

CHAPTER V :
STATE EXCISE AND TAXES ON MOTOR VEHICLES

5.1 Results of audit

Test check of the records of State excise and taxes on motor vehicles conducted during the year 2007-08 revealed underassessments, short levy, loss of revenue etc., amounting to Rs. 78.53 crore in 34,111 cases as shown below :

(Rupees in crore)

Sl. No.	Nature of receipts	No. of cases	Amount
A – STATE EXCISE			
1.	Loss of revenue due to shortfall in yield of spirit	7	53.34
2.	Short recovery of licence/privilege fees/escort charges/interest	6,090	21.24
3.	Non/short recovery of supervision charges/bonus	6	0.19
4.	Non/short levy of licence/privilege fees/application money	26,131	0.13
5.	Non-recovery of toddy instalments	135	0.02
Total		32,369	74.92
B – TAXES ON MOTOR VEHICLES			
6.	Non/short levy of tax due to application of incorrect rates	1,714	3.60
7.	Short levy of tax due to incorrect exemption/classification etc.	28	0.01
Total		1,742	3.61
Grand Total		34,111	78.53

In response to the observations made in the local audit reports during the year 2007-08 as well as during earlier years, the concerned departments accepted underassessment, short levy etc. involving Rs. 1.54 crore in 25,254 cases, out of which 24,556 cases were pointed out during 2007-08 and rest during earlier years. The departments recovered Rs. 1.54 crore in these cases, out of which 24,556 cases involving Rs. 23.65 lakh were pointed out during the year 2007-08 and rest during earlier years.

A few illustrative cases involving Rs. 67.03 crore are mentioned in the succeeding paragraphs, against which Rs. 34.38 lakh along with interest of Rs. 4.30 lakh, had been recovered upto November 2008.

SECTION A STATE EXCISE

5.2 Shortfall in yield of spirit based on sugar content resulted in loss of revenue

Under the provisions of the Bombay Prohibition Act, 1949, excise duty is leviable on rectified spirit at the prescribed rates. According to circular instructions issued (August 1991) by the Commissioner of State Excise (CSE), the residual quantity of molasses in every pit/tank of a distillery is required to be sent every month to the Western Maharashtra Development Corporation (WMDC) at Chitali, Ahmednagar to ascertain the sugar content in the molasses and compare it with the sugar content reflected in the report of the sugar factories. The results of the analysis done by both the sugar factories and WMDC are to be noted in a register which is to be checked by the concerned Superintendents of State Excise (SPEs) during monthly inspections. The circular instructions issued by the department are, however, silent on the action to be taken in case the sugar content as per the report of WMDC is higher than the sugar content reported by the distillery.

Mention was made in Para 3.2.8 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1999 that in pursuance of the recommendations vide para 5.6 of the Public Accounts Committee, the Government had constituted a technical committee (3rd Report of 1980-81) and accepted its report for implementation. Further, the Excise department in turn constituted (February 1989) a committee to consider various aspects such as norms of productions, losses in production, storage, distribution etc. In June 1989, the department stated that comprehensive amendments to the rules would be made on the recommendations of the Committee. However, no amendments have been made till date.

During test check between January and March 2008, of annual statements of efficiency data from the sugar factories and WMDC's reports relating to total reducing sugar (TRS) content in seven distilleries in Ahmednagar, Kolhapur and Pune for various periods between 2002-03 and 2006-07, it was noticed that there were variations in the sugar content between the two reports. As per the Government analysis report, the production of spirit should have been 785.80 lakh bulk litres (BL). However, the production in these distilleries was 760.25 lakh BL with reference to TRS contents declared by the sugar factories. This resulted in shortfall in yield of rectified spirit to the extent of 25.55 lakh BL (42.67 lakh proof litres¹), thereby depriving the Government of additional revenue of Rs. 53.34 crore² as mentioned below :

¹ (PL) = BL X 1.67

² 42.67 PL X Rs. 125.

