

## CHAPTER V : OTHER TAX RECEIPTS

### 5.1 Results of audit

Test check of records relating to stamp duty, registration fee, entertainment duty, assessment and collection of land revenue during the year 2005-06 revealed non assessment/underassessment of revenue and non raising of demand amounting to Rs.406.02 crore in 1,46,137 cases which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
<b>A: STAMP DUTY &amp; REGISTRATION FEES</b>			
1.	Loss in instruments executed in favour of societies.	56	1.16
2.	Inordinate delay in finalisation of cases.	4,375	14.18
3.	Short realisation of stamp duty and registration fees due to under valuation of properties.	1,750	1.76
4.	Incorrect exemption from payment of stamp duty and registration fees.	1,483	1.03
5.	Loss due to misclassification of documents.	122	1.66
6.	Others.	2,316	2.87
	<b>Total</b>	<b>10,102</b>	<b>22.66</b>

<b>B: ENTERTAINMENT DUTY</b>			
1.	Non recovery of entertainment duty.	228	0.86
2.	Evasion of entertainment duty due to non accountal of tickets	156	0.03
3.	Non /Short deposit of entertainment duty by the proprietors of VCR's and VCP's	528	0.16
4.	Incorrect exemption from payment of entertainment duty.	34	0.02
5	Others	150	0.29
	<b>Total</b>	<b>1,096</b>	<b>1.36</b>
<b>C: LAND REVENUE</b>			
1.	Non registration of revenue recovery certificates.	5,838	66.48
2.	Non-realisation of process expenses	5,057	27.32
3.	Non raising of demands of diversion rent premium and fine/penalty	22,081	7.17
4.	Loss of revenue due to non disposal of attached properties.	60	0.25
5	Non-levy of <i>panchayat</i> cess	628	0.87
6	Others	1,01,275	279.91
	<b>Total</b>	<b>1,34,939</b>	<b>382.00</b>
	<b>Grand Total</b>	<b>1,46,137</b>	<b>406.02</b>

During the year 2005-06, the Department accepted underassessment of tax of Rs.340.55 crore involving 1,02,525 cases of which 1,01,622 cases involving Rs.339.17 crore was pointed out in audit during 2005-06 and rest in earlier years. An amount of Rs.0.77 crore had been recovered in 664 cases.

A few illustrative cases involving Rs.7.58 crore are mentioned in this chapter.

## A- STAMP DUTY AND REGISTRATION FEE

### 5.2 Non realisation of revenue on instruments executed by/in favour of co-operative housing societies

As per Government notification of 24 October 1980, instruments executed in favour of primary co-operative housing societies (societies) for acquisition of land for housing purpose are exempted from payment of stamp duty. Department directed in August 2001 to review all such cases where the societies were granted exemption from payment of duty on conveyance deeds and later on the land was used for a purpose other than housing for its members. In all such cases, stamp duty and registration fees which were exempted at the time of purchase of such land were to be recovered.

Test check of records of five sub registrar offices<sup>1</sup> (SRs) between June 2004 and December 2005 revealed non realisation of revenue of Rs.79.36 lakh in 68 instruments executed by or in favour of societies as under

**5.2.1** In four instruments<sup>2</sup> valued at Rs.64.12 lakh, there was no mention of purchase of land for housing purpose. However, exemption from payment of stamp duty and registration fee of Rs.7.19 lakh was given, treating the purpose as housing.

**5.2.2** Land valued at Rs.6.62 crore purchased between July 1982 and March 2004 for housing purposes through 64 instruments was not utilised for housing purpose of the members of the societies and was subsequently disposed off between April 2003 and March 2005 to persons other than members of societies/ builders/individuals. Exemption of stamp duty and registration fee of Rs.72.17 lakh granted at the time of purchase therefore, became recoverable. However, action to recover the amount was not taken.

The matter was reported to the Inspector General Registration (IGR) and Government between September 2005 and April 2006. IGR intimated in January and July 2006 that 10 cases were decided and disposal of 58 cases was in progress. Final reply about recovery and disposal of cases is awaited (January 2007).

### 5.3 Non reimbursement of stamp duty and registration fee

According to the Government notification dated 1 September 1989, stamp duty and registration fee leviable on lease/sale deeds, executed to acquire land in favour of member of a family displaced on account of Narmada Valley development projects (NVDP) is to be reimbursed by the Narmada Valley Development Authority (NVDA) within one month from the date of registration of documents.

