01	(+) 125.51

The very high order of deviations between the estimated and actual receipts indicates the need for a close look at the budgeting process which appears to be flawed. The department stated that the BEs for the year 2004-05 were prepared keeping in view the historical growth and ARM³³ measures, if any, and variation is due to misclassification of revenue figures among luxury tax, ET and betting tax falling under the same major head of account 0045. However, the department has not reconciled its figures. Reasons for variations

³³ ARM: Additional Resource Mobilisation

in the remaining years though called for have not been received (October 2007).

System deficiencies

6.2.7 Survey and Registration

6.2.7.1 Leakage of revenue due to lack of a system to ensure obtaining of permit by amusement parks and recreation parlours

Under the KET Rules, a proprietor conducting any entertainment shall not admit any person to the entertainment without an authenticated ticket stamped with the impression of the official seal or perforation of the official die of the entertainments tax officer. Also, under the Act, every proprietor of an entertainment shall submit prescribed periodical returns to the jurisdictional CTO and pay full amount of tax on the basis of such returns. For this purpose, a proprietor is required to obtain a permit from jurisdictional CTO at least 15 days before the commencement of the entertainment show.

Survey is the one of the tools used to detect errant unregistered dealers, widen the tax base and augment revenue. The Karnataka Commercial Taxes Manual (1995) (Manual) also emphasises the need for survey to detect cases of suppression of taxable turnover or any other mode adopted to circumvent law and to evade taxes. The machinery for survey includes officers of intelligence wing and jurisdictional assessing authorities. It was noticed that the department did not have a system for obtaining periodical information from the police or such other concerned departments on amusement park(s) and recreational parlours in operation. This resulted in a number of amusement park(s) and recreational parlours being operated without permission. A few cases are mentioned below.

Test check of eight CTOs of five³⁴ divisions in Bangalore and JCCT (Intelligence) in Bangalore revealed that none of these offices conducted surveys during the period of review to detect and prevent leakage of revenue from amusement parks and recreation parlours running in the city without obtaining permit from the jurisdictional CTOs. During June 2003 to July 2006 only two amusement parks and three theatres were registered under these CTOs.

- Cross verification of the information collected from the office of the Commissioner of City Police in Bangalore with CTD revealed that an amusement park³⁵ was running in the city with effect from 8 May 2003 without obtaining a permit from the jurisdictional CTO. The park charged

³⁴ Bangalore City Divisions I, II, III, IV, Bangalore Division

³⁵ M/s. Fun World

Rs.40 per person for entry at the main gate and in addition, charges ranging from Rs.20 to Rs.49 were collected per person for participation in any event/group of events inside the park. As the total admission charges per person for participating in any single amusement exceeded Rs.50, the proprietor was required to file returns and pay ET. The CTD, however, failed to identify and initiate action to bring the proprietor of amusement park within the purview of ET.

The printed tickets of the park were serially numbered. Based on the numbers printed on the tickets of the park, the minimum loss of revenue sustained by Government by way of ET worked out to Rs.17.31 lakh. The loss has been quantified by including the admission charges only for persons attending the event at sl.no.1 with the presumption that the same persons would have also attended the events at sl.no 2 to 5. This is the minimum revenue lost as in case separate sets of persons attended different activities, the revenue lost would be more as it would be computed after including additional charges of Rs.40 in each case paid as admission charges.

(In Rupees)

Sl. No.	Nature of amusement	Number of tickets sold	Charges collected per person	Total admission charges including Rs.40 at entrance	Total admission charges collected	Entertainments tax at 20 per cent
1	Boating	95,063	20	60	57,03,780	11,40,756
2	Horror Residency	4,848	30	-	1,45,440	29,088
3	Children ride I	1,990	20	-	39,800	7,960
4	Children ride II	1,990	20	-	39,800	7,960
5	All the events	55,634	49	-	27,26,066	5,45,213
	Total				86,54,886	17,30,977

After this was pointed out, it was ascertained that the assessee has been issued permit in May 2007 and has started paying tax from May 2007 and action initiated for assessment of tax by issuing notice to produce records/books of accounts for the period from May 2003 to April 2007.