(Rupees in crore)

Sl. No.	Name of the Unit	Required production of RS ³ as per TRS content of WMDC (in BL)	Production of RS as per TRS of factory (in BL)	Shortfall in yield		Loss of revenue
				In BL (2)-(3)	In PL	
1	2	3	4	5	6	
1	V.V.Patil SSK ⁴ , Ahmednagar	2,98,71,512.71	2,86,24,149	12,47,363.71	20,83,097.40	26.04
2	Shrigonda SSK, Ahmednagar	67,80,497.44	66,99,962	80,535.44	1,34,494.18	1.68
3	Tilaknagar Inds. Ltd., Ahmednagar	2,25,66,226.48	2,17,57,426	8,08,800.48	13,50,696.80	16.88
4	Kopargaon SSK, Ahmednagar	24,67,124.16	23,92,144	74,980.16	1,25,216.87	1.56
5	Sanjivani SSK, Ahmednagar	1,23,81,163.00	1,20,88,167	2,92,996.00	4,89,303.32	6.12
6	Kumbhi Kasari SSK, Kolhapur	25,63,887.98	25,51,113	12,774.98	21,334.22	0.27
7	Yeshwant SSK, Pune	19,50,213.28	19,12,298	37,915.28	63,318.52	0.79
Total		7,85,80,625.05	7,60,25,259	25,55,366.05	42,67,461.30	53.34

After the cases were pointed out, the Deputy SPEs/Inspectors of State Excise stated that the TRS contents of the two reports may have differed due to various factors such as conditions of analysis, analytical solutions etc. Further, TRS content was checked by the factory every week and hence the factory reports reflected the average TRS content. The reply is, however, silent on non-acceptance of the reports of the Government laboratory on sugar contents and consequential levy of differential duty of Rs. 53.34 crore.

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.3 Short recovery of licence fees

Under the provisions of the Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licence) Rules, 1996, the rates of licence fees are notified annually by the CSE in exercise of the powers conferred by

³ Rectified spirit.

⁴ Sahakari Sakhar Karkhana.

clause (i) of Rule 4 of the said Rules for various licences⁵. The fees payable for the licences are based on the population slabs for the city, town or village in which the liquor shops are located. These rates were further revised for the years 2003-04 to 2007-08. In case of default in the payment of dues, interest at the rate of two *per cent* per month was chargeable on the amounts from the date they became due.

5.3.1 During test check of the records of the SPE, Thane, in January 2008, it was noticed that though the population as per census 2001 in Kalyan-Dombivali Municipal Corporation (KDMC) was more than 10 lakh, the licence fees for issue/renewal during the periods 2003-04 to 2007-08 were levied as per the population slab of 3,00,001 to 10 lakh. This resulted in short realisation of revenue of Rs. 9.49 crore during the period 2003-04 to 2007-08.

After the case was pointed out, the SPE stated in January 2008, that the matter would be referred to the Government. Further report has not been received (November 2008).

5.3.2 During test check of the records in the offices of SPEs in four⁶ districts, between February and March 2008, it was noticed that in respect of 100 licences renewed for periods between 2001-02 and 2007-08, licence fees were recovered short by Rs. 1.01 crore due to application of incorrect population slab rates. Besides, interest at the prescribed rate was also leviable for the delay in the payment of dues.

After the cases were pointed out, the department accepted the observations and recovered Rs. 1.73 lakh along with interest of Rs. 60,478 in five cases, between March and August 2008. A report on recovery of the balance amount has not been received (November 2008).

5.3.3 During test check of the records of 12⁷ offices in 11⁸ districts between May 2004 and March 2008, it was noticed that in respect of 49 licences renewed for the periods between 2002-03 and 2007-08, licence fees were recovered short by Rs. 28 lakh due to non-application of revised rates.

After the cases were pointed out, the department accepted the observations and recovered, Rs. 5.75 lakh, along with interest of Rs. 51,850, between January 2005 and September 2008, in respect of 16 cases. A report on recovery of the balance amount has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

⁵ FL I and FL II for wholesale and retail sale of imported foreign liquor/Indian made foreign liquor, FL III for sale in restaurants/permit rooms, FL IV for sale at clubs and CL II, CL III and CL/FL/TOD III for storage and sale by wholesaler of country liquor, for retail sale and for retail sale in sealed bottles respectively, form E for the sale of mild liquor (beer) in the hotels/restaurants/canteens/clubs and form E 2 for retail sale of wine.

