

## CHAPTER IV : LAND REVENUE

### 4.1 Results of audit

Test check of records of land revenue conducted during the year 2004-05 revealed underassessment, short levy, loss of revenue *etc.*, amounting to Rs 241.13 crore in 332 cases which broadly fall under the following categories:

| Sl. No. | Category  | No. of cases | Amount (in crore of rupees) |
|---------|---|--------------|-----------------------------|
| 1.      | Non /short /incorrect levy of NAA, ZP/VP cess, conversion tax and royalty | 221          | 27.86                       |
| 2.      | Non/short /incorrect levy of increase of land revenue                     | 22           | 4.56                        |
| 3.      | Non/short levy of occupancy price <i>etc.</i>                             | 62           | 5.61                        |
| 4.      | Short levy of measurement fees, sanad fees <i>etc.</i>                    | 26           | 0.84                        |
| 5.      | Review on " <b>Allotment and utilisation of Government land</b> "         | 1            | 202.26                      |
|         | <b>Total</b>  | <b>332</b>   | <b>241.13</b>               |

During the course of the year 2004-05, the Department accepted underassessments, short levy *etc.*, of Rs 3.52 crore in 299 cases which had been pointed out in earlier years and recovered the same.

A few illustrative cases involving financial effect of Rs 0.18 crore and a review, "**Allotment and utilisation of Government land**" involving financial effect of Rs 202.26 crore are given in the following paragraphs:

#### **4.2 Short levy of land revenue**

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the use of land. Non agricultural assessment (NAA) remains in force during the guarantee period mentioned in the assessment order. After the expiry of guarantee period, the assessment is to be revised in accordance with new rates notified in the official gazette, subject to the condition that the rates do not exceed two/six times the old NAA for residential and other non-agricultural purposes respectively. The rates of NAA were revised in September 2001 by the Government with retrospective effect from 1 August 2001.

Scrutiny of records in July 2004 in Basmath tahsil revealed that in 37 cases land admeasuring 4,61,414 sq. mtrs. was being used for non agricultural purpose. The tahsildar continued recovery at pre-revised rates which resulted in short levy of NAA amounting to Rs 9.47 lakh for the period from 1 August 2001 to 31 July 2004.

After this was pointed out in July 2004, the Department accepted the short levy in December 2004. However, action taken to recover the amount has not been received (December 2005).

The matter was reported to Government in April 2005; their reply has not been received (December 2005).

#### **4.3 Non levy of non agricultural assessment and increase of land revenue.**

As per the Maharashtra Land Revenue Code, 1966 read with GR dated 19 December 1988, NAA at prescribed rates shall be leviable from the date of the use of land for that purpose or from the date after six months of the date of acquisition which ever is earlier in respect of land allotted to corporations or bodies for non agricultural purposes. Further, increase of land revenue (ILR) under the Maharashtra ILR and Special Assessment Act, 1974 is also payable at 100 *per cent* of land revenue in case land holding is 12 hectares or more.

In AUSA tahsil (district Latur), it was noticed that Maharashtra State Electricity Board held land admeasuring 31,258 sq. mtrs. for non agricultural purpose. The tahsildar had neither assessed nor levied NAA and ILR. This resulted in non levy/recovery of NAA and ILR amounting to Rs 9.02 lakh for the period from 1 August 2002 to 31 July 2004.

After this was pointed out in November 2004, the Department accepted the omission. Details of recovery have not been received (December 2005).

The matter was reported to Government in April 2005; their reply has not been received (December 2005).

## **4.4 Review on "Allotment and utilisation of Government land"**

### **4.4.1 Highlights**

Incorrect grant of land at concessional rates resulted in loss of revenue in the form of lease rent/occupancy price of Rs 53.18 crore in three cases.

*(Paragraph 4.4.8)*

Land admeasuring 39,912.96 sq. mtrs. having market value of Rs 7.69 crore in nine cases was not used for the purpose for which it was granted.