- Cross verification of records in the concerned CTOs with the information provided by seven³⁶ recreation parlours/amusement parks/clubs in Bangalore on their websites revealed that these clubs/parlours were providing recreation/amusements such as pool, snooker, billiard, joy ride, micro light flying, parasailing, etc., and collecting admission charges per person ranging from Rs.60 to Rs.590 but had not obtained permits and were not paying tax. In the absence of details of admission charges collected by the proprietor, loss of revenue sustained by the Government was not ascertainable. Further, cross

³⁶ 1. The Cue Club, Jayanagar, 2. Bunty'D Billiards and Snookers, Church Street, 3. Crazy Waters, Bannerghatta Road, 4. Cyber Cue, Brigade Road, 5. Agni Aero Sports and Adventure Academy, Jakkur, 6. Kingfisher Speedzone, Whitefield, 7. G's Lane Bowling Centre, Brigade Road

verification with records of the Income Tax Department revealed that one³⁷ of these clubs was functioning since 1998-99.

The Government may consider prescribing a system for obtaining periodical information from authorities permitting shows/events such as to Police Department or any other authority to enable the CTD to build and maintain a database of all the assesses and ensure conducting of regular surveys so as to bring them under the tax net.

6.2.7.2 Leakage of revenue due to lack of database on film distributors

With a view to prevent leakage of revenue by some theatres screening non-Kannada feature films and declaring them as Kannada feature films, the KET Act was amended with effect from 1 April 2001 to make film distributors to register and furnish periodical returns containing information on films given by them for screening. The relevant Rules were framed and made effective from 7 January 2003. Accordingly, every film distributor in the State has to get himself registered with the CTD and is required to renew the registration every year. The registration/renewal fee prescribed is Rs.500. Every registered distributor has to submit monthly returns in Form XXI to the jurisdictional CTO indicating details such as name of the film, language of the film, theatres to which film is given on hire/rent/lease, duration of hire/rent/lease, mode of distribution and gross collection, etc. The return is to be submitted within ten days from the close of the month to which it relates.

Any distributor who contravenes the provisions of the Act shall, on conviction be punishable with simple imprisonment for a term which may extend to six months or with a fine which shall not be less than Rs.10,000 for the first offence and not less than Rs.15,000 for the second offence during the financial year or with both. Further, proprietors of cinema theatres are required to specify the name and address of the distributor of the film exhibited in the daily collection report furnished by them along with the weekly returns filed by them in Form IIB with the jurisdictional CTO.

It was thus necessary for the department to have a databank on film distributors which should also be constantly updated to guard against any leakage of revenue. The department, however, did not have a databank which, as discussed below, resulted in loss of revenue.

- Daily collection reports filed by 456 theatres under the jurisdiction of 46 CTOs did not contain the details of distributors. No action was taken by the concerned CTOs to get the information on record.
- Information collected from Registrar of Firms (ROF) revealed that there were 467 film distributors in the State. Scrutiny of the records of the

³⁷ Cyber Cue, Brigade Road

jurisdictional CTOs revealed that only one distributor was registered under the KET Act. No action was initiated by the CTOs to identify and get the distributors registered.

Non-registration of 466 distributors in the State, deprived the Government of revenue of Rs.9.32 lakh by way of registration fee at Rs.500 per annum per distributor for the years 2002-03 to 2005-06.

After these cases were pointed out, the Government endorsed the reply of the department which stated that a databank would be developed and regular monitoring would be done to get all the film distributors registered.

The Government may consider maintaining a databank and prescribing a system for co-ordination between ROF and CTD to ensure that all the distributors are registered and file returns.

6.2.8 Authentication of tickets

Under the KET Act, ET at the prescribed rate is payable on each payment for admission to cinematograph shows. Besides, on each payment for admission, additional tax (AT), at Re.1 in air conditioned and air cooled theatres and at 50 paise in other theatres is also leviable. However, Kannada films including remake of a film of other language which has secured censor certificate from the Central Board of Film Certification (CBFC) on or before 31 March 2002 or which had been remade after a period of 10 years from the date of issue of censor certificate by CBFC to such other language film are exempted from payment of ET. Also, remade Kannada film of any other language film which has secured a best feature film award granted by the Central Government or any State Government or has figured in the Indian Panorama section of International Film Festival is exempted from payment of tax.

Further, under the KET Rules proprietors conducting entertainment shows have to get the tickets authenticated by the CTO with the impression of official seal or perforation of the official die at least 15 days before the commencement of show by applying in form II A. Only tickets bearing the official seal of the CTO are valid for admission to the cinematograph shows conducted by the theatre.

