

## CHAPTER III

### LAND REVENUE AND BUILDING TAX

#### 3.1. Results of Audit

Test check of the records of the Offices of the Land Revenue Department conducted in audit during 2003-04 revealed short/non-levy of tax, etc., amounting to Rs 10.70 crore in 100 cases which may broadly be categorised as under.

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1	Short levy under building tax	57	0.37
2	Short levy under other items	42	2.69
3	Assessment and collection of building tax	1	7.64
	<b>Total</b>	<b>100</b>	<b>10.70</b>

During 2003-04, the Department accepted underassessments, etc., of Rs 71.41 lakh involved in 58 cases of which 16 cases involving Rs 11.48 lakh were pointed out in audit during 2003-04 and the rest in earlier years. During the year, the Department recovered an amount of Rs 21.80 lakh in 42 cases of which 11 cases involving Rs 1.55 lakh were pointed out during 2003-04 and the rest in earlier years.

A few illustrative cases involving Rs 9.40 crore are given in the following paragraphs.

### **3.2. Assessment and collection of building tax**

#### *Delay in enlistment and assessment of building tax*

##### **3.2.1. Failure to enlist assessable buildings**

Under the Kerala Building Tax (Plinth Area) Rules, 1992, 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. Government also directed the local authorities in November 1994 to forward a monthly statement of buildings which are assigned new door numbers and which are assessed/reassessed to property tax by such local authority to the Tahsildar of the concerned Taluk not later than the 15<sup>th</sup> of the succeeding month.

Test check of 52 Village Offices revealed that neither the monthly lists were submitted by Village Officers nor the Assessing Authorities enforced submission of these lists.

Cross verification of the records of 12 Taluk Offices<sup>♦</sup> out of 26 Taluk Offices test checked with the records of Local Authorities revealed that out of 932 buildings checked, 335 buildings assessed to house tax by Local Authorities between April 1998 and March 2003 escaped building tax assessment. This resulted in non-assessment of building tax of Rs 2.29 crore calculated at prescribed rates on the basis of plinth area.

On this being pointed out by audit, the Commissioner of Land Revenue stated in March 2004 that necessary instructions would be given for proper and timely assessment of buildings and prompt collection of building tax.

##### **3.2.2. Delay in assessment of building tax**

Under the Kerala Building Tax Act, 1975 (KBT Act) on completion of construction or major repair or improvement of a building, the owner shall furnish to the Assessing Authority a return in the prescribed form along with copy of approved plan. If any person fails to file a return, the Assessing Authority shall assess the building tax to the best of its judgment.

In 22 Taluks<sup>#</sup>, audit noticed between October 2003 and March 2004 that assessment of tax on 1,751 buildings completed between April 1998 and March 2003 were not finalised. The tax effect involved was Rs 4.13 crore. Age-wise pendency was as given below:

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<sup>♦</sup> Aluva, Chavakkad, Chengannur, Chirayinkil, Kanayannur, Kasargod, Kunnathunad, Neyyattinkara, Nedumangad, Thiruvananthapuram, Thiruvalla and Thrissur.

<sup>#</sup> Adoor, Aluva, Ambalappuzha, Chavakkad, Chengannur, Chirayinkil, Kanayannur, Kannur, Kochi, Kollam, Kothamangalam, Kottayam, Kunnathunad, Muvattupuzha, Neyyattinkara, Palakkad, Peerumedu, Perinthalmanna, Tirur, Thiruvananthapuram, Thiruvalla and Thrissur.

(In lakh of rupees)

Period of delay	Residential buildings		Other buildings		Buildings of autonomous bodies		Petrol pump		Total	
	No. of cases	Tax involved	No. of cases	Tax involved	No. of cases	Tax involved	No. of cases	Tax involved	No. of cases	Tax involved
6 to 12 months	587	59.18	74	109.98	1	0.09	4	1.45	666	170.7
1 to 2 years	515	42.10	82	38.82	4	78.17	5	1.69	606	160.78
2 to 3 years	279	32.88	40	20.21	1	0.52	10	1.60	330	55.21
3 to 4 years	125	11.26	21	10.14	1	3.31	2	1.33	149	26.04
Total	<b>1,506</b>	<b>145.42</b>	<b>217</b>	<b>179.15</b>	<b>7</b>	<b>82.09</b>	<b>21</b>	<b>6.07</b>	<b>1751</b>	<b>412.73</b> say 4.13 crore

The Commissioner stated in April 2004 that direction would be issued to all District Collectors after obtaining item wise details from the Accountant General.

### 3.2.3. Non realisation of assessed tax

Under the KBT Act, when any building tax is due in consequence of any order passed under the Act, the Assessing Authority shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable.

In Kanayannur Taluk demand notices were not issued till December 2003 on two assessments completed in July 2000 and February 2001. This resulted in non-realisation of building tax of Rs 21.31 lakh.

After this was pointed out by audit, the Assessing Authority stated in September 2004 that the assessment orders were approved during an intensive special drive, but the builders had claimed that the buildings consisted of different apartments owned by different persons which were to be assessed separately and that the assessment proceedings would be completed shortly. No reason is attributed for delay in not revising these orders.

### 3.2.4. Failure to collect assessed tax

Under the KBT (Plinth Area) Rules, the building tax assessed shall be paid to the concerned Village Officer within the time specified in the order of assessment in four equal quarterly instalments. Delay in payment of tax attracts six *per cent* interest from the date of default. Arrears of building tax can be recovered under Kerala Revenue Recovery Act, 1968 (KRR Act).

Test check of the collection registers in 30 village offices in 15 Taluks<sup>♦</sup> revealed that in 113 cases tax of Rs 69.32 lakh assessed between 1998 and 2003 remained uncollected even after 6 to 48 months from the expiry of the due date for their payment. No action was taken to report these amounts for revenue recovery.

