

CHAPTER III
LAND REVENUE AND BUILDING TAX

3.1 Results of audit

Test check of records of the offices of the Land Revenue Department conducted during 2005-06 revealed underassessment of tax and loss of revenue amounting to Rs 16.81 crore in 63 cases which may broadly be categorised as under:

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1	Underassessment and loss under building tax	40	0.34
2	Underassessment and loss under other items	22	1.11
3	Review on Lease of land by Land Revenue Department	1	15.36
	Total	63	16.81

During 2005-06, the department accepted underassessment of Rs 69.97 lakh involved in 39 cases pointed out in audit prior to 2005-06. At the instance of audit, the department recovered an amount of Rs 9.41 lakh in 16 cases pointed out prior to 2005-06.

A few illustrative cases including a review on 'Lease of land by Land Revenue Department' involving Rs 1.40 crore are given in the following paragraphs:

3.2 Review: Lease of land by Land Revenue Department

Highlights

- In 803 cases, leases under Rules for Assignment of Land in Municipal and Corporation Area, 1995 (RALMCA) effective from 1995 have not been revised. Consequently, the periodical revisions had also become due.

(Paragraph 3.2.6.2)

- Department failed to resume land in 288 cases where lessees did not apply for fresh leases from 1995-96 to 2001-02.

(Paragraph 3.2.8)

- Additional fine of Rs 15.36 crore for continued unauthorised occupation of Government land was not imposed in 526 cases.

(Paragraph 3.2.9)

Recommendations

Government may ensure that:

- leases on Government land are revised in time and lease rent is demanded and realised promptly;
- stringent penal provisions including resumption of land are invoked on lessees violating terms and conditions of lease;
- market value of the land may be fixed by the competent authority which should be revised periodically; and
- rates of lease rent are revised periodically.

3.2.1 Introduction

Government lands not required for immediate use are let out on lease to various individuals/institutions in order to augment revenue of the State. Kerala Land Assignment Act, 1960 (KLA Act) and Rules framed thereunder such as Kerala Land Assignment Rules, 1964 (KLA Rules) and RALMCA are to regulate grant of leases of land in Kerala. RALMCA is to regulate the lease of land situated within municipal and corporation areas which are not covered under the KLA Rules.

3.2.2 Organisational set up

The KLA Act is administered by the Department of Land Revenue headed by the Commissioner of Land Revenue. He is assisted by District Collectors (DCs) in 14 revenue districts and revenue divisional officers (RDOs) in 21 revenue divisions. Tahsildars in 63 taluks are incharge of land revenue administration exercising supervision and control on village officers at the lowest level.

3.2.3 Scope of audit

Records relating to assessment, levy and collection of lease rent maintained in office of Commissioner of Land Revenue, four¹ out of 14 DCs, two² out of 21 RDOs and 22³ out of 63 taluk offices for the period from 2001-02 to 2004-05 were test checked during the period from November 2005 to March 2006.

3.2.4 Audit objectives

Review was conducted to ascertain whether:

- the system for demand and collection of lease rent on Government land was effective;
- provision of Act/Rules relating to lease of land were complied with; and
- the internal control mechanism was effective.

3.2.5 Internal control

3.2.5.1 In the administration of lease of Government lands, taluk offices and village offices play a crucial role in furnishing prevailing market value of land for fixation and revision of lease rent.

Test check of the records at village and taluk offices revealed that in the absence of any guidelines from Government/Commissioner of Land Revenue to the village officers on market value of land, the proposals for renewal of lease/revision of lease rent were defective. The DCs returned these proposals to village officers on the ground that market value of land proposed by them were inconsistent with prevailing rates in the locality and documents relied upon were not relevant to the period, revision proposals were not supported by requisite forms etc. This resulted in protracted and avoidable correspondence and consequent delay in revision of lease rent.

3.2.5.2 KLA Rules and RALMCA provide for assigning authority to maintain a register showing details of land assigned with particulars of assignee, survey number, village, taluk etc. They are also to conduct periodical inspection to ensure that no violation of any condition of assignment is made.

Test check of records of DCs and tahsildars revealed that these registers were not maintained in complete and proper form. Periodical inspections were also not conducted by the tahsildars.

