

CHAPTER VI : OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records relating to electricity duty, profession tax, entertainments duty, tax on buildings (with larger residential premises), State education cess, employment guarantee cess and repair cess conducted during the year 2007-08, revealed short realisation or loss of revenue of Rs. 131.48 crore in 2,909 cases as shown below :

(Rupees in crore)			
Sl. No.	Nature of receipt	No. of cases	Amount
1.	Electricity duty, tax and fees	379	55.36
2.	Repair cess	7	44.79
3.	State education cess and employment guarantee cess	270	24.84
4.	Tax on buildings (with larger residential premises)	48	3.84
5.	Entertainments duty	1,241	2.29
6.	Profession tax	964	0.36
Total		2,909	131.48

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 underassessments, short levy, etc. involving Rs. 5.79 crore in 2,383 cases, out of which 207 cases were pointed out during 2007-08 and rest during earlier years. The departments recovered Rs. 5.79 crore in these cases, out of which 2,176 cases involving Rs. 31.29 lakh were pointed out during the year 2007-08 and rest during earlier years.

After the issue of the draft paragraph, the department recovered Rs. 3.57 crore, which has not been included in this report.

A few illustrative cases involving Rs. 121.63 crore are mentioned in the succeeding paragraphs, against which an amount of Rs. 26.38 crore, along with interest of Rs. 17,992 had been recovered/adjusted upto November 2008.

SECTION A ENTERTAINMENTS DUTY

6.2 Non/short recovery of entertainment duty from cable operators/proprietors of dance bars

Under the provisions of the Bombay Entertainments Duty (BED) Act, 1923, entertainment duty (ED) was payable with effect from 1 April 2000 by cable operators at the flat rates of Rs. 30, Rs. 20 or Rs. 10 per television set per month, depending on whether the area was a municipal corporation (MC), A and B class municipality or other area. The rates were further revised to Rs. 45, Rs. 30 or Rs. 15 per television set per month with effect from June 2006. ED was payable on or before the 10th of the subsequent month to which it related. In respect of dance bars, the proprietor of every dance bar was required to pay ED in advance by the 10th day of every calendar month for every dance performance, at the rate of Rs. 30,000, Rs. 25,000 and Rs. 15,000 depending on whether the area was within the limits of Brihanmumbai Municipal Corporation (BMC) or MCs other than BMC or areas not covered by MCs/BMC. Interest at the rate of 18 *per cent* per annum for the first 30 days and 24 *per cent* thereafter was to be levied in cases of default in payment.

During test check of the records of 30 units¹ in 14 districts², between May 2004 and March 2008, it was noticed that ED amounting to Rs. 54.17 lakh was not paid by 285 cable operators and Rs. 23.56 lakh was recovered short from 154 cable operators during various periods between 2002-03 and 2006-07. Further, Rs. 3.89 lakh was either not paid or recovered short from the proprietors of seven dance bars during the year 2004-05. Demands were also not raised by the Resident Deputy Collectors/Taluka Magistrates/Entertainment Duty Officers against these operators/dance bars. This resulted in non/short recovery of ED of Rs. 81.62 lakh. Besides, interest at the prescribed rates was also leviable.

After the cases were pointed out, the department accepted the observations and recovered ED amounting to Rs. 44.82 lakh alongwith interest of Rs. 17,992, between March 2005 and August 2008 from 232 cable operators and Rs. 60,000 from two dance bars. A report on recovery of the balance amount has not been received (November 2008).

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

¹ Resident Deputy Collector: Akola, Amravati, Aurangabad, Beed, Jalgaon, Kolhapur, Nashik, Solapur, Wardha; Mumbai : Zone II, V, VII, VIII, XI;
Taluka Magistrate: Andheri - Zone II, IV; Mulund - Zone XI; Baglan and Niphad at Nashik; Darwah and Ner at Yavatmal; Daund at Pune and Panvel at Raigad;
Entertainment Duty Officer : Pune - Zone A, B, D, E, H, M.
Additional District Magistrate : Nagpur.

² Akola, Amravati, Aurangabad, Beed, Jalgaon, Kolhapur, Mumbai, Nagpur, Nashik, Pune, Raigad, Solapur, Wardha, Yavatmal.

SECTION B
STATE EDUCATION CESS AND EMPLOYMENT
GUARANTEE CESS

6.3 Non-remittance of education and employment guarantee cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Cess Act) and the Rules made thereunder, cess and penalty recovered by the MCs during a calendar week are required to be credited to the Government account before the expiry of the following week. If any MC defaults in the payment to the Government of any sum under the Act, the Government may, after holding such enquiry as it thinks fit, fix a period for the payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from such bank account to the Government.

