

CHAPTER 4 : Land Revenue

4.1 Results of audit

Test check of records of Land Revenue conducted during the year 2001-2002 revealed under-assessment, short levy, loss of revenue *etc.*, amounting to Rs 221.58 crore in 275 cases which broadly fall under the following categories:

Sr. No.	Category	No. of cases	Amount (Rupees in crore)
1.	Short levy of N.A.A./ZP/VP cess/ILR	154	55.06
2.	Non/short levy of education cess	6	0.49
3.	Short levy of increase of land revenue	18	1.69
4.	Non/short levy of occupancy price/rent/interest	49	5.67
5.	Sanad/measurement fee	46	7.14
6.	Recovery of dues treated as arrears of land revenue	1	55.33
7.	Review on "Encroachment on Government land in major cities other than Mumbai"	1	96.20
Total		275	221.58

During the course of the year 2001-2002, the department accepted under-assessments of Rs 1537.41 lakh involving 386 cases which were pointed out in earlier years and recovered the same.

A few illustrative cases involving financial effect of Rs 56.44 crore and a review on "Encroachment on Government land in major cities other than Mumbai" involving financial effect of Rs 96.20 crore are given in the following paragraphs:

4.2 Review on encroachment on Government land in major cities other than Mumbai

4.2.1 Introduction

Maharashtra Land Revenue (MLR) Code, 1966 and the Rules framed thereunder empowers the Collector and other Revenue Officers to deal with the allotment of Government land on occupancy or lease hold right, as well as to collect occupancy price, lease rent, land revenue, *etc.* The Collectors have been empowered to abate or remove summarily any encroachment made on any land vested in Government. The encroacher is liable to pay, for the whole period of encroachment, the assessment for the entire survey number (if the land forms part of an assessed survey number) or if the land has not been assessed, such assessment as would be leviable for the said period, in the same village or similar land used for the same purpose. In addition to assessment, he is also liable to pay fine upto Rs 1000 in case the land is used for agricultural purpose and upto Rs 2000 in case the land is used for non-agricultural purpose.

4.2.2 Organisational set-up

For the purpose of MLR Code, 1966, the State of Maharashtra has been divided into seven¹⁴ Revenue Divisions each headed by a Commissioner who is the Chief Controlling Authority in all matters connected with the land revenue, subject to the superintendence, direction and control by the Secretary at Government level. The assessment and realisation of land revenue in respect of land held by the encroachers are to be made by the Tahsildars, Sub-Divisional Officers and Additional Collectors *etc.*, according to their respective delegation of powers. The other levies like occupancy price and fine are also leviable along with the levy of land revenue, which includes lease money, rent, cess, *etc.* Appeal, if any, with reference to the assessments lies with the next higher authority in the Revenue Department.

4.2.3 Scope of Audit

A review through test check of connected records of 9 out of 13 cities excluding Mumbai having corporations viz. Nagpur, Pune, Pimpri-Chinchwad, Kolhapur, Solapur, Aurangabad, Thane, Kalyan-Dombivali and Nashik was conducted by audit between December 2001 and April 2002.

4.2.4 Highlights

- **Failure of the department to evict 3285 encroachments or regularize them resulted in non-levy of occupancy price of Rs 64.97 crore.**

(Paragraph 4.2.5)

¹⁴ Amravati, Aurangabad, Konkan, Mumbai, Nagpur, Nashik and Pune.

- **On regularisation of the encroachments, occupancy price, penal occupancy price, penal non-agricultural assessment and fine of Rs 0.27 crore was not recovered from four encroachers.**

(Paragraph 4.2.6)

- **Penal lease rent of Rs 9.68 crore was not levied against unauthorised occupants of Government land after expiry of lease period.**

(Paragraph 4.2.7)

- **Revenue free land valued at Rs 21.28 crore granted for educational purpose was misutilised by two societies.**

(Paragraph 4.2.8)

4.2.5 Failure to evict encroachments and levy occupancy price

The MLR Code, 1966 prescribed that in case encroachment is detected by the authority, the encroacher(s) shall be evicted forthwith and assessed for non-agricultural assessment/land revenue at the prescribed rate and fine. In case the encroachment is regularised on occupancy right, the encroacher has to pay penal occupancy price and penal land revenue at the prescribed rates.