However, the department did not have a system to ascertain the status of the film to facilitate the CTOs to ensure the admissibility of exemption while authenticating the tickets.

Cross verification of the information collected from the Department of Information and Publicity with the CBFC revealed that six remade Kannada films (originally made between April 1996 and January 2005) secured censor certificates between February 2005 and October 2006 i.e. before 10 years from the date of censor certification of their original films. These films were

exhibited between June 2005 and March 2007 by 249 theatres/touring talkies in 19³⁸ districts after getting the tickets authenticated by 46 jurisdictional CTOs. It was noticed that in these cases neither did the proprietors collect and remitt the tax due, nor the CTOs ensured collection of tax at the time of authentication of tickets. This resulted in non-realisation of revenue of Rs.3.60 crore.

After this was pointed out, the Government endorsed the reply of the department which stated that action would be taken to collect the ET due in respect of remade Kannada films.

The Government may consider prescribing a system for ascertaining the status on eligibility for exemption of the film from CBFC before authentication of tickets by CTOs in respect of remade Kannada films.

6.2.9 Arrears in assessments

Assessment in respect of taxes levied under KET Act is to be made on the basis of weekly returns filed by theatres in form II B or X-A (under composition scheme) and monthly return filed by amusement parks/recreation parlours in form XXIII. If the CTO is satisfied that any return submitted is correct and complete and that the tax under the provisions of the Act is paid in full, he shall assess the proprietor on the basis thereof.

Under the Act no time limit is prescribed for completion of assessments. No targets are also fixed by the department for disposal of cases pending for assessment.

Details of the number of cases pending for assessment at the beginning of the year, additional cases which became due for assessment and disposed of during the year and cases pending at the end of each year during 2001-02 to 2005-06 as furnished by the department were as follows:

Year	Opening balance	Additions	Disposal	Closing Balance
(1)	(2)	(3)	(4)	(5)
2001-02	73,679	52,074	61,691	64,062
2002-03	64,062	44,862	47,158	61,766
2003-04	62,632	51,010	47,197	66,445
2004-05	66,445	39,746	50,627	55,564
2005-06	55,564	36,417	25,504	66,477

The above indicates that the level of disposal during 2002-03 to 2004-05 was considerably lower than that in 2001-02. In 2005-06 it fell by as much as 50 *per cent* from the previous year's level. The result was that although the number of fresh cases dropped, the level of undisposed cases continued to

³⁸ Bangalore(Rural), Bangalore(Urban), Bidar, Chikmagalur, Chitradurga, Dakshina Kannada, Davanagere, Dharwad, Hassan, Gadag, Gulbarga, Kodagu, Koppal, Mandya, Mysore, Shimoga, Uttara Kannada, Tumkur, Udupi

remain very high. The department did not furnish the number of assessees during these years and number of returns due from them. In the absence of these details, the reasons for reduction in additional cases which became due for assessment could not be analysed. Although the closing balance of the year 2002-03 was 61,766, the opening balance for the year 2003-04 was taken as 62,632. Reasons for the difference in figures were not available on record.

The government may consider prescribing a time limit for finalisation of ET assessments and targets for each CTO for finalising the assessments.

6.2.10 Arrears of revenue

The Manual prescribes that demand, collection and balance (DCB) register is to be maintained in form G2. The tax liability admitted by the proprietors of entertainment in their weekly/monthly returns and tax liability determined by the CTOs over and above the tax liability admitted by the proprietors are to be entered in the demand column of G2 register. The collection against these demands received in cash or cheque/demand drafts are to be entered in the registers maintained in form H and form M respectively and to be remitted to the treasury through challans. With effect from 1 October 2004 the KET Rules were amended and the assesseees were required to make payment directly in specified banks and the banks were required to forward the copy of the challan marked as 'duplicate' to the concerned assessing authority(AA). After receipt of the treasury schedule and challans by the CTO, remittances made are to be reconciled and reconciled challans are to be entered in collection column of the G2 register. After deducting the collections from demand, the balance for the month has to be arrived at. No time limit has, however, been prescribed for forwarding the copy of challan to AA by banks.

The Manual further prescribes that reconciliation of remittances with treasury figures shall be completed by 15th of the subsequent month at CTOs and DCB statements shall be submitted to JCCTs on or before 30th of succeeding month to which the DCB relates.