*(Paragraph 4.4.9)*

Sale/transfer of Government land admeasuring 78,89,508.39 sq. mtrs without obtaining the permission of Government resulted in non/short levy of unearned income of Rs 133.16 crore.

*(Paragraph 4.4.10)*

Penal occupancy price of Rs 1.22 crore was not/short levied in respect of land admeasuring 2,621 sq. mtrs. in two collectorates.

*(Paragraph 4.4.11)*

In two collectorates transfer/licence fee for permitting sale/transfer/sub letting premises built on Government land amounting to Rs 37 lakh was not levied in four cases.

*(Paragraph 4.4.13)*

In Mumbai, a landholder did not surrender 10 *per cent* of the tenements built on the land granted under ULC Act resulting in unintended benefit of Rs 13.69 crore.

*(Paragraph 4.4.14)*

### **4.4.2 Recommendations**

Government may consider the following steps to improve the effectiveness of the system in vogue for allotment of lands,

- adopt ready reckoner for valuation of land,
- introduce a mechanism to track changes in the allottees,
- ensure that registers regarding allotment of Government lands are maintained in prescribed formats and
- introduce a Control Register for each collectorate to ensure recovery of Government dues promptly.

### **4.4.3 Introductory**

Under the Maharashtra Land Revenue Code (MLR Code), 1966, Government is entitled to allot any land vested in it on such terms and conditions, as it deems fit. The allotment of land includes revenue free allotment, allotment on payment of occupancy price also called market value, allotment on lease hold

rights and allotment of land acquired by Government under Land Acquisition Act, 1894. Besides, under Section 23 of the Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act), State Government can allot land acquired by it under Section 10 of the ULC Act.

#### ***4.4.4 Organisational set up***

The monitoring and control of allotment of Government land at Government level is done by Principal Secretary, Revenue & Forests Department, Government of Maharashtra, Mumbai. The superintendence of the allotment of land is vested with 35 collectors in the State. They are assisted by sub divisional officers and tahsildars in their respective districts. However, in respect of nine<sup>1</sup> Urban Agglomerates (U As) declared by the Government of India under ULC Act, 1976, the Additional/Deputy Collector and competent authority (Urban Land Ceiling) under the Urban Development Department perform the function of allotment of land.

#### ***4.4.5 Audit objectives***

Test check of the records of allotment of land by Government was conducted with a view to ascertain:

- whether revenue from allotment of land is collected in accordance with the applicable rules and codal provisions,
- whether in cases where allotment of land was made at concessional/nominal rate, the allottees continue to deserve such concession/nominal rate,
- the effectiveness of the administrative machinery to ensure compliance of rules.

#### ***4.4.6 Audit methodology***

In 15<sup>2</sup> out of 35 districts of the State, 338 allotment orders collected from Mantralaya out of 969 issued during the period from 1999-2000 to 2003-04 were selected for detailed scrutiny at the collectorates between November 2004 and April 2005.

#### ***4.4.7 Trend of revenue***

As per the Maharashtra Budget Manual, budget estimates should be prepared as close an approximation to the actuals as possible, in consultation with the Accountant General wherever necessary, based on existing rates of occupancy price, lease rent etc., and receipts of previous years after considering any extra revenue that may be realised in the ensuing year. The budget estimates and revenue realised by the Department during the years 1999-2000 to 2003-04 were as under:

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<sup>1</sup> Greater Bombay, Kolhapur, Nagpur, Nashik, Pune, Sangli, Solapur, Thane and Ulhasnagar

<sup>2</sup> Amravati, Aurangabad, Chandrapur, Gondia, Jalgaon, Kolhapur, Mumbai (City and Suburban), Nagpur, Nashik, Pune, Raigad, Sangli, Solapur and Thane.