<sup>1</sup> Bhopal, Gwalior, Indore, Jabalpur, Ujjain

<sup>2</sup> Three instruments in Jabalpur and one in Indore

Test check of records in seven SR offices<sup>3</sup> between March and December 2005 revealed that 190 sale deeds were executed in favour of persons displaced on account of NVDP during April 2002 to March 2005. However, stamp duty and registration fee of Rs.46.97 lakh though reimbursable to Government was not reimbursed by NVDA. No demand was raised by sub registrars to NVDA. This resulted in non realisation of Government dues to that extent.

After this was pointed out, IGR intimated between January and July 2006 that an amount of Rs.37.33 lakh had been reimbursed in 149 cases. Final reply is awaited in remaining cases (January 2007).

The matter was reported to the Government between November 2005 and April 2006; their reply had not been received (January 2007).

#### **5.4 Short levy of stamp duty and registration fee due to undervaluation/incorrect application of rates**

The Indian Stamp Act, 1899 and rules made thereunder require market value of property to be specified in any deed of transfer of properties for determining stamp duty and registration fee leviable. The instruments are liable to stamp duty at rates prescribed in the Act on the basis of nature and value of properties of each instrument. The SR is responsible for referring the cases, having less market value than that arrived at under market value guideline rules, to the Collector before registering the documents.

Test check of records of three SR offices<sup>4</sup> revealed between April and October 2005 that in ten documents of sale/gift deeds registered between May 2003 and March 2005, either the market value of the property was undervalued or lower rate of duty<sup>5</sup> were applied treating the gift as co-ownership deed. The SR did not refer the cases to Collector for determination of market value of properties and duty leviable. The undervaluation of properties and incorrect application of rates resulted in short levy of stamp duty and registration fee of Rs.5.41 lakh..

After this was pointed out, the IGR intimated in July 2006 that six cases had been disposed off and Rs.0.78 lakh recovered in two cases while the action in four cases was still in progress.

The matter was reported to the Government between November 2005 and February 2006; final reply had not been received (January 2007).

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<sup>3</sup> Alirajpur (Jhabua), Bhikangaon (Khargone), Guna, Hoshangabad, Indore, Khandwa and Ujjain

<sup>4</sup> Bhopal, Jabalpur, Seoni Malwa (Hoshangabad)

<sup>5</sup> Co-ownership deed- one percent  
Gift/sale deed - eight per cent  
(one percent less on share of female transferee)

## B- ENTERTAINMENT DUTY

### 5.5 Non levy of entertainment duty on cinema houses

Madhya Pradesh Entertainments Duty and Advertisements (MPEDA) Tax Act, 1936 provides that no entertainment duty shall be levied on prescribed amount<sup>6</sup> collected by proprietor from spectators provided that adequate facilities are provided to spectators in cinema hall. The details of these facilities were required to be presented by the proprietor of cinema hall to respective collectors. Collector, if not satisfied with the facilities provided, could order for recovery of the entertainment duty earlier exempted.

Test check of records of four districts excise offices<sup>7</sup> revealed between June 2005 and March 2006 that 15 proprietors of cinema houses collected Rs.38.69 lakh between April 2002 and January 2006 on sale of tickets<sup>8</sup> for providing facilities to spectators in the cinema hall. Neither details of facilities provided in cinema halls were submitted by proprietors to collectors nor were these called for by the collectors. Thus, entertainment duty of Rs.11.49 lakh though leviable on Rs.38.69 lakh was not levied.

After this was pointed out, district excise officers (DEOs) stated between June 2005 and March 2006 that necessary action would be taken after due verification, further report has not been received (January 2007).

The matter was reported to the Excise Commissioner and Government between August 2005 and April 2006; their reply had not been received (January 2007).

### 5.6 Non recovery of entertainment duty from cable operators

MPEDA Tax Act and Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999 provide that every proprietor of cable television network and hotel or lodging house providing entertainment through cable service shall pay entertainment duty at prescribed rates.

Test-check of records of seven district excise offices<sup>9</sup> revealed between February 2005 and March 2006 that entertainment duty of Rs.14.95 lakh from 222 cable operators and eight proprietors of hotels or lodging houses providing entertainment through cable service during April 2001 to January 2006 was not recovered by the department. This resulted in non realisation of duty of Rs.14.95 lakh.

<sup>6</sup> Rs. 2 per ticket with effect from 1 May 2003, prior it was Re.1 per ticket.