The position of arrears from 2001-02 to 2005-06 as furnished by the department is as under:

(Rupees in crore)				
Year	Opening balance	Demand raised	Demand realised	Closing Balance
2001-02	2.87	47.74	47.47	3.14
2002-03	3.14	43.77	42.97	3.94
2003-04	3.94	44.91	45.12	3.73
2004-05	3.73	NF	NF	NF
2005-06	NF	NF	NF	NF

NF : Not furnished

Out of the total arrears as on 31 March 2004, Rs.42 lakh was stayed by Courts, Rs.8 lakh was covered by revenue recovery certificates and balance of Rs.3.23 crore was under various stages of recovery.

Year wise details of arrears of revenue as on 31.3.2004 and details of arrears of the years 2004-05 and 2005-06 have not been furnished by the department.

Scrutiny of the records of 11 CTOs of seven³⁹ divisions revealed that reconciliation of remittances made into treasury from October 2004 to March 2006 was not carried out by these offices. As a result, details of demand, collection and balance for the year 2004-05 and 2005-06 were not available with the department. The concerned CTOs stated that after the system of remittance was modified from October 2004, challans were not made available by banks in time for reconciliation and hence there were delays in reconciliation.

The Government may consider fixing a time limit for sending challans from banks to the concerned AAs to enable them to carry out timely reconciliation.

6.2.11 Internal audit

The Manual recognises the Internal Audit Wing (IAW) as an essential and indispensable part of the CTD. The objectives enjoined on it are to have a deterrent and reforming effect in the prevention of mistakes, to play a corrective role by pointing out mistakes and ensuring remedies without loss of time and to improve the quality of the functioning of the department so as to reduce the criticism of the department by statutory audit and the Public Accounts Committee. The Manual lays down the criteria for prioritisation of audit and its duration and prescribes maintenance of control registers and records such as Internal Audit Report, Internal Audit Note Book and Register of discrepancies and defects, etc. for proper monitoring of the results of audit.

IAW had a strength of 13 DCCT, 13 ACCT and 39 Inspectors and other staff during 2001-02 to 2004-05. It ceased functioning with effect from 1 April 2005. The department did not furnish the reasons for non-functioning of the IAW from 1 April 2005.

In five⁴⁰ divisions test checked, the details regarding internal audit planning, number of offices audited and control registers/record for watching the compliance to paragraphs of internal audit were not maintained in respect of ET. This indicated that the management had no means of knowing the areas of malfunctioning of systems and did not, therefore, have the opportunity of taking remedial action at the appropriate time.

Details regarding number of offices due for audit, number of offices actually audited by IAW and position of Internal Audit Reports and paragraphs issued and disposed of during the years 2001-02 to 2005-06 were not furnished by the department despite request (October 2007).

³⁹ Bangalore City Divisions – I, II, III, IV, Bangalore Division, Malnad Division, Mysore Division

⁴⁰ Bangalore City Divisions – I, II, III, IV, Bangalore Division

Thus, internal audit which is an important tool in the hands of the management of an organisation for ensuring its efficient functioning has been rendered ineffective and inoperational through lack of proper attention.

The Government may consider reviving the IAW in a more effective form to ensure timely detection and correction of errors in assessment, levy and collection of revenue.

Compliance deficiencies

6.2.12 Non-filing of returns

Under the KET Act, every proprietor conducting any entertainment shall keep a register of payments for admission in form II and submit a return in form II B giving the totals in respect of particulars prescribed in form II for all performances/ shows during the week. The return shall be accompanied by a treasury receipt in the appropriate form or a crossed cheque drawn in favour of the CTO for the full amount of ET payable on the return. If no return is submitted by the proprietor before the due date, the CTO shall, after making such enquiry as considered necessary, determine the tax due and assess the proprietor to the best of his judgement.

Also, under the KET Act, in case of cinema theatres under composition⁴¹ scheme, it shall be presumed that the proprietor of an entertainment has conducted all the shows permitted to be conducted by him unless he produces along with his return, a certificate in form X-C obtained from the prescribed local authorities.