(Amount in crore of rupees)

| Year      | Budget Estimates | Actuals | Variations<br>(+) Excess<br>(-) Shortfall |
|-----------|------------------|---------|---|
| 1999-2000 | 145.00           | 177.87  | (+) 32.87                                 |
| 2000-2001 | 92.00            | 214.72  | (+) 122.72                                |
| 2001-2002 | 92.00            | 260.46  | (+) 168.46                                |
| 2002-2003 | 313.02           | 386.41  | (+) 73.39                                 |
| 2003-2004 | 338.06           | 360.49  | (+) 22.43                                 |

It would be seen from the above that, there were wide variations between the budget estimates and the actual realisation. This indicates that the budget estimates were not prepared on realistic basis. After this was pointed out, Government stated in May 2005 that the estimates are prepared based on actual receipts of previous years. The reply was not tenable, as the budget estimates framed were less than the actuals of previous years, except for the year 2002-03.

#### **4.4.8 Incorrect grant of land at concessional rates**

As per Government instructions of February 1983 and May 1984, land may be granted within municipal corporation limits for playground of private educational institutions and for school/college buildings at 10 *per cent* and 25 *per cent* respectively of the market value of 1 February 1976. Further, the MLR (Disposal of Government land) Rules, 1971 allows grant of land free of occupancy price/revenue for sites for the construction of schools/colleges, hospitals, dispensaries, other public works from which no benefit is expected, for playgrounds, educational institutions and gymnasiums recognised by the Government.

In three collectorates<sup>3</sup>, it was noticed that land admeasuring 2,39,763.21 sq. mtrs., in three cases was incorrectly granted between March 2000 and August 2003 at concessional rates for gymkhana for present and past MLAs/MPs/IAS officers, golf course, hostels and playgrounds for other than educational institutions. This resulted in loss of revenue of Rs 53.18 crore in the form of lease rent/occupancy price as detailed below:

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<sup>3</sup> Mumbai (City), Pune and Nagpur.

| Sl No | Name of Allottee/<br>Collectorate<br>Month of order      | Area in<br>Sqm     | Purpose for which<br>concessional rate is<br>entitled  | Purpose for<br>which concessi-<br>onal rates are<br>extended               | Lease Rent / Occupancy<br>price(In crore of rupees) |                             |              |
|-------|--|--------------------|--|--|---|-----------------------------|--------------|
|       |  |                    |  |  | Leviabale   | Levied                      | Balance      |
| 1     | Legislature<br>Gymkhana,<br>Mumbai city<br>December 2002 | 18,685.00          | Private institutions,<br>Charitable Public<br>Trusts & Z.P's for<br>construction of<br>schools, colleges,<br>hospitals and other<br>public works from<br>which no profit is<br>expected and<br>playgrounds for<br>educational<br>institutions and<br>gymnasium | Gymkhana for<br>present and past<br>MLAs, MPs<br>and IAS officers          | 39.23   | Nil                         | 39.23        |
| 2     | M/s Poona Club<br>Limited ,<br>Pune<br>March 2000        | 1,70,878.21        | Playground for<br>educational<br>institutions  | Golf course  | 13.98   | 0.23                        | 13.75        |
| 3     | M/s Ogawa<br>Society,<br>Nagpur<br>August 2003           | 50,200.00          | Playground for<br>educational<br>institutions  | Hostels and<br>playground for<br>other than<br>educational<br>institutions | 0.20  | Nomi-<br>nal rate<br>of Re1 | 0.20         |
|       | <b>Total</b>   | <b>2,39,763.21</b> |  |  | <b>53.41</b>  | <b>0.23</b>                 | <b>53.18</b> |

Government stated in August 2005 that the case of Ogawa society would be reconsidered for necessary action and in the remaining cases, appropriate action would be taken after verification of facts.

#### **4.4.9 Breach of conditions of allotment of land**

Under the provisions of MLR (Disposal of Government Lands) Rules, 1971 allotted land shall be liable to be resumed by Government, if it is not used for the purpose for which it is granted by such date as the Collector may fix in this regard.