<sup>♦</sup> Adoor, Aluva, Ambalapuzha, Chavakkad, Chengannur, Chirayinkeezh, Kannur, Kollam Perumbavoor, Nedumangad, Neyyattinkara, Palakkad, Perinthalmanna, Thiruvalla and Thrissur.

(In lakh of rupees)

Period of pendency	No. of cases	Amount
6 months to one year	47	23.09
One to two years	46	28.81
Two to three years	10	12.34
Three to four years	10	5.08
<b>Total</b>	<b>113</b>	<b>69.32</b>

### 3.2.5. Improper maintenance of records

Under the Kerala Building Tax Rules, 1974, each Assessing Authority is required to maintain a register of assessments and each Village Officer a register of persons assessed.

Test check revealed that nine Assessing Authorities<sup>♦</sup> were not maintaining the register of assessment properly and that details of collection in 51 cases assessed between April 1998 and March 2002 involving Rs 31.89 lakh were not entered in the register even after lapse of one to four years after assessment. However, no action was taken to ascertain whether the Village Officers had collected these amounts or not.

### 3.2.6. Internal control system

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They also help in prevention of loss of revenue and in the creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of duties. Internal audit is expected to provide an assurance regarding the adequacy and effectiveness of internal controls.

As regards building tax, the internal control mechanism should ensure that all buildings liable to tax are assessed in time, demands raised and collection effected. There should also be a time limit for the disposal of appeal and realisation of collected tax. The test check of records revealed that the Department did not have proper control over listing of assessable buildings, monitoring of assessment and collection of tax.

All these points were communicated to the Department and Government in May 2004; their final replies have not been received (December 2004).

## 3.3. Non/Short realisation of collection charges

Under the Kerala Revenue Recovery Rules, 1968, collection charges at the rate of five *per cent* of the arrears collected by the Government on behalf of any institution notified under KRR Act, had to be realised from the institutions

<sup>♦</sup> Tahsildars: Ambalapuzha, Chavakkad, Changanassery, Kanayannur, Kunnathunad, Neyyattinkara, Palakkad, Perinthalmanna and Thiruvananthapuram

up to 7 July 1997. Thereafter, the charges are recoverable direct from all the defaulters including defaulters of Government revenue.

Verification of records in 16 Taluk Offices<sup>▼</sup> between October 2002 and October 2003 revealed that, while recovering arrears on behalf of various Government departments/notified institutions during the period from April 2000 to March 2003, the Tahsildars did not realise the collection charge or realised it short from the defaulters. This resulted in short/non-realisation of collection charges of Rs 1.59 crore.

After this was pointed out between October 2002 and October 2003, the Department stated that collection charges were not realised in respect of requisition received from Government departments on the basis of a Government letter in September 1999 which laid down that collection charges need not be collected in such cases. Reply is not tenable as the rule specifically provides for realisation of collection charges from defaulters on recovery of dues. The Commissioner agreed to examine this. Further reply has not been received (December 2004).

This was reported to Government in April 2004. Government also endorsed the views of the Department which is against the existing rules.

### **3.4. Non-levy of luxury tax on residential buildings**

Under the KBT Act, luxury tax at Rs 2,000 *per annum* is leviable on every residential building having a plinth area of 278.7 m<sup>2</sup> or more and completed on or after 1 April 1999. It is payable in advance on or before the 31 March every year. Tahsildars entrusted with assessment of building tax are the Assessing Authority for luxury tax also.

In 13 Taluk offices\* Assessing Authorities who assessed building tax between May 1999 and August 2003, failed to assess luxury tax on 257 residential buildings of plinth area exceeding 278.7 m<sup>2</sup> and completed between April 1999 and March 2003. This resulted in non-realisation of luxury tax of Rs 14.20 lakh.

After this was pointed out in audit to the department between December 2002 and December 2003, the department accepted the non realisation and stated between September 2003 and June 2004 that Rs 1.66 lakh had been realised in 41 cases in six Taluks. Further reply had not been received (December 2004).

This was reported to Government in April 2004. Their reply has not been received (December 2004).

▼ Taluk Offices: Changanassery, Devikulam, Kanjirappally, Kochi, Kunnathunad, Mananthavady, Meenachil, Pathanapuram, Perinthalmanna, Tirurangadi and Vaikom  
Tahsildar (RR): Aluva, Ambalappuzha, Chittur, Meenachil and Thiruvananthapuram

\* Changanassery, Chittur, Kochi, Koyilandi, Kunnathunad, Kuttanad, Mavelikkara, Neyyantinkara, Pathanapuram, Perinthalmanna, Thalassery, Thiruvananthapuram and Vadakara.

### **3.5. Under-assessment of building tax**

Under the KBT Act, if plinth area of a building completed after 10 February 1992 is increased subsequently by new extension, major repair or improvement, building tax shall be computed on total plinth area of the building including the addition and credit shall be given to the tax already levied and collected before the addition.

In Taluk offices, Changanassery and Mavelikkara while finalising assessment of tax on extension of two buildings completed after 10 February 1992, the Assessing Authorities assessed the building tax for the extended portion alone instead of computing tax for the plinth area of the entire building including the addition and giving credit to tax already collected. This resulted in underassessment of building tax of Rs 2.93 lakh.

After this was pointed out to the Department in July and November 2003, the Department stated in August 2004 that Rs 0.50 lakh had been collected in one case in Changanassery. Final reply in the remaining case has not been received (December 2004).

This was reported to Government in April 2004. Government stated in October 2004 that the building in Mavelikkara Taluk was also reassessed and that Rs 1.22 lakh out of additional demand of Rs 2.43 lakh had been realised. Further reply had not been received (December 2004).