In Bangalore (Rural) district, it was noticed in March 2007 that one theatre, under the jurisdiction of CTO (Transition), Ramanagaram, had opted for composition. The proprietor of the theatre submitted weekly returns and paid tax only up to 29 March 2001. Between 30 March 2001 and 31 December 2006, even though the theatre exhibited 8,404 cinematograph shows, no returns were filed and taxes were also not paid. The jurisdictional CTO also failed to assess the proprietor to the best of his judgement. This resulted in non-realisation of revenue ranging between Rs.2.42 lakh (show tax of Rs.25 per show for 8,404 shows of Kannada films) and Rs.42.80 lakh (non Kannada films) as detailed below:

⁴¹ In lieu of ET and AT payable in case of cinematograph shows held in cinema theatre situated within the limits of a local authority whose population does not exceed 75,000, the proprietor may, at his option and subject to such conditions, as may be prescribed, pay the amount of tax by way of composition calculated at prescribed percentage of the gross collection capacity based on the population in that area.

(Rupees in lakh)

Period	Number of shows	Composition tax per show fixed by the CTO	Show tax payable	Health cess at 15 per cent on show tax	Total tax payable per show	Total tax due
1.4.01 to 4.12.02	2,452	508	80	12	600	14.71
5.12.02 to 31.3.05	3,392	490	80	12	582	19.74
1.4.05 to 31.12.06	2,560	280	40	6	326	8.35
Total	8,404					42.80

After this was pointed out, the CTO issued a notice in July 2007 to the proprietor.

6.2.13 Non-demand of tax due on returns filed

Under the KET Rules, every proprietor providing amusement or recreation parlour shall submit monthly return in form XXIII to the jurisdictional CTO giving details of amusement or recreation, rate of admission, total number of tickets sold during the month, total collection and tax paid with the particulars of payment of tax within ten days from close of the month to which such return relates. In case of default in making payment of tax, the CTO shall after making such enquiries as he considers necessary and after giving the proprietor a reasonable opportunity of proving the correctness of the return, pass an order assessing to the best of his judgement and serve notice upon the proprietor to pay the ET due. Further, the proprietor is liable to pay interest equal to one *per cent* of the amount of tax remaining unpaid for each month for the first three months after the expiry of the time prescribed and two and a half *per cent* of such amount for each month thereafter.

It was noticed from the records of the CTO (Transition) 13, Bangalore that an amusement park⁴² in Bangalore (Rural) district had commenced its operations from 28 September 2005 and was charging rates of admission per person at Rs.480 on Saturday/ Sunday/ holiday and Rs.380 on week days and was filing the monthly returns regularly.

Audit scrutiny revealed that the tickets for admission to the amusement park were not got authenticated by the CTO and as per the returns filed by the proprietor, as of December 2006, total admission charges collected amounted to Rs.31.68 crore. On this, ET of Rs.6.34 crore was payable. However, the proprietor failed to remit ET along with the returns. No action was taken by the CTO to demand the amount. Besides interest of Rs.93.06 lakh was also leviable. This resulted in non-realisation of revenue of Rs.7.27 crore.

After this was pointed out, the CTO raised a demand of Rs.6.34 crore due on returns filed by the amusement park.

⁴² M/s. Wonderla Amusement Park

6.2.14 Conclusion

A reliable database is a pre requisite for informed decision making and for ensuring that there is no leakage of revenue on account of film distributors escaping registration or amusement parks and entertainment parlours being operated without permission. The department did not have any such database or a system for obtaining periodical information from the police or any other concerned department to avoid such leakages. In respect of remade Kannada films which were liable to tax, even though tickets were brought for authentication, the CTOs were unable to ensure collection of tax due to lack of a system for ascertaining the status of the film from CBFC. Under the Act, no time limit has been prescribed for completion and disposal of assessments which led to increase in pending assessment. The IAW which is a control of all internal controls and is a management tool for plugging leakages of revenue was ineffectual and currently inoperational. It needs to be revived in a more effective form in the interest of revenue.

6.2.15 Summary of recommendations

The Government may consider:

- prescribing a system for obtaining periodical information from authorities permitting shows/events such as to Police Department or any other authority to enable the CTD to build and maintain a database of all the assessees and ensure conducting of regular surveys so as to bring them under the tax net,
- maintaining a databank and prescribing a system for co-ordination between ROF and CTD to ensure that all the distributors are registered and file returns,
- prescribing a system for ascertaining the status on eligibility for exemption of the film from CBFC before authentication of tickets by CTOs in respect of Kannada films,
- prescribing a time limit for finalisation of ET assessments and targets for each CTO for finalising the assessments,
- fixing a time limit for sending challans from banks to the concerned AAs to enable them to carry out timely reconciliation, and
- reviving the IAW in a more effective form to ensure timely detection and correction of errors in assessment, levy and collection of revenue.