⁶ Kolhapur, Nashik, Pune and Raigad.

⁷ SPE: Ahmednagar, Jalna, Latur, Mumbai City, Mumbai Suburban District, Nagpur, Nashik, Osmanabad, Pune, Satara, Solapur and Thane.

⁸ Ahmednagar, Jalna, Latur, Mumbai, Nagpur, Nashik, Osmanabad, Pune, Satara, Solapur and Thane.

5.4 Non/short recovery of privilege fees

Under the provisions of the Bombay Prohibition (Privileges Fees) (BPPF) Rules, 1954, privilege fees are payable by the licensees for transfer of licences from one name to another (including change in entity⁹) or for the admission/withdrawal of a partner or partners as per Rules 5 and 6 of the said Rules. The fee chargeable for change in entity is 100 *per cent* of the licence fee and for withdrawal of a partner is 50 *per cent* of the licence fee. As per a proviso dated 4 October 1996, Rule 5 was not applicable to cases regarding transfer of licences for sale or storage of imported foreign liquor/Indian made foreign liquor (FL I and FL II) and country liquor (CL II and CL III). The proviso was amended on 18 June 2004, whereby non-applicability of Rule 5 in respect of licences issued under FL I and CL II was deleted.

5.4.1 During test check of the records of 17¹⁰ offices in 15¹¹ districts, between October 2007 and March 2008, it was noticed that for various periods between 2002-03 and 2006-07, privilege fees amounting to Rs. 9.93 lakh was not recovered from five licensees and Rs. 65.34 lakh was recovered short from 107 licensees with respect to the rates prevailing during the relevant periods.

After the cases were pointed out, the department accepted the observations and recovered Rs. 7.18 lakh along with interest of Rs. 38,952 between November 2007 and September 2008, in 20 cases. A report on recovery of the balance amount has not been received (November 2008).

5.4.2 During test check of the records of SPEs in 16 districts¹², between December 2007 and March 2008, it was noticed that privilege fees for the period between 2004-05 and 2007-08, in respect of 132 licences, were recovered at 50 *per cent* of licence fees for withdrawal of partners in respect of FL-II and CL-III licences. However, these cases also involved changes in entities of licences from partnership to proprietorship for which 100 *per cent* of licence fees were recoverable but the same was not recovered. This resulted in non-realisation of privilege fee of Rs. 93.05 lakh.

After the cases were pointed out, seven¹³ SPEs in respect of 34 licensees involving Rs. 23.18 lakh stated that the matter would be referred to the CSE and six¹⁴ SPEs in respect of 85 licensees involving Rs. 56.55 lakh stated that the action taken was according to the rules. The reply is not tenable, as 100 *per cent* fee was leviable in case of change in entity under Rule 5 of BPPF Rules and subsequent clarification issued by the CSE in November 1992. Reply from one SPE in respect of seven cases involving an amount of Rs. 11.97 lakh has not been received (November 2008). SPEs, Jalna and

⁹ Proprietorship to partnership or *vice versa*; clarification issued by the CSE under his circular dated 18 November 1992.

¹⁰ SPE : Ahmednagar, Akola, Aurangabad, Dhule, Jalgaon, Jalna, Kolhapur, Mumbai Suburban, Nanded, Nandurbar, Nashik, Parbhani, Pune, Satara, Thane, Commissioner of State Excise, Mumbai and Excise Officer, Aurangabad.

¹¹ Ahmednagar, Akola, Aurangabad, Dhule, Jalgaon, Jalna, Kolhapur, Mumbai, Nanded, Nandurbar, Nashik, Parbhani, Pune, Satara and Thane.

¹² Ahmednagar, Buldhana, Dhule, Jalna, Kolhapur, Mumbai, Nagpur, Nanded, Nandurbar, Nashik, Parbhani, Pune, Raigad, Satara, Solapur and Thane.

¹³ SPE: Buldhana, Dhule, Nagpur, Nandurbar, Nashik, Raigad and Satara.