A test check of the records of Kolhapur and Pune Collectorates revealed that Government land measuring 195929.50 sq. mtrs. was under encroachment of 3285 encroachers from the period prior to 1 January 1985. Of this, 179400 square meters of land were encroached by 3278 occupants in Kolhapur and 16529.50 square meters land was encroached by 7 occupants in Pune for residential purpose. However, these encroachments had neither been evicted nor any action had been taken for their regularisation which resulted in non-levy of occupancy price of Rs 64.97 crore being the penal occupancy price. The particulars of the encroachments are given in the following table:

(Rupees in crore)

Sr. No.	Name of the village and Survey/Gat No.	Year of encroachment	No. of encroachers	Area in Sq. Mtrs.	Market value of the encroached land Rs.	Minimum penal occupancy price recoverable Rs.
1	Ichalkarangi (Kolhapur)	Prior to 1985	2475	91100.00	16.00	39.99
2.	Karvir (Kolhapur) 1203	Since 1975-76	803	88300.00	5.56	13.91
3.	Yerwada (Pune) 2513	Since 1950	7	16529.50	4.43	11.07
Total			3285	195929.50		64.97

On this being pointed out in audit, the Collector Kolhapur stated (February 2002) that action would be taken after enquiry from the concerned tahsildar.

The Collector, Pune stated (December 2001) that the cases were under correspondence with the Government.

However, Government stated that while the report of the Collector, Kolhapur for regularisation of encroachments had been called for, no report had been received from the Collector, Pune (December 2002)

4.2.6 Non-realisation of non-agricultural assessment, penal occupancy price, fine and interest

Under the MLR (Disposal of Government land) Rules, 1971 the Collector may grant the land either on the occupancy right or lease hold right to the encroacher, subject to payment of penal occupancy price or penal lease rent as the case may be.

A scrutiny of the records of the Collectors of Pune and Kolhapur Districts revealed that Government land measuring 443936.75 square meters encroached by 4 encroachers was regularised by Government between January 1990 and November 1998 without recovering the occupancy price, etc., amounting to Rs 0.27 crore as shown in the table given below:

(Rupees in crore)					
Sr. No.	Name of the encroacher	Date of regularisation of encroachment	Period of encroachment	Area (in sq. mtrs)	Non-realisation of penal occupancy price, Fine and Interest Rs.
1	Pimpri-Chinchwad Municipal Corporation	9.1.1990	1990 to 2001	236300.00	0.15
2	Maharashtra Industrial Development Corporation Pune	30.1.1990	1977 to 2001	206400.00	0.04
3	Rashmi Education Society, Pune	17.6.1992	1991 to 2001	1011.75	0.06
4	Ajj Ahmed Jamdar Kolhapur	25.11.1998	1931 to 2001	225.00	0.02
Total				443936.75	0.27

On this being pointed out in audit, while the Tahsildar Haveli at Pune stated (December 2001) that the information will be collected from the revenue authority (Talathi), the Collector, Kolhapur stated that the applicant had paid Rs 4.29 lakh out of Rs 5.98 lakh and for the balance amount of Rs 1.69 lakh he had sought exemption.

4.2.7 Un-authorised retention of Government land after expiry of lease period

Under MLR Code, 1966 the Collector is empowered to evict a person holding land unauthorisedly by reason of expiry of lease. The lessee shall also be liable to pay penalty not exceeding two times the assessment or rent for the land for the period of such unauthorised use or occupation.

(a) During the course of audit it was noticed that the period of lease in 75 cases had expired. However, the department took no action to evict the occupants and levy penalty. Thus, an area of 87031.10 square meters of land valued at Rs 15.22 crore remained under unauthorised occupation. For the period of illegal occupation, penalty of Rs 9.52 crore was leviable as under:

(Rupees in crore)					
Sr. No.	Name of the City	Area (in sq. mtrs.)	No. of Cases	Market value of land Rs.	Penal lease rent payable for the period from 1995-2002 Rs.
1	Pune	39851.60	64	1.60	0.87
2	Solapur	20639.70	1	7.04	6.95
3	Thane	8094.00	1	2.09	0.69
		3955.80	6	1.58	0.09
4	Kolhapur	215.00	1	0.06	0.02
5	Nashik	14047.00	1	0.14	0.89
		228.00	1	2.71	0.01
Total		87031.10	75	15.22	9.52

On this being pointed out the Sub-Divisional Officer, Thane, stated that necessary action for renewal of leases would be taken. Final reply in respect of the remaining districts has not been received. However, the department remained silent about the recovery of penal lease rent.

(b) In another case in Solapur, land measuring 1858 square meters was granted on lease in 1999 with the condition that the lease would not be renewed after its expiry in October 2000 as per terms and condition of the sanction order. However, no action was taken by the department to evict the occupant even though the occupant continued to occupy it after October 2000. Thus, the land valued at Rs 0.16 crore remained under illegal occupation.