During test check of the records of three³ MCs between July 2007 and December 2007, it was noticed that the MCs did not remit revenue amounting to Rs. 20.75 crore relating to State education cess (SEC) and employment guarantee cess (EGC) collected during the year 2006-07. The Government also did not initiate any action either to fix a period for the payment of the dues or direct the banks to pay the amounts due from the bank accounts of the MCs.

After the cases were pointed out, the MC, Pune remitted Rs. 4.20 crore out of Rs. 4.63 crore in the treasury in May 2008. The MC, Nagpur stated in July 2007 that the amount of Rs. 1.94 crore would be credited into Government account. A report on recovery of the balance amount and reply in case of MC, Mumbai has not been received (November 2008).

The matter was reported to the department between August 2007 and January 2008 and the Government in May 2008; their reply has not been received (November 2008).

6.4 Irregular grant of refund

Under the provisions of the Cess Act, refund of SEC and EGC is admissible if refund of property tax (i.e. general tax) is permissible under any municipal law. The Government, vide an ordinance dated 2 March 1998, abolished the provision for refund of property tax on account of vacant properties.

During test check of the records of two wards⁴ of Brihanmumbai Municipal Corporation (BMC) between July 2003 and October 2004, it was noticed that the department continued to refund State education cess and employment guarantee cess during 2002-03 and 2003-04, though the provision for refund of property tax on vacant properties was abolished in March 1998. This resulted in irregular refund of Rs. 14.25 lakh (SEC Rs. 11.44 lakh and EGC Rs. 2.81 lakh) in respect of 77 vacant properties.

³ Mumbai, Nagpur and Pune.

⁴ K (East) and L wards.

After the cases were pointed out, BMC, issued supplementary bills, between January 2005 and February 2006 and recovered Rs. 2.30 lakh in respect of 16 properties. A report on recovery of the balance amount of Rs. 11.95 lakh has not been received (November 2008).

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

SECTION C REPAIR CESS

6.5 Non-remittance of repair cess

Under the provisions of the Maharashtra Housing and Area Development Act, 1976, tax recovered by a MC on behalf of the Government is to be credited to the consolidated fund of the State within 15 days from the date of its recovery.

During test check of the records of the BMC in April 2008, it was noticed that BMC did not remit revenue amounting to Rs. 44.77 crore, collected on account of repair cess during the year 2007-08. This resulted in non-remittance of cess of Rs. 44.77 crore.

After the case was pointed out, the Government intimated (November 2008) that BMC had remitted Rs. 21.54 crore in September 2008. A report on recovery of the balance amount of Rs. 23.23 crore has not been received (November 2008).

SECTION D ELECTRICITY DUTY

6.6 Non-levy of interest on incorrect retention of electricity duty

Under the provisions of the Bombay Electricity Duty Act, 1958, every licensee who supplies electricity to the consumers is required to collect duty from the consumers together with its own charges, if any, and pay it to the Government by the prescribed date. In case of failure to pay the duty collected, by the due date, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

During test check of the records of the Chief Engineer (Electrical), Mumbai in March 2008, it was noticed that the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected electricity duty aggregating Rs. 936.80 crore during the period from April 2006 to March 2007 from the consumers but did not remit the amounts into Government account. The Government, vide notifications issued between May 2006 and March 2008, adjusted the entire amount of electricity duty due from MSEDCL against the subsidy payable to it. However, no action was taken by the department to recover the interest of Rs. 54.95 crore payable by MSEDCL to the Government on the delayed remittance of Rs. 936.80 crore. This resulted in non-recovery of interest of Rs. 54.95 crore.

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

6.7 Non-recovery of inspection fees

Under the Indian Electricity Rules, 1986, inspection fees are required to be paid by consumers within 10 days from the date of inspection, examination or test of electrical installations. The rates of fees payable are regulated by the notifications issued by the Government from time to time.

During test check of the records of seven⁵ offices in six⁶ districts between February 2006 and March 2007, it was noticed that inspection fees of Rs. 19.92 lakh for the inspections of high tension installations carried out during the periods between 2004-05 and 2005-06 were not paid by 292 consumers. No action was taken by the department to recover the amount. This resulted in non-realisation of inspection fees of Rs. 19.92 lakh.

After the cases were pointed out, the department accepted the observation and recovered Rs. 16.03 lakh, between March 2006 and July 2008, from 223 consumers. 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 Electrical inspectors at Ahmednagar, Amravati, Aurangabd, Nagpur, Pune and Thane Dn. I and II.

⁶ Ahmednagar, Amravati, Aurangabad, Nagpur, Pune and Thane.