¹ Ernakulam, Kollam, Thiruvananthapuram and Thrissur

² Chengannur and Fort Kochi

³ Aluva, Chengannur, Chittur, Kanayannur, Kanjirappilly, Kannur, Karthikappilly, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, Neyyattinkara, North Paravoor, Ranni, Talappally, Thiruvalla, Thiruvananthapuram, Thrissur and Vatakara

3.2.6 Non revision of lease rent

3.2.6.1 Under KLA Rules, rent on lease and licence shall be charged at rates specified by Government from time to time. Rule does not specify any time frame for revision of such rates. Government of Kerala revised the rates of rent for lease/licence in December 1985.

Test check of records of six⁴ taluks revealed that lease rent in 20 cases relating to period from 2001-02 to 2003-04 has not been revised so far in terms of rates as revised by Government in December 1985.

3.2.6.2 RALMCA (which came into effect from 13 November 1995) provide that the lessee who is holding the lease or whose lease has already expired shall apply for fresh lease within three months from the commencement of Rules and lease shall not be granted for a period exceeding three years and be renewed on application from lessee for every three years.

Test check of lease registers maintained in 19 taluk offices⁵ revealed that in 803 cases though the lessees had applied for revision of leases during the period between 1995-96 and 2004-05, the leases have not been revised as on 31 March 2005 as per details shown under:

Sl. No.	Year in which renewal of leases applied for	No. of cases	Remarks
1	1995-96	555 [*]	The revision of leases have also become due in 1998-99, 2001-02 and 2004-05
2	1998-99	1 [*]	The revision of lease became due in 2001-02 and 2004-05
3	2001-02	80 [*]	The revision of leases became due in 2004-05
4	2004-05	167 [*]	-----
TOTAL		803	

After it was pointed out, the department stated that the cases would be revised at the earliest.

3.2.6.3 Under RALMCA, leases are to be renewed every three years by the assigning authority on the basis of applications filed by the lessees. In such cases, lease rent is to be fixed at the rate of 10 *per cent* of the market

⁴ Aluva, Kanjirappilly, Kozhikode, North Paravoor, Thalappally and Thiruvalla

⁵ Aluva, Chengannur, Chittur, Kanayannur, Kannur, Karthikappally, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, North Paravoor, Talappally, Thiruvalla, Thiruvananthapuram, Thrissur and Vatakara

^{*} Taluk Offices Aluva, Chengannur, Chittur, Kanayannur, Kannur, Karthikappally, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, North Paravoor, Talappally, Thiruvalla, Thiruvananthapuram, and Thrissur

^{*} Taluk Office, Vatakara

value of the land if it is used for non commercial purpose and 20 *per cent* if it is used for commercial purposes.

Test check of records of Chengannur, Kollam and Thiruvananthapuram taluks revealed that DCs had revised leases during the period between November 2002 and November 2004. The leases pertain to the period between 13 November 1995 and March 2004. It was observed that the DCs have fixed lease rent for the entire period instead of revising the lease rent at an interval of three years on the basis of prevailing market value of land.

3.2.7 Non renewal of time expired leases

KLA Rules provide for granting Government land to individuals, institutions etc; for a certain period. After the expiry of the lease period it should be renewed.

Scrutiny of records of seven taluks⁶ revealed that in 291 cases where leases expired during the period between 1980-81 and 2003-04, no action has been taken to revise the leases.

3.2.8 Non resumption of land for contravention of terms and conditions

Under RALMCA, any assignment of land on lease shall be cancelled on contravention of any condition of lease. On failure of the lessee to apply for renewal of lease on its expiry, the land shall be resumed by Government.

Test check of records of seven taluks⁷ revealed that in 288 cases where leases of land expired during the period between 1995-96 and 2001-02, the lessees had not applied for renewal of leases. No action was taken by the department to resume the land.

Government stated in August 2006 that tahsildars had been given strict instructions to resume the land; further progress was awaited.

3.2.9 Non levy of additional fine

The Kerala Land Conservancy Act, 1957 (KLC Act) was enacted to prevent unauthorised occupation of Government lands. The KLC Act empowers the DC to impose a fine not exceeding Rs 200 for occupation of Government land by any person without permission and additional fine up to Rs 200 per day during the period of continued unauthorised occupation.