On this being pointed out in audit, the Collector, Solapur stated that the matter would be referred to the Government and necessary action taken. The reply of the Collector is not tenable as the Collector is empowered to evict the illegal occupant.

4.2.8 Mis-utilisation of revenue free land

Under Rule 8 of MLR (Disposal of Government Land) Rules, 1971 every grant of land shall be made expressly with the conditions that (i) the land or any part thereof or any interest therein shall not be transferred except with the previous sanction of the State Government and (ii) the land, with all fixtures and structures thereon, shall be liable to be resumed by the State Government for breach of condition or if it is not used for the specific purpose for which it was granted.

During the test check of records of two Collectorates (Aurangabad and Nagpur) it was noticed, that revenue-free land measuring 47411.3 square meters allotted for educational purpose to two societies, was used for commercial purpose resulting in mis-utilisation of revenue free land valued at Rs 21.28 crore as under:

Sr. No.	Name of the educational institution	Area (in Sq. Mtr.)	Rate per sq. mtrs. (Rupees)	Market value of land (Rupees in crore)	Remarks
1	Management of Banjara Hostel Aurangabad	4614.30 ^o	5314	2.45	Land granted for construction of hostel building was used for construction of Shopping complex
2	Anjuman Hami Islam Education Society, Nagpur	42797.00	4400	18.83	Land granted for construction of school building was used for construction of shopping complex
Total		47411.30		21.28	

The Collector Aurangabad passed an order on 21 July 2000 for restoration of the land to Government. However, the Revenue Minister ordered (11 September 2000) that (i) restoration order passed by the Collector Aurangabad was cancelled, (ii) 15 per cent of the building should be used for commercial purpose and (iii) 15 shops constructed should be removed by the society. For failure to do so by the society, action should be taken by the Collector for removal of encroachment as per provisions of MLR Code and measurements taken by the Taluka Inspector of Land Records Aurangabad. Further, action taken for regularization/recovery of the value of the land authorised to be used for commercial use and for eviction of the remaining encroached land was not available in the records of the department.

^o Out of 6070.5 square meters of land allotted for hostel building, 4614.3 square meters land was used for construction of shopping complex.

On this being pointed out, the Collector stated (January 2002) that action was being taken as per the orders of the Minister. The Collector Nagpur stated (April 2002) that facts of the case were sent to Government and was pending for decision with the Government.

4.2.9 Conclusion

A strong internal control mechanism in the system is required to be developed for exercising periodical check/ review of the encroached areas resulting into speedy eviction or regularisation of the land under the illegal occupation of encroachers. Government land allotted free of cost or at concessional rates if not utilised for the purpose for which it was intended/ allotted should be resumed by the Government at once. This would not only discourage the encroachment of Government land, but will also augment resources.

The matter was reported to Government in June 2002; their reply has not been received (December 2002).

4.3 Recovery of dues treated as arrears of land revenue

The mode of recovery of dues of the Government departments/Government undertakings and corporations, *etc.*, is laid down in the relevant Act of the concerned Government departments. However, if recovery cannot be effected and the dues become irrecoverable under the provisions of the relevant Act, the departmental officer responsible for administering the Act is required to send a Revenue Recovery Certificate (RRC) in the prescribed form furnishing full details of recovery to be effected by the Tahsildar of the taluka in which the property of the defaulter is situated. The District Collector/Tahsildar has been delegated with powers for initiating the recovery proceedings by adopting any one or more of the processes prescribed under the Maharashtra Land Revenue Code, (MLR Code) 1966 and Revenue Recovery Act, 1890. These Acts provide for attachment of the property, auction of the property and even confinement of the defaulters in jail, if they failed to respond to the demand notices issued to them.

4.3.1 Position of arrears

(a) Year wise position of outstanding dues to be recovered through RRCs and recovery actually effected between 1997-98 and 2001-02 as made available by the Government was as under:

(Rupees in crore)						
Sr. No.	Particulars	1997-98	1998-99	1999-2000	2000-2001	2001-2002
1	Arrears for recovery through RRCs as on 1 April	13.39	27.03	16.76	22.81	7.85
2	Amount for which RRCs issued during the year	38.49	17.32	15.15	15.16	189.56

3	Recoveries made in the year	10.33	10.22	9.10	30.12	63.73
4	Arrears ¹⁵ of RRCs as on 31 March	41.55	34.12	22.81	7.85	133.68
5	Percentage of recovery	19.91	23.04	28.52	79.33	32.28

(b) Correctness of arrears

A cross verification of details by audit of the RRC cases in 23 tahsils with the records made available in the concerned Collectorates revealed that the correct picture was not available with the Collectors as detailed in the following table:

Sr. No.	Districts	No. of tahsils	Figures as per tahsils	Figures as per Collector	Difference in cases	Amount (Rupees in crore)
1	Nagpur	4	659	92	567	25.10
2	Wardha	1	3496	Nil	3496	0.50
3	Amravati	1	38	Nil	38	0.03
4	Akola	3	122	Nil	122	0.13
5	Yavatmal	2	--	--	--	0.12
6	Nashik	4	25	Nil	25	0.09
7	Nanded	6	294	Nil	294	0.63
8	Solapur	2	20	Nil	20	0.09
Total		23	339	92	339	26.69

On this being pointed out, the tahsildars accepted the difference and agreed to reconcile the figures.

Revenue and Forests Department

4.3.2 Non-treating unrecovered dues as arrears of land revenue

Under Sanjay Gandhi Swawalamban Yojana (SGSY) (September 1980), the loan granted to unemployed/underemployed needy persons was to be recovered in 8 equal annual instalments after allowing initial period of two years of moratorium. Overdue instalments or amount of loan misutilised was to be recovered as arrears of land revenue in view of the Government instructions (January 1983).

(i) A test check of records in seven¹⁶ District Collectorates relating to S.G.S.Y. revealed that loans amounting to Rs 3.40 crore sanctioned during the period from 1985-86 to 1989-90 had become overdue for recovery between

¹⁵ The closing balance at the end of 31 March did not tally with the figures of opening balance on 1 April of subsequent year. This discrepancy was brought to the notice of Government (June 2002), who replied (July 2002) that the figures would be verified again.

¹⁶ Akola, Amravati, Gadchiroli, Dhule, Nanded, Pune, Yavatmal.

1995-96 and 1999-2000 after a lapse of a period of ten years. Though RRCs had to be issued in the years from 1995-96 to 1999-2000 No further action was taken to recover the arrears by stringent measures. Year wise break-up is given as under :

Sr. No.	Year of sanction of loan	Outstanding amount out of sanctioned loan (Rupees in crore)	Year by which loan was recoverable fully	Year in which RRCs were to be issued
1	1985-86	0.33	1995-96	1996-97
2	1986-87	0.64	1996-97	1997-98
3	1987-88	0.55	1997-98	1998-99
4	1988-89	0.73	1998-99	1999-2000
5	1989-90	1.15	1999-2000	2000-2001
Total		3.40		

(ii) In 8 District Collectorates an amount of Rs 3.51 crore as detailed below was pending recovery during the years from 1980-81 to 2000-01 for which neither the year wise break up was available with the department nor any action taken to recover the over due amount as arrears of land revenue (December 2002).

Sr. No.	Name of the Collectorate	Amount (Rupees in crore)
1	Nagpur	0.57
2	Thane	0.52
3	Mumbai (City)	0.42
4	Mumbai (Suburban)	0.75
5	Wardha	0.68
6	Jalgaon	0.48
7	Solapur	0.06
8	Raigad	0.03
Total :		3.51

On this being pointed out, Government while accepting the observations of audit stated that the Collectors would be instructed to recover the dues as arrears of land revenue.

4.3.3 Non-clearance of cases

Forests Department

Note 10 below Section 169 of Maharashtra Land Revenue Code, 1966 provides that the Collectors should ensure that the arrears of forest dues are recovered

within a period of one year from the date on which the Collectors are requested by the officials of the Forests Department to recover the dues from the defaulting contractors.

A scrutiny of records in the office of the Principal Chief Conservator of Forests (PCCF), Nagpur, revealed that RRC cases amounting to Rs 0.88 crore sent to ten¹⁷ Collectors for recovery remained unattended. These cases have been pending with the Collectors for periods ranging from 1 to 10 years.

The Forests Department stated (June 2002) that no progress had been made by the Revenue Department in recovering the outstanding amount. This inaction on the part of the department resulted in non-recovery of the amount.

4.3.4 Pursuance of RRCs

Under the Government of Maharashtra, Revenue and Forests Department circular of December 1979 and further instructions issued from time to time, both the RRC issuing officers and revenue authorities are responsible for collection of the amounts in arrears.