<sup>7</sup> Dhar, Ratlam, Sagar, Vidisha

<sup>8</sup> April 2002 to April 2003 at the rate Re.1 per ticket on sale of 220246 tickets and May 2003 to January 2006 at the rate of Rs.2 per ticket on sale of 18,24,209 tickets.

<sup>9</sup> Betul, Burhanpur, Damoh, Dewas, Dhar, Ratlam and Sagar

After this was pointed out the DEO Betul and Assistant Commissioner Excise (ACE) Sagar stated between June and October 2005 that audit would be intimated about recovery after investigation. Whereas remaining DEOs stated between February 2005 and March 2006 that audit would be intimated after recovery of dues. Further report in the matter had not been received (January 2007).

The matter was reported to the Excise Commissioner and Government between April 2005 and March 2006; their reply had not been received (January 2007).

### **5.7 Non levy/recovery of advertisement tax**

MPEDA Tax Act, provides that every proprietor of an entertainment shall pay advertisement tax on every advertisement exhibited at an entertainment at a rate not exceeding Rs.50 per month.

Test check of records of five district excise offices<sup>10</sup> revealed between July 2005 and March 2006 that advertisement tax for the period from April 2002 to January 2006 was neither paid nor recovered from 403 cable operators and five video operators. This resulted in non levy/realisation of advertisement tax of Rs.5.60 lakh.

After this was pointed out, the DEO Dhar stated in March 2006 that necessary action would be taken, excise officer Rajgarh stated in November 2005 that advertisement tax was payable only when advertisements were exhibited on cinema screen, excise officer Ujjain stated in August 2005 that there was no provision about recovery of advertisement tax in M.P. Cable Rules, 1999, whereas the excise officer Sehore and Shivpuri stated in July 2005 that appropriate action would be taken after receiving instructions from higher authorities. The replies are not tenable as advertisement tax is not regulated under M.P. Cable Rules 1999. Provisions for levy of tax on every advertisement exhibited on cinema screen or any other place are already contained in the MPEDA Tax Act. Further reply was awaited (January 2007).

The matter was reported to the Excise Commissioner and the Government in April 2006; their reply had not been received (January 2007).

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<sup>10</sup> *Dhar, Rajgarh, Sehore, Shivpuri and Ujjain*

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## C - LAND REVENUE

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### **5.8 Loss of revenue due to application of incorrect rate of premium and ground rent of land**

Under the provisions of revenue book of circular (RBC), Government land can be disposed of in different ways including by grant of lease. The application for allotment of land should be submitted to Government through collector of the respective district. The collector on receipt of application will assess premium and ground rent of the land in accordance with the provisions of RBC at standard rates fixed by Government from time to time and forward it to Government.

Government land measuring 8,000 sq. feet was allotted to *Akshya Heart Hospital*, Bhopal in July 2002. Test check of records revealed that as per existing standard rates approved by Government, premium of land and annual ground rent worked out to be Rs.83.64 lakh and Rs.6.27 lakh respectively. However, it was incorrectly assessed by Collectorate and allotted on premium of Rs.24 lakh and ground rent of Rs.0.60 lakh. This resulted in loss of revenue of Rs.59.64 lakh of premium and annual ground rent of Rs.5.67 lakh.

After this was pointed out, Government stated in November 2006 that instructions for review of the case would be issued.

### **5.9 Loss of revenue due to reduction in the amount of premium and ground rent without assigning any reason.**

Test check of records of Collectorate Bhopal and Nazul Officer Capital Project Bhopal between September 2005 and January 2006 revealed that Government reduced amount of premium and annual ground rent without assigning any reason against proposal of the collector. This resulted in loss of revenue of Rs. 66.26 lakh on account of premium and recurring annual loss of Rs.3.31 lakh of ground rent in two cases as detailed below:

- Government allotted land in January 2002 to a housing co-operative society of Bhopal, Collectorate assessed premium at Rs.78.41 lakh and ground rent of Rs. 3.92 lakh in accordance with the standard rates. Government, however, reduced premium to Rs.36.15 lakh and annual ground rent to Rs.1.81 lakh without assigning any reason for the same.
- In another case of Nazul Officer Capital Project, Bhopal, Government land measuring 6,000 sq. feet was allotted to trust without any premium and rent of Re.1 only per annum. No reason for grant of land without premium and at reduced ground rent was assigned. This resulted in loss of revenue of Rs.25.20 lakh in the shape of premium of Rs.24 lakh and annual ground rent of Rs.1.20 lakh.