Luxury tax

6.3 Incorrect grant of deferment benefit under infrastructure policy

With a view to develop infrastructure facilities in the State and to attract private investment and participation in infrastructure development, the Government of Karnataka introduced the infrastructure policy in December 1997. The policy included development of tourism infrastructure including hotels. Under the policy, an Inter Departmental Committee (IDC) headed by the Chief Secretary is required to examine the proposals for participation of private sector investment in infrastructure involving Rs.100 crore or more and make suitable recommendations to the concerned Minister/Cabinet. The Government after receipt of the recommendations of the committee shall take a decision on giving approval to the project.

The Government in its order dated 28 April 2003 granted deferment of LT to M/s. Hotel Leela Ventures Ltd., Bangalore for three years from the date of the order under the policy. This was based on the recommendations finalised in a meeting held in January 2003 under the chairmanship of the Minister for Large and Medium Industries and attended by the heads/representatives of the Finance, Tourism and Commerce and Industries departments.

It was noticed in audit between January and April 2007, that the proposal of the hotel to establish 254 rooms with an investment of Rs.295 crore was cleared by a single window agency of the Information, Tourism and Youth Services Department on 23 August 1996. At the time of the clearance of the project, the infrastructure policy was not in existence. Also, the unit commenced its commercial operation in 2001-02 and was collecting and paying luxury tax upto March 2003. In the absence of any provision under the policy to grant incentives or concessions to existing units, tax deferment benefit granted was not in order. Tax deferment availed by the unit from 2003-04 to 2005-06 was Rs.39.67 crore.

The matter was reported to the department and the Government in May 2007; their replies have not been received (October 2007).

6.4 Non/short levy of tax

Under the Karnataka Tax on Luxuries Act, 1979 (KTL Act), tax shall be levied and collected for the luxury provided (lodging charges) in a hotel in respect of every room at the rates prescribed from time to time. Charges for lodging includes charges for air conditioning, telephone, telephone calls, television, radio, music, extra beds and the like. Also, tax is leviable at the rate of 20 *per cent* on the charges collected for luxuries provided in a hotel for residents or others such as health club, beauty parlour, swimming pool, conference hall and the like for which charges are collected separately. In

respect of marriage halls, tax is leviable at the rate of 15 *per cent* of the charges collected.

Further, under the Act, where luxury provided in a hotel or in a marriage hall to any person is not charged at all, or is charged at a concessional rate, then tax on such luxury shall be levied and collected as if full charges for such luxury were paid to the proprietor concerned.

In four districts, it was noticed between December 2006 and February 2007, that while finalising 12 assessments of seven assesseees for the years 1999-2000 to 2004-05 between July 2003 and February 2006, LT was either not levied or levied short by four assessing authorities (AAs), on a turnover of Rs.3.03 crore. This resulted in short levy of tax of Rs.16.01 lakh as detailed below:

(Rupees in lakh)					
Sl. No.	District (number of cases)	Assessment year (date of assessment)	Nature of irregularity	Turnover involved (tax leviable/levied)	Short levy
1	Bangalore (Urban) (4), Dakshina Kannada (2) Mysore (1)	1999-2000, 2001-02 to 2004-05 (between July 2003 and February 2006)	In these cases, the charges collected by hotels from letting out hall for marriages, birthday parties, conferences, etc., were either not brought to tax at 20 <i>per cent</i> as applicable or levied short at 15 <i>per cent</i> as applicable to marriage halls.	108.93 (21.79/ 15.07)	6.72
2	Bangalore (Urban) (1)	2002-03 (May 2005)	As against the turnover relating to banquet hall charges and health club charges of Rs.1.80 crore disclosed by the assessee in his returns, only Rs.1.40 crore was brought to tax in the assessment order.	39.36 (35.93/ 28.05)	7.88
3	Dharwad (4)	2000-01 to 2002-03 (June 2004)	Tax was levied on the concessional charges collected by proprietors instead of the declared tariff.	6.10 (2.20/ 0.79)	1.41
	Total (12)			154.39 (59.92/ 43.91)	16.01

The matter was reported to the department in December 2006/January 2007 and the Government in May 2007; their replies have not been received (October 2007).