During test check of records in nine departments, it was noticed that 61915 RRC cases sent by requisitioning authorities to concerned revenue authorities for collection of the amounts were pending for 2 to 5 years. Lack of pursuance by the issuing authorities as well as laxity on the part of revenue department resulted in the non-collection of arrears amounting to Rs 45.89 crore as detailed below:

Sr. No.	Name of issuing department/organisation	No. of cases	Amount (Rupees in crore)
1	Industries	4623	1.29
2	Registration	44433	10.52
3	Labour	436	1.90
4	Mining	206	1.14
5	Irrigation	18	0.71
6	Agriculture	1642	1.20
7	SICOM	104	9.11
8	MSFC	22	2.22
9	Khadi Gram Udyog	10431	17.80
	Total	61915	45.89

¹⁷ Amravati, Aurangabad, Chandrapur, Dhule, Kolhapur, Nagpur, Nasik, Pune, Thane and Yavatmal

4.3.5 Failure to initiate action after issue of the attachment order

(a) State Industries and Investment Corporation of Maharashtra (SICOM) Ltd., Mumbai forwarded a RRC case to Tahsildar, Aurangabad in February 1999 for recovering Rs 1.53 crore from the defaulter M/s Nipon Packaging Ltd. Aurangabad. The Tahsildar, Aurangabad on receipt of the case issued demand notices to the defaulter in March 1999 and April 1999, followed by an attachment order in November 2000. Therefore, instead of taking coercive measures like auctioning the property, *etc.*, the tahsildar continued to issue demand notices which only resulted in non-recovery of dues from the defaulter. In reply, the tahsildar Aurangabad stated that appropriate action could not be taken due to non-availability of enough qualified staff in his office.

(b) Tahsildar, Baramati received a RRC case for recovery of an amount of Rs 0.38 crore in August 2001 from the Chairman, Maharashtra State Shahakari Ghani Tel Utpadak Mahasangh, Baramati. Though an attachment order to confiscate and auction of the property was issued in August 2001, yet the case was not pursued further and no reasons for inaction were available on record. On this being pointed out the tahsildar stated that further action will be taken after in depth inquiry of the case.

The laxity on the part of department resulted in non-recovery of Rs 1.91 crore.

4.3.6 Irregular closure of RRC case after issue of several reminders

Government of Maharashtra in Food and Civil Supplies and Consumer Protection Department forwarded a RRC case to the Tahsildar, Baramati in 1997 for recovery of Rs 0.76 crore from M/s. Baramati Solvent Extraction Pvt. Ltd. Pune, followed by reminders in June 1998, October 1998, January 1999, January 2000 and August 2001. Despite repeated pursuance by the department and at Government level, no action was taken by the tahsildar. Government closed the case (November 2001) on the presumption that recovery might have been effected and further stated that in case of non-recovery the responsibility would devolve solely on the concerned tahsildar. However, no recovery was effected in this case and it was lying (February 2002) with the tahsildar who stated that action would be taken now.

4.4 Short levy of land revenue and increase of land revenue due to non-revision of assessment

Under the provisions of the Maharashtra Land Revenue Code, 1966 land revenue is assessed with reference to the use of land and the non-agricultural assessment (N.A.A.) of the land 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 the new rates notified in the official gazette, subject to the condition that the rates do not exceed two/six times the old N.A.A. for residential/ industrial or commercial purpose

respectively. Further, increased land revenue at the rate of 50 per cent and 100 per cent of land revenue from 1 August 1975 by the land holders holding 8 hectares or more but less than 12 hectares of land and by those holding 12 hectares of land or more respectively under the Maharashtra Increase of Land Revenue Assessment Act, 1974 and cess at the prescribed rates under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1958 are also leviable.

In two tahsils, land measuring 699035 sq. mtrs. was put to non-agricultural use, for which the non-agricultural assessment was guaranteed upto August 1991 and 1992-93. Audit scrutiny between August 1997 and September 1997 revealed that, the concerned tahsildars did not revise the non-agricultural assessment after expiry of the guarantee period, and the increased land revenue was also not levied which resulted in short levy of Rs 9.20 lakh as per details given below:

(Rupees in lakh)

Sr. No.	Name of Tahsil	Name of holder	Area of land in Sq. mtrs.	Purpose	Guarantee period	period of use	Non -levy		Total
							N.A.A./ ZP,VP cess	I.L.R.	
1	Sakri	Panzarkar Co-op. Sugar factory, Bhadane, Sakri	684800	Commercial	Upto July 1991	1992-93 to 2001-02	4.05	2.11	6.16
2	Basmat -nagar	MSEB, Basmat-nagar, Parbhani	14235	Commercial	Upto 1992-93	1993-94 to 2001-02	1.80.	1.24	3.04
Total			699035				5.85	3.35	9.20

On this being pointed out in audit (August-September 1997), the department accepted the objection and recovered Rs 3.67 lakh between March 1999 and February 2000, leaving a balance of Rs 5.53 lakh yet to be recovered.

The matter was reported to Government in November 1997; their reply has not been received (December 2002).