Test check of records of taluk offices Kollam and Thiruvalla revealed that in 526 cases where Government land was unauthorisedly occupied by individuals during the period between 2001-02 to 2004-05, though the fine for unauthorised occupation at the rate of Rs. 200 was levied by the competent

⁶ Kochi, Thiruvananthapuram, Mukundapuram, Talappally, North Paravoor, Thrissur, Kozhikode

⁷ Kannur, Kochi, Kollam, Mukundapuram, Muvattupuzha, North Paravoor and Thiruvananthapuram

authority additional fine at the rate of Rs. 200 per day for continued unauthorised occupation was not levied. This resulted in non levy of additional fine of Rs. 15.36 crores as shown under:

Sl. No	Name of taluk	No. of cases	Additional fine leviable (Rs. in crore)
1	Kollam	397	11.59
2	Thiruvalla	129	3.77
	Total	526	15.36

Government stated in August 2006 that concerned DCs have been directed to strictly follow imposition of additional fine in future.

3.2.10 Non revision of rate of lease rent under KLA Rules

As per the KLA Rules, rent shall be charged for lease at such rates as Government may by order specify. Government revised the rates of annual lease rent of different types of land i.e, dry land/wet land, for single and double crops and of various types of fruit bearing trees vide orders on 19 December 1985. Thereafter, the rates of lease rent had not been revised so far, though 20 years have elapsed. The Commissioner of Land Revenue had sent a proposal for revision of rates of lease rent in September 1997 but the same was pending with Government for the last eight years.

Government stated in August 2006 that steps were being taken to revise the rate of lease rent under KLA Rules.

3.2.11 Exercise of powers beyond jurisdiction

Under RALMCA, assigning authority is competent for renewal of current/time expired lease and revision of lease rent. Government is the assigning authority for assignment of lands to institutions.

Test check of records of Taluk Office, Thiruvananthapuram revealed that in the case of seven⁸ institutions, the lease rent was irregularly revised by the DC, Thiruvananthapuram in October 2004 without approval of Government which is the assigning authority in these cases.

Government stated in August 2006 that DC, Thiruvananthapuram had been directed to rectify the mistake at the earliest.

⁸ M/S All India Radio, Chamber of Municipal Chairmen, M/S Indian Airlines, M/S Lions Club, M/S Mannam Memorial National Club, M/S Ex Servicemen Co-Operative Wood Industries and Women's Club.

3.2.12 Lacuna in KLC Act

KLC Act provides fine for the offence of unauthorised occupation of Government land upto Rs.200. If the offence is continued maximum additional fine at the rate of Rs. 200 per day ie., Rs. 73,000/- per annum is leviable.

In municipal and corporation areas, demand of lease rent on time expired leases would not be legally valid if the lessees had not applied for renewal of lease. As per KLC Act, Government is to resume the land and levy fine and additional fine for the period of unauthorised occupation. This provision was not seen invoked in these cases. As such unauthorised occupants are unduly benefited as the fine leviable is less than the lease rent due. If the leasehold is large and is situated in prime locality, lease rent due may exceed several times the maximum fine. As resumption of land is seldom carried out promptly, the offenders were invariably in favour of being levied fine and additional fine.

Government stated in August 2006 that necessary steps were being taken to amend the KLC Act to enhance the rates of fine.

3.2.13 Conclusion

The provisions of KLA Act and Rules made thereunder and KLC Act are not scrupulously followed by the department. The department has failed to resume land where lessees have not applied for renewal of expired lease and continued to occupy land unauthorisedly. The rates of lease rent under KLA Act have not been revised even after a lapse of more than 20 years. Additional fine though meagre has not been invoked in cases of unauthorised occupants.

3.2.14 Acknowledgement

Audit findings as a result of review were reported to department/Government in March 2006 with a specific request to attend the meeting of Audit Review Committee on the topic so that the views of the department/Government were taken into account before finalising the review. The meeting was held on 4 August 2006 and attended by the Additional Secretary, Revenue Department, Government of Kerala and Senior Finance Officer, Commissionerate of Land Revenue. The views expressed by the members have been taken into account while finalising the review.

3.3 Non realisation of collection charges

Under the Kerala Revenue Recovery Rules, 1968 (KRR Rules), collection charges at the rate of five *per cent* of the arrears collected on behalf of any Government departments/notified institutions are to be recovered from the defaulters. Government, , however, issued a clarification in September 1999 that collection charges need not be realised in respect of requisition received from Government departments, which was not in conformity with the provisions of the rule. The clarification was subsequently cancelled by Government in August 2005.

Mention was made in para 4.2.7 of the Report of The Comptroller and Auditor General of India for the year ended 31 March 2000 and in subsequent Audit Reports on non/short realisation of collection charges due to non compliance with provisions in Rules.