In Raigad collectorate, it was observed that land admeasuring 19,200 sq. mtrs. was allotted in December 1999 for bus depot. But, the land was not used at all requiring the resumption of land by Government. Further, land admeasuring 19,712.96 sq.mtrs. granted by Nagpur Improvement Trust (NIT)<sup>4</sup> for educational activities, hostels, samaj bhavan, office buildings, housing for devotees and dharamashala at 25 per cent of the market value were used for commercial purposes for which full market value is recoverable. Thus for breach of conditions, Government land valued at Rs 7.69 crore as detailed below was required to be resumed by Government.

<sup>4</sup> The first audit of NIT was conducted during the period from 1.10.2003 to 26.2.2004.

| Sl. No                      | Name of allottee / collectorate                                  | Area in Sqm      | Allotment Month/Year/ Purpose/period of development        | Lease Rent/ Occupancy Price | Present position           | Market Value of the Plot (in crore of rupees) |
|-----------------------------|--|------------------|--|-----------------------------|----------------------------|---|
| 1                           | M/s MSRTC Khandad Mangaon, Raigad                                | 19,200.00        | December 1999 Bus depot to be developed within three years | Nominal rate of Re.1/-      | Not yet developed          | 1.25  |
| 2                           | Amar Seva Mandal, Nandanvan, Nagpur                              | 2,138.85         | 1994, Educational activities                               | Rs 0.03 crore               | Marriage/ reception hall   | 0.09  |
| 3                           | Sheshrao Wankhede's 56 <sup>th</sup> Birthday foundation, Nagpur | 2,931.23         | 1983, Hostel and cultural hall                             | Rs 0.02 crore               | Exhibition & marriage hall | 0.08  |
| 4                           | Mahatma Phule Edn. Institute, Nagpur                             | 3,250.30         | 1962, Hostel for students                                  | Rs.5,719                    | Marriage hall              | 1.14  |
| 5                           | Maratha Vidya Prasarak Mandal, Nagpur                            | 2,914.40         | 1965, Educational activities                               | Rs.5,760                    | Shops & marriage hall      | 1.02  |
| 6                           | Jain Kalar Society, Nagpur                                       | 4,058.62         | 1960, Hostel   | Rs.5,000                    | Marriage hall              | 1.42  |
| 7                           | Shahu Samaj, Nagpur  | 1,114.96         | 1982, Samaj Bhavan   | Rs.18,000                   | Marriage hall              | 0.39  |
| 8                           | Mathadi Hamal Tr. Workers, Nagpur                                | 1,375.60         | 1978, Office building                                      | Rs.22,210                   | Marriage hall              | 0.96  |
| 9                           | Parampujya Parmatma Ek Sewak Mandal, Nagpur                      | 1,929.00         | 1984, Housing for devotees                                 | Rs 0.01 crore               | Marriage hall              | 1.34  |
| <b>Total (Sl.No.2 to 9)</b> |  | <b>19,712.96</b> |  |                             |                            | <b>6.44</b>                                   |
| <b>Grand Total</b>          |  | <b>39,912.96</b> |  |                             |                            | <b>7.69</b>                                   |

Government stated in August 2005 that appropriate action would be taken after verifying the facts and in case of NIT the facts would be verified by referring the matter to Divisional Commissioner, Nagpur.

#### **4.4.10 Non/short levy of unearned income**

Under the provisions of MLR (Disposal of Government Lands) Rules, 1971, allotted land shall not be disposed of by the grantee without obtaining permission of the Government. As per GR of November 1957, the Collectors may grant permission for sale of such land on payment of a sum equal to 50 per cent of the unearned income *i.e.*, difference between the sale price approved by the Collector and the original price paid to Government including the value of improvements made in the plot by the grantee. In case of sale without permission of Government, the grantees were required to pay 62.5 per cent to 75 per cent of the unearned income. Further, these provisions are also applicable to transfer of ownership of a Government company having more

than 51 *per cent* holdings by Government to a private company as defined in Rule 81-H of the Maharashtra Land Acquisition Manual.