¹⁴ SPE: Ahmednagar, Kolhapur, Parbhani, Pune, Solapur and Thane.

Nanded accepted the observations and recovered Rs. 1.35 lakh, along with an interest of Rs. 18,683, between July and September 2008 in six cases

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.5 Non-recovery of interest

Under the provisions of the Bombay Prohibition Act, 1949, if duties, taxes and fines are not paid within the prescribed period or on due date, simple interest at the rate of two *per cent* per month is chargeable on the amounts from the date they became due.

During test check of the records of 10¹⁵ offices in six¹⁶ districts, between November 2007 and March 2008, it was noticed that in respect of 123 cases, interest on delayed payment of licence fees totalling Rs. 27.34 lakh for various periods between April 2002 and March 2007 for the delays ranging from five days to 51 months was neither paid by the licensees nor demanded by the department. This resulted in non-recovery of interest of Rs. 27.34 lakh.

After the cases were pointed out, the department accepted the observations and recovered Rs. 1.89 lakh, between February and August 2008 in 19 cases. A report of recovery in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

SECTION B TAXES ON MOTOR VEHICLES

5.6 Non-recovery of tax

Under the Bombay Motor Vehicle Tax Act, 1958 and the rules made thereunder, tax at the prescribed rates is leviable on all the vehicles used or kept for use in the State. The Act further provides that the tax leviable is to be paid in advance by the owners of the vehicles. Interest at the rate of two *per cent* of the amount of tax, for each month or part thereof is payable in each case of default in payment of the tax due.

During test check of the records of 10¹⁷ offices in seven¹⁸ districts between January 2005 and July 2007, it was noticed that in respect of 539 vehicles, motor vehicles tax (MVT) of Rs. 90.62 lakh for various periods between April 2002 and December 2007, was not paid by the owners of the vehicles. No action was taken by the department to recover the dues. This resulted in

¹⁵ SPE: Aurangabad, Mumbai (Suburban), Nanded, Nashik, Pune and Excise Officer: M/s Ashok SSK Ltd. and M/s Tilaknagar Industries Ltd., Shrirampur; M/s Kopargaon SSK Ltd. and M/s Sanjivani SSK Ltd., Kopargaon at Ahmednagar; M/s Brihan Maharashtra Sugar Syndicate Ltd., Igatpuri at Nashik.

¹⁶ Ahmednagar, Aurangabad, Mumbai, Nanded, Nashik and Pune.

¹⁷ RTO: Aurangabad, Kolhapur, Mumbai - Central and Wadala; Thane; Deputy RTO : Beed, Hingoli, Kalyan, Nandurbar, Vashi at Navi Mumbai.

¹⁸ Aurangabad, Beed, Hingoli, Kolhapur, Mumbai, Nandurbar and Thane.

non-realisation of MVT of Rs. 90.62 lakh. Interest at the prescribed rate for delayed/non-payment of MVT was also leviable in these cases.

After the cases were pointed out, the department accepted the observations and recovered Rs. 14.64 lakh, along with interest of Rs. 2.60 lakh, between February 2005 and September 2008, in respect of 159 vehicles. A report on recovery in respect of the remaining vehicle owners has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

5.7 Excess grant of refund

Under the provisions of the BMVT Act, and the rules made thereunder, where a motor vehicle in respect of which tax has been paid is altered or used in such manner that the tax is leviable at a lower rate, the person who has paid such tax shall be entitled to a refund on surrender of the certificate of tax. The amount refundable should be equal to the difference between the amount of one time tax (OTT) payable and the amount of tax leviable on the date of such change of use of the motor vehicle.

During test check of the records of the Regional Transport Office (RTO), Thane in September 2005, it was noticed that in respect of 94 vehicles, refunds of Rs. 5.58 lakh were granted in excess, for the period between May 2002 and November 2004 due to application of incorrect rates of OTT or incorrect computation of age of the vehicle at the time of transfer of the vehicle.

After the cases were pointed out, the department accepted the observations and recovered Rs. 1.84 lakh, between January 2006 and September 2008, in respect of 41 cases. A report on recovery of the balance amount has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).