6.5 Non/short levy of interest for belated payment of tax

Under the KTL Act, every dealer is required to pay the full amount of tax payable on the basis of turnover computed by him for the preceding month within 20 days of the close of that month. In the case of default beyond 10 days after that period, the assessee is liable to pay interest at the rate of two *per cent* of the tax payable for every month or part thereof during which such default is continued.

Further, in terms of Karnataka Financial Code 1958, the amount received/recovered towards the arrears of revenue/tax due to the Government shall be first adjusted towards penalty and the balance towards outstanding interest on the tax revenue. After such adjustment, the balance amount, if any, was to be adjusted towards tax/revenue.

In three⁴³ districts, eight assesseees in 11 cases delayed the payment of monthly taxes amounting to Rs.6.05 crore by 1 day to 38 months in respect of assessment years 2001-02 to 2004-05. On this, interest of Rs.51.78 lakh was leviable. The five AAs, however, either did not levy or levied short the interest due to incorrect computation of interest or incorrect adjustment of amount paid by the assesseees. Against interest of Rs.51.78 lakh leviable, interest amounting to Rs.25.06 lakh was only levied resulting in non/short levy of interest of Rs.26.72 lakh.

After the cases were pointed out, the AAs concerned issued notices in nine out of 11 cases.

The matter was reported to the department in December 2006/January 2007 and the Government in May 2007; their replies have not been received (October 2007).

Entry Tax

6.6 Non/short levy of entry tax

Under the Karnataka Tax on Entry of Goods Act, 1979 (KTEG Act), tax is leviable at the rates notified from time to time on entry of specified goods into a local area.

In four⁴⁴ districts, nine AAs finalised 13 assessments of 13 dealers between May 2004 and March 2006 for the years 1998-99 and 2000-01 to 2004-05. It was noticed in audit between January and December 2006 that entry tax totalling Rs.9.10 lakh leviable in these cases on the turnover of Rs.3.63 crore relating to petroleum products, textiles, readymade garments and machinery and their parts, was either not levied or levied short.

After the cases were pointed out between January and December 2006, the department accepted audit observations in respect of eight cases of eight dealers involving Rs.5.28 lakh. Of these, additional demands totalling Rs.2.77 lakh was raised in five cases and Rs.1.43 lakh was recovered in two

⁴³ Bangalore (Urban), Dakshina Kannada, Mysore

⁴⁴ Bangalore (Rural), Bangalore (Urban), Chikmagalur, Gulbarga

cases. Notice for the revision of assessments were issued in three cases involving Rs.2.51 lakh. In respect of the remaining cases, replies have not been received (October 2007).

The Government endorsed the reply of the department in September 2007.

6.7 Non/short levy of interest for belated payment of entry tax

6.7.1 Under the KTEG Act, every dealer is required to pay the full amount of tax payable on the basis of the turnover computed by him for the preceding month within 20 days of close of that month. In case of default beyond 10 days after that period, an assessee is liable to pay interest at the rate of two *per cent* of the tax payable for every month or part thereof during which such default continued.

In five districts, audit scrutiny between February 2006 and February 2007 revealed that 24 dealers delayed the payment of monthly/annual taxes amounting Rs.1.58 crore ranging between 10 to 58 months for the years 1999-2000 to 2004-05. However, the concerned AAs failed to levy interest of Rs.95.37 lakh as detailed below:

(Rupees in lakh)					
Sl. No.	District (number of assessees)	Period of assessment/ date of assessment	Amount of tax involved	Delay in payment of tax (in months)	Interest due
1	Bangalore (Rural) (18)	1999-2000 to 2003-04 (between May 2004 and March 2006)	92.74	15 to 58	60.92
2	Bangalore (Urban) (3)	2001-02 and 2002-03 (between May 2005 and March 2006)	11.53	34 to 36	6.97
3	Belgaum (1)	2002-03 (June 2005)	4.78	25	2.42
4	Bellary (1)	1999-2000 to 2001-02 (April 2003)	40.74	11 to 35	23.20
5	Gulbarga (1)	2004-05 (March 2006)	8.69	10	1.86
	Total (24)		158.48		95.37

After the cases were pointed out between February 2006 and February 2007, the department accepted the audit observation in 19 cases involving Rs.29.01 lakh. Of these, additional demands totalling Rs.17.06 lakh were raised in 15 cases and Rs.1.06 lakh recovered in three cases. In four other cases, notices were served on the assessees concerned. The replies in respect of the remaining cases have not been received (October 2007).