Test check of records in 26 Offices[▼] between November 2004 and December 2005 revealed that while recovering arrears on behalf of various Government departments during the period from April 2002 to March 2005 tahsildars did not realise collection charge from the defaulters. This resulted in non realisation of collection charge of Rs 1.27 crore.

After this was pointed out between November 2004 and December 2005, department stated in June 2006 that collection charges were not realised in respect of requisitions received from Government departments on the basis of clarification of September 1999 and that a proposal for exempting realisation of collection charge on requisitions of Government departments from 28 September 1999 to 22 August 2005 had been submitted to Government in April 2006.

The case was reported to Government in April 2006; their reply has not been received (December 2006).

3.4 Non levy of luxury tax on residential buildings

Under the Kerala Building Tax Act, 1975 (KBT Act), luxury tax at the rate of Rs 2,000 per annum is leviable on all residential buildings having plinth area of 278.7 sq. m. or more and completed on or after 1 April 1999. The tax shall be paid in advance on or before 31 March every year.

▼ Taluk Offices: Alathur, Changanassery, Chavakkad, Devikulam, Karthikappally, Kodungalloor, Kunnathur, Mananthavady, Mavelikkara, Mukundapuram, Muvattupuzha, Nilambur, North Paravoor, Pathanapuram, Peerumedu, Perinthalmanna, Ponnani, Thirurangadi and Thodupuzha
Tahsildar (RR): Chittoor, Fort Kochi, Kanayannur, Kasargod, Kozhikode, Palakkad and Wayanad

In five Taluk Offices♦, luxury tax was not demanded on 209 residential buildings of plinth area exceeding 278.7 sq. m. and completed between June 1999 and March 2005. This resulted in non realisation of luxury tax of Rs 7.64 lakh.

After the cases were pointed out to the department between December 2004 and November 2005 and reported to Government in April 2006, they stated in June 2006 that luxury tax of Rs 5.32 lakh had been realised on 179 buildings and that action had been taken to realise the tax in remaining cases. Further reply has not been received (December 2006).

3.5 Incorrect exemption of building tax

Under the KBT Act, building tax at the rate specified in the Schedule to the Act is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeds 100 sq. m. in the case of residential buildings and 50 sq. m. in the case of other buildings. An assessee objecting to a building tax assessment can file either an appeal before the RDO or a revision application before DC. The Act does not empower the assessing authority to cancel an assessment already made. As per Government clarification in October 2003, a building in a campus of an educational institution should be assessed to tax if it is used for commercial purpose.

In Perinthalmanna Taluk, a hostel building appurtenant to a hospital complex was assessed in March 2003 to building tax of Rs 2.66 lakh. The assessee instead of filing appeal to appropriate authority made a representation to the assessing authority in March 2003 and he cancelled the assessment on the plea that the building was used for educational purposes. Incorrect grant of exemption coupled with incorrect cancellation of assessment order resulted in non levy of building tax of Rs 2.66 lakh.

After this was pointed out to the department in October 2005 and reported to Government in April 2006, the department in June 2006 and Government in July 2006 stated that the building had been reassessed in May 2006 for Rs 2.66 lakh of which Rs 0.99 lakh had been remitted in June 2006. Further report has not been received (December 2006).

3.6 Non assessment of building tax

Under the Kerala Building Tax Act and the Kerala Building Tax (Plinth Area) Rules, 1992 (KBTPA Rules) made thereunder, every village officer shall transmit to the assessing authority, within 5 days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from building application register of the local authority within whose area the buildings included in the list are situated.

Cross verification of records of Karthikapally taluk office with the records of Kayamkulam municipality revealed that 26 buildings completed between

♦ Taluk Offices: Kodungalloor, Tirur, Karunagappally, Mananthavady, Pathanapuram

October 2001 and February 2005 and assessed to house tax by municipality, escaped building tax assessment as per the Act. This resulted in non assessment of building tax of Rs 2.37 lakh calculated at prescribed rates on the basis of plinth area.

After this was pointed out to the department in December 2005 and reported to Government in April 2006, they stated in June and August 2006 that 19 buildings were assessed to tax at Rs 1.24 lakh of which Rs 0.45 lakh had been remitted, three cases were being referred to Government for exemption and assessment is pending in remaining four cases. Further reply has not been received (December 2006).