In four Collectorates<sup>5</sup>, it was noticed that six allottees sold/transferred between 1999 and 2004, Government lands admeasuring 78,89,508.39 sq. mtrs. held by them without obtaining Government permission and were required to pay 75 *per cent* of the unearned income to Government. But, the allottees have not paid unearned income of Rs 133.16 crore to Government till date as detailed below.

| Sl No        | Name of Allottee / Collectorate                     | Area in Sqm.        | Name of the new allottee                        | Date of transfer/ Date of demand | Whether Govt. permission obtained | Whether unearned income(U.I) demanded           | If so, whether paid                 | Balance if any (amt. in crore)      | If not demanded amt. of U.I (amt. in crore) |
|--------------|---|---------------------|---|----------------------------------|-----------------------------------|---|-------------------------------------|-------------------------------------|---|
| (1)          | (2)   | (3)                 | (4)   | (5)                              | (6)                               | (7)   | (8)                                 | (9)                                 | (10)  |
| 1            | M/s Modern Food Inds (a Govt.Co) Mumbai Suburban    | 22,264              | M/s Modern Food Inds.(Not a Govt.Co.)           | April 2000                       | No                                | No  | --                                  | --                                  | 21.06 (75%)                                 |
| 2            | M/s Hotel Centaur, Juhu (a Govt.Co) Mumbai Suburban | 1,810.02            | M/s Tulip Hospitality (not a Govt. Co.)         | March 2002                       | No                                | No  | No                                  | --                                  | 2.14 (75%)                                  |
| 3            | M/s Prasanna Metallics Thane                        | 12,137.37           | M/s Sanges-hwar ngr CHS & M/s Sukrim Synthetics | Feb 2002                         | No                                | Yes / 50% (as against 75% i.e., Rs. 0.37 crore) | Partly paid (levied Rs. 0.12 crore) | 0.25 (since 75% of U.I is payable ) | --  |
| 4            | M/s Kalyani Steels Pune                             | 1,00,000            | M/s Kalyani Carpenters S. S. Limited            | Sept 1999                        | No                                | No  | --                                  | --                                  | 16.09 (75%)                                 |
| 5            | M/s. S.M. Dyechem Pune                              | 3,02,100            | Class II to Cl – I occupant                     | Feb. 1999                        | --                                | No / (U.I of 65% is to be demanded)             | No                                  | 0.85                                | --  |
| 6            | M/s IPCL (a Govt.Co) Raigad                         | 74,51,197           | M/s IPCL (not a Govt. Co.)                      | Feb. 2004                        | No                                | No  | --                                  | --                                  | 92.77 (75%)                                 |
| <b>Total</b> |   | <b>78,89,508.39</b> |   |                                  |                                   | <b>Total amount (Col. 9 plus 10)</b>            |                                     |                                     | <b>133.16</b>                               |

Government in two cases (Sl. No.1 and 6), stated in August 2005 that in view of the specific provisions of section 81-H of Land Acquisition Manual, a specific reference seeking legal opinion in these cases would be made and in

<sup>5</sup> Mumbai (Suburban), Pune, Raigad and Thane.



the case at Sl. No. 5 the matter had been submitted to Government for orders. In the remaining cases appropriate action would be taken after verification of facts.

#### **4.4.11 Non/short levy of penal occupancy price**

Under the provisions of MLR Code the Government/Collector is empowered to dispose of the lands owned by/ vested in Government subject to payment of occupancy price by the allottee as a consideration for the grant of right to occupy and use the land. Payments of occupancy price have to be made on handing over possession or as instructed in the allotment order.