The Government endorsed the reply of the department in September 2007.

6.7.2 Under the KTEG Act, tax or any other amount due is to be paid within the prescribed time which, in the case of final assessments, is 21 days from the date of service of the demand notice. In case of default in payment, the assessee is liable to pay interest at the rate of two *per cent* per month.

In Bangalore (Urban) district, Deputy Commissioner of Commercial Taxes (DCCT) (Transition) -13 issued demand notices between May and December 2003, for entry tax of Rs.76.04 lakh to two dealers. It was noticed in May 2006 that the dealers paid the taxes between March 2004 and December 2005, after delays ranging from 23 to 30 months. However, the DCCT had not levied interest of Rs.20.98 lakh.

After this was pointed out in May 2006, the department accepted the audit observation and raised additional demands totalling Rs.20.98 lakh. The report on recovery has not been received (October 2007).

The Government endorsed the reply of the department in September 2007.

Forest Development Tax

6.8 Short levy of forest development tax

Under the Karnataka Forest Act 1963 (KF Act), forest development tax (FDT) is leviable on all forest produce disposed of by sale or otherwise at the rate of eight *per cent* on the amount of consideration. Further, on the disposal of timber to industries, FDT is to be levied at 12 *per cent* on the amount of consideration.

During the audit of the offices of three⁴⁵ Deputy Conservators of Forest (DCF) in Shimoga and Uttara Kannada districts between March and December 2005, it was noticed that in respect of sale of timber of Rs.1.90 crore during 2003-04 and 2004-05, FDT of Rs.15.19 lakh had been levied at eight *per cent*. Audit scrutiny revealed that in one case, supply had been made to an industry from the depot and in the remaining cases, the purchasers in auction sales had produced income tax exemption certificates issued by the Income Tax Department which clearly stated that the timber was to be used for manufacturing/processing/producing articles and not for trading purposes and hence FDT of Rs.22.78 lakh was to be levied at 12 *per cent*. Thus, there was short levy of FDT of Rs.7.59 lakh.

After the cases were pointed out, DCF, Sagar reported recovery of FDT of Rs.1.05 lakh in March 2005. The DCF, Yellapur and Haliyal stated that FDT was levied in accordance with the circular issued by the Chief Conservator of Forests (GL) in September 1983. The reply is not tenable as the circular issued was in contravention of the provisions of the KF Act.

⁴⁵ Haliyal, Sagar, Yellapur

The cases were reported to the Principal Chief Conservator of Forests between April 2005 and April 2006 and the Government in April 2007; their replies have not been received (October 2007).

Other Taxes and Duties on Commodities and Services

6.9 Non/short remittance of cess

Under the provisions of the Karnataka Compulsory Primary Education Act 1961 and the Karnataka Health Cess Act 1962 (as amended by the Karnataka (Enhancement of Certain Cesses) Act 1976), education cess and health cess are levied by the local authorities at the rate of 10 *per cent* and 15 *per cent* respectively on the property tax collected by them. After deducting 10 *per cent* of the cess collected towards collection charges, the balance amount is required to be paid by them into the Government account. Even though levy of education cess was dispensed with from 2003-04, some local bodies continued to levy and collect education cess.

Test check conducted in audit to verify the extent of compliance with the statutory provisions with reference to the information obtained in respect of Bangalore Development Authority, Bangalore Mahanagara Palike, eight⁴⁶ city/town municipal councils of Bangalore, six⁴⁷ city corporations and gram panchayats of 26 districts revealed that out of the total collection of Rs.174.59 crore towards education and health cess during the years 2004-05 and 2005-06 and in respect of gram panchayats during the years 2001-02 to 2004-05, the remittances due to the Government (after deducting collection charges) worked out to Rs.157.13 crore. The actual remittances during these years amounted to Rs.5.33 crore only. The non/short remittance of education and health cess amounted to Rs.151.80 crore.

The matter was referred to the Government between March and April 2007; their reply has not been received (October 2007).

⁴⁶ CMC Bommanahalli, Byatarayanapura, Dasarahalli, K.R. Puram, Mahadevapura, Rajarajeshwarinagar, Yelahanka, TMC, Kengeri

⁴⁷ Belgaum, Bellary, Hubli-Dharwad, Gulbarga, Mangalore, Mysore