After this was pointed out, Government stated in November 2006 that instructions for review of the cases would be issued.

### **5.10 Non execution and registration of lease deed**

As per provisions of para 28 of RBC, lessee is required to execute and register lease deed in respect of land allotted to him within the reasonable time. The lease documents are liable for stamp duty and registration fee under Indian Stamp Act, 1899 and Registration Act, 1908 respectively.

Test check of records between September 2005 and March 2006 of three *Nazul* officers<sup>11</sup> revealed that lease deeds valued at Rs. 843.89 lakh executed in favour of five lessees between January 2002 and June 2005, were not registered. This resulted in non realisation of revenue of Rs.70.89 lakh of stamp duty and Rs.50.63 lakh of Registration fee.

After this was pointed out, Government replied in November 2006 that instructions would be issued for reviewing the cases.

### **5.11 Non levy of stamp duty on partition/Gift document of building on Nazul land**

Indian Stamp Act, 1899 provides that any instrument where co-owners of a property divide or agree to divide property or orders for, effecting partition, release or gift of the property are passed by revenue authority, such instruments are liable for registration and stamp duty.

Test check of records of four Collectorates<sup>12</sup> between September 2005 and January 2006 revealed in five cases that orders for partition, gift, release of buildings on *nazul*<sup>13</sup> land and mutation were passed by revenue authorities between February 2002 to November 2005 but no stamp duty and registration fee were levied. This resulted in loss of stamp duty of Rs.29.86 lakh and registration fee of Rs.1.25 lakh.

After this was pointed out, Government stated in November 2006 that cases would be reviewed and action would be taken accordingly.

### **5.12 Non renewal of leases of *nazul* plots**

As per instruction dated January 2000 issued under Madhya Pradesh Land Revenue (MPLR) Code 1959, land under the occupation of *pattadars* is required to be renewed after expiry of lease period. For this, *Pattadars* are required to be informed well in advance and steps for renewal of leases are required to be started. The revised assessment is applicable from the financial year following the year in which the assessment is made.

<sup>11</sup> Bhopal, Neemuch and Rewa

<sup>12</sup> Bhopal, Hoshangabad, Katni and Rewa

<sup>13</sup> *Nazul land is that land which is the property of Government*

Test check of records in nine *nazul* offices<sup>14</sup> between September 2005 and January 2006 revealed that 19,851 leases granted between 1951-52 to 1974-75 were due for renewal between 1981-82 to 2004-05 after expiry of period of 30 years. But no steps were taken by the department for renewal of leases after expiry of the period of lease. This resulted in loss of revenue of Rs.3.08 crore for the period 2001-02 to 2005-06.

After this was pointed out Government stated in November 2006 that, instructions would be issued for reviewing the cases.

### **5.13 Short assessment of diversion rent and premium.**

MPLR Code, provides that where land is diverted for any purpose other than the purpose for which it was previously assessed, than land revenue shall be payable at the rates applicable to the purpose for which it has been diverted. The rates of diversion rent and premium are periodically revised by Government.

Test-check of records of Collector (Diversion) Indore revealed in November 2005 that agricultural land measuring 10,63,626 square feet of village Limbodi was diverted for residential purposes in May 2005. However, diversion rent was assessed incorrectly at Rs1.48 lakh at agriculture rates instead of Rs.14.78 lakh applicable for residential purposes. Similarly in nine cases 24,99,938 square metre land situated in the villages within four Kms. from Nagar Nigam Border, was diverted for commercial/residential purposes in September 2002 and October 2003. However, premium was incorrectly assessed at Rs.22.67 lakh at agriculture rate instead of Rs.35.73 lakh applicable for commercial/residential purposes.. This resulted in short realisation of premium of Rs.13.06 lakh.

After this was pointed out the sub divisional officer issued revised assessment order in case of diversion while with regard to premium he stated that the action would be taken after scrutiny of cases.

The matter was reported to the Commissioner Settlement and Land Record and Government between December 2005 and January 2006; their reply had not been received (January 2007)

### **5.14 Non raising of demand of diversion rent, premium and fines**

According to RBC, the sub-divisional officer (Revenue) shall intimate to the tahsildar concerned, the demand for re-assessed rent on diverted land used for purposes other than agriculture to incorporate the change in the tahsil record. Further, demand of premium, diversion rent and fine imposed under the penal provisions of MPLR Code and RBC is also to be noted in the demand and collection register (DCR) of the concerned tahsil.