In Nashik and Thane districts, it was observed that in two cases encroached land admeasuring 2,621 sq. mtrs was allotted in July 2001 and June 2003 to two allottees. However penal occupancy price was either not levied or was levied short due to incorrect application of market rate. This resulted in non/short realisation of revenue of Rs 1.22 crore.

| Sl. No.      | Name of Allottee /<br>Collectorate                                 | Area in<br>Sqm | Date of<br>allotment<br>order | Penal occupancy price<br>(In crore of rupees) |        |             |
|--------------|--|----------------|-------------------------------|---|--------|-------------|
|              |  |                |                               | Leviable                                      | Levied | Balance     |
| 1            | Boudh Dharma Chakra<br>Parivarthan Samiti,<br>Thane                | 960            | June 2003                     | 1.20  | 0.008  | 1.20        |
| 2            | M/s Shri Bhramanand<br>Swami Shikshan Prasarak<br>Mandal<br>Nashik | 1,661          | July 2001                     | 0.03  | 0.01   | 0.02        |
| <b>Total</b> |  | <b>2,621</b>   |                               |   |        | <b>1.22</b> |

Government stated in August 2005 in one case that the matter would be submitted to the cabinet for necessary action and in the other case appropriate action would be taken after verification of facts.

#### **4.4.12 Non levy of lease rent**

Under the provisions of the MLR Code and the Rules framed thereunder, Government land can be leased out to any person for such period and purpose and on such conditions as may be determined in this regard. The grantee of such land shall be called Government lessee and shall pay lease rent for the lease period as per the terms and conditions of the lease.

In three collectorates<sup>6</sup> it was observed that the lease rent of Rs 0.64 crore was not levied in four cases of Government land leased out between October 1999 and July 2002.

Government, stated in August 2005 that in three cases appropriate action would be taken after verification of facts and in the remaining case the matter was under consideration for recovery.

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<sup>6</sup> Nagpur, Nashik and Raigad

#### ***4.4.13 Non levy of transfer/licence fee***

As per Government circular dated 23 November 2001, effective retrospectively from 9 July 1999, rates of transfer fee for granting permission to sell/transfer premises or part of the premises built on Government land has been prescribed. Further, while granting permission to sub lease the premises on rental basis for commercial purpose, license fee at 12.5 *per cent* of the transfer fee is chargeable.

In four cases of Nashik and Pune collectorates, it was noticed that premises admeasuring 27,809.22 sq. ft. were sold/ transferred/ subleased/rented, but transfer/ license fee was not levied resulting in non realisation of revenue of Rs 37 lakh.

Government stated in August 2005 that appropriate action would be taken after verification of facts.

#### ***4.4.14 Incorrect corrigendum resulting in unintended benefit to the developer***

As per GR of August 1986, land declared surplus under the ULC Act is exempted from acquisition, if the landholder constructs houses for economically weaker sections of society. Further, the GR of October 1992 requires the landholder to surrender 10 *per cent* of the tenements so constructed for allotment to Government nominees, subject to the final decision of the appeal of the Government pending with the Hon'ble Supreme Court.

In Greater Bombay, UA it was noticed that the development of the project in respect of land exempted under the ULC Act, 1976 handed over in October 1989 to the landholder for construction of tenement for economically weaker sections of society was completed in April 2004 and the total built-up area of the project was 2,60,255.45 sq. mtrs. But, 10 *per cent* of the tenements so constructed were not surrendered to the Government due to deletion of this condition by issue of a corrigendum in September 1996 based on the Cabinet sub committee decision of March 1996. Scrutiny, however, revealed that there was no such decision taken by the sub committee. This resulted in unintended benefit of Rs 13.69 crore to the landholder being the difference between the market rate and Government rate in respect of 10 *per cent* tenements.

The Government (Principal Secretary, Revenue) stated in August 2005 that the matter relates to Urban Development Department and will be referred to that Department for appropriate action.

#### ***4.4.15 Acknowledgement***

Audit findings as a result of test check of records of the department were reported in May 2005 to Government with a specific request for attending meeting of Audit Review Committee. The meeting was held on 24 August 2005. The Principal Secretary, Revenue & Forests Department headed the Government side. The view point of Government has been taken into account and replies incorporated in the relevant paragraphs.

#### ***4.4.16 Conclusion***

Audit findings show that there is no internal control mechanism to monitor allotment of land. Consequently, in a few cases land was granted at concessional rates to ineligible allottees and could not be utilised for intended purposes. Besides, absence of a proper mechanism to track changes in the allottees resulted in non levy of unearned income.