<sup>14</sup> Bhopal, (C.P.), Bhopal, Balaghat, Gwalior, Indore, Itarsi (Hoshangabad), Jabalpur, Mandla and Rewa

Test-check of records of three tahsils<sup>15</sup> revealed in May 2005 that diversion rent, premium and fine Rs.18.54 lakh in respect of 454 cases of 38 villages for the period from 2002-03 to 2003-04 were not noted in DCRs of concerned tahsils. No demand was raised for the same. This resulted in non realisation of revenue of Rs.18.54 lakh.

After this was pointed out, the concerned tahsildars stated in May 2005 that action to raise the demand would be taken.

The matter was reported to Government/department between June 2005 and May 2006; their reply had not been received (January 2007).

### **5.15 Non levy/recovery of process expenses**

Under the provisions of Madhya Pradesh *Lokdhan Adhiniyam*, process expenses of three *percent* of the principal amount due from the defaulters, shall be included in the demand to be raised against RRC.

Test-check of records of six tahsils<sup>16</sup> revealed between April 2005 and June 2005 that process expenses of Rs.15.42 lakh recoverable on the principal amount of Rs.5.14 crore recovered against RRCs during the period from April 2001 to March 2005 was neither included in demand by recovery officers nor deposited by defaulters. This resulted in non levy/realisation of Rs.15.42 lakh.

After this was pointed out, Tahsildar Gyaraspur (Vidisha) stated June 2005 that revised demand notice, would be issued while remaining tahsildars stated between April 2005 and June 2005 that information from banks would be called for to ascertain exact amount of principal amount collected and action would be taken accordingly.

The matter was reported to the Government/department between June 2005 and April 2006; their reply had not been received (January 2007).

### **5.16 Non recovery of collection charges**

According to *Panchayat Raj Adhiniyam*, 1993 and instructions (June 1999) issued thereunder, the amount collected by Government on account of land revenue, cess, fees and other taxes shall be credited to '*Panchayat Raj Nidhi*' after deducting 10 per cent of the amount collected as collection charges.

Test-check of records of five tahsils<sup>17</sup> revealed between April 2005 and October 2005 that revenue of Rs.83.26 lakh collected during the period from October 2000 to September 2005 was credited by tahsildars to

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<sup>15</sup> *Bhikangaon (Khargone), Dabra (Gwalior) and Shivpuri*

<sup>16</sup> *Banda (Sagar), Dabra (Gwalior), Datia, Deosar (Sidhi), Gyaraspur (Vidisha) and Pandurna (Chhindwara)*

<sup>17</sup> *Bhikhangaon (Khargone), Datia, Pali (Umaria), Pandurna (Chhindwara) and Ratlam*

*Panchayat Raj Nidhi* without deducting collection charges of Rs.8.33 lakh. This resulted in non recovery of Government revenue to that extent.

After this was pointed out, the concerned tahsildars stated between April 2005 and October 2005 that action for adjustment of the amount deposited in *Panchayat Raj Nidhi* would be taken.

The matter was reported to Government/department between June 2005 and May 2006; their reply had not been received (January 2007).

### **5.17 Non registration of revenue recovery certificates**

MPLR Code and Madhya Pradesh *Lokdhan (Shodhya Rashiyon ki Vasuli)* Adhinyam and Rules made thereunder provide that the recovery officer shall register a case on receipt of revenue recovery certificate (RRC) in revenue case register called diara register. Before entering the details, it is to be ascertained that the cases are complete in all respect. Thereafter he shall start the recovery proceedings and issue a notice of demand within 15 days of registration of case to the defaulter.

Test check of records of six tahsils<sup>18</sup> between January 2005 and October 2005 revealed that 860 RRCs involving recovery of Rs.2.94 crore received during the period 2001-2002 to 2004-2005 were lying unregistered even after a lapse of seven to 55 months. Subsequently, revenue recovery proceedings could not be started. This resulted in non-realisation of revenue of Rs.2.94 crore.

After this was pointed out between January 2005 and October 2005, all the tahsildars stated that the action for recovery would be taken after registration of RRC cases.

The matter was reported to the Commissioner Land Records and Government between May 2005 and November 2005; their reply had not been received (January 2007).

<sup>18</sup> *Bhanpura (Mandsaur), Burhanpur, Mehgaon (Bhind), Nepanagar (Burhanpur), Piparia (Hoshangabad) and Sailana (Ratlam).*