

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of the records relating to assessment and collection of motor vehicles tax in the office of the State Transport Authority (STA), Orissa and the Regional Transport Offices (RTOs) conducted during 2006-07 revealed under assessment of tax and loss/blocking of revenue amounting to Rs. 59.46 crore in 1,76,591 cases which broadly fall under the following categories :

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non-levy/realisation of motor vehicles tax/additional tax and penalty	25,670	53.27
2	Loss of revenue due to non-realisation of entry tax	35	0.06
3	Non/short realisation of compounding fee, permit fee, reservation fee, process fee etc.	1,46,137	3.02
4	Blockage of revenue due to non-disposal of vehicle check reports	1,412	0.82
5	Non/short realisation of composite tax and penalty	1,585	0.63
6	Short levy of motor vehicles tax/additional tax and penalty	320	0.38
7	Non/short realisation of trade certificate tax and fees	168	0.05
8	Other irregularities	1,264	1.23
Total		1,76,591	59.46

During the year 2006-07, the department accepted under assessment and other deficiencies of tax and penalty of Rs. 110.74 crore in 63,719 cases, which had been pointed out in earlier years. The department had recovered Rs. 26,000 in three cases pointed out in audit during the year 2006-07 and Rs. 4.21 crore in 7,297 cases pertaining to the earlier years.

A few illustrative cases highlighting important audit observations involving Rs. 57.24 crore are discussed in the following paragraphs.

3.2 Misappropriation of Government revenue

In Motor Vehicles Department, one time tax (OTT), reservation fees and permit fees are realised by the RTOs and the fact of realisation are endorsed in the history sheet of general registration (GR) volume/reserved registration volume/permanent permit (PP) register, as the case may be. In order to guard against endorsement of fake receipts in these registers, the procedure for collection of tax prescribed is to issue the first copy of the money receipt (MR) to the person paying tax, the second copy to the clerk concerned through the head clerk for posting in the concerned registers and the third copy is retained in the office for record. While entering tax payments in the concerned registers, entries should be attested/authenticated by the designated officers.

3.2.1 Test check of the history sheets of vehicles, counterfoils of MRs, daily collection register (DCR) (tax/fees) and cash book of RTO, Keonjhar region in August - September 2006 revealed that:

- As per endorsements made in the history sheet of the GR volume in 87 cases pertaining to the period between February and December 2005, Rs. 20.89 lakh was realised towards OTT. Cross verification of these with the corresponding counterfoil of MR/DCR/cash book revealed that the actual realisation reflected in the cash book amounted to Rs. 12.46 lakh only. Thus, though realisation of the amount was shown in full in the GR, tax was short realised by Rs. 8.43 lakh.

- In 155 cases pertaining to the period from April 2004 to March 2006, reservation fees for Rs. 7.04 lakh for reserving specific registration numbers were realised as per endorsements made in the history sheets of the reserved registration volume. The corresponding counterfoils of MR/DCR/cash book, however, showed realisation and remittance of Rs. 60,000 only. There was, thus, short deposit of revenue of Rs. 6.44 lakh.

- In 106 cases of PPs issued to goods vehicles pertaining to the period between January 2005 and December 2005, it was noticed that fees of Rs. 6.36 lakh was shown as realised in the endorsement made in PP registers. Cross verification of entries made in PP register with the corresponding counter foils of MR/DCR/cash book revealed that the actual realisation was Rs. 58,000 only. This showed short deposit of revenue of Rs. 5.78 lakh.

3.2.2 Test check of the records in RTO, Jharsuguda region in December 2006 revealed that in two cases, entry tax was endorsed in the GR volume fraudulently by way of utilising the MR of another vehicle resulting in evasion of tax of Rs. 43,000.

Thus, Government revenue of Rs. 21.08 lakh had been misappropriated through the manipulation of either the entries in the cash book or through false endorsement in the records.

After the cases were pointed out, the Government stated in August 2007 that FIR had been lodged against the staff involved in the misappropriation of the Government money and draft charges framed against the staff. The report on recovery has not been received (November 2007).

3.3 Non/short realisation of motor vehicles tax and additional tax

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 (as amended) tax/additional tax due on motor vehicles should be paid in advance within the prescribed date at the rates prescribed in the Act unless exemption from payment of such tax/additional tax is allowed for the period covered by off road declarations. Penalty is to be charged at double the tax/additional tax due, if tax/additional tax is not paid within two months of the expiry of the grace period of 15 days.

3.3.1 Test check of the records in 25 RTOs¹¹ between May 2006 and March 2007 revealed that in 26,218 cases, motor vehicles tax/additional tax of Rs. 17.51 crore was not realised for the period from February 2005 to March 2006. This resulted in non-realisation of revenue of Rs. 52.52 crore including penalty of Rs. 35.01 crore as mentioned below:

(Rupees in crore)

Sl. No.	No. of regions Nature of irregularities	Period between	No. of vehicles	Non-realisation of tax/additional tax	Penalty leviable
1.	<u>25</u> Non-realisation of motor vehicles tax/additional tax from goods vehicles	April 2005 and March 2006	13,727	12.70	25.39
2.	<u>25</u> Non-realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2005 and March 2006	4,722	2.56	5.12
3.	<u>25</u> Non-realisation of motor vehicles tax from tractor trailer combination	April 2005 and March 2006	7,553	1.99	3.98
4.	<u>22</u> ¹² Non-realisation of motor vehicles tax/additional tax in respect of stage carriages	February 2005 and March 2006	216	0.26	0.52
TOTAL			26,218	17.51	35.01

After the cases were pointed out, the Government stated in August 2007 that Rs. 68.76 lakh had been realised in 981 cases and demands totalling Rs. 30.07 crore raised in 15,905 cases. The reply in other cases and report on recovery in respect of 15,905 cases has not been received (November 2007).

11 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

12 Angul, Balasore, Bargarh, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

3.3.2 Test check of the records in 19 regions¹³ between May 2006 and March 2007 revealed that in 101 cases, tax/additional tax of Rs. 4.49 lakh for the period from April 2004 to March 2006 was realised short. This resulted in short realisation of revenue of Rs. 13.47 lakh including penalty.

After the cases were pointed out, the Government stated in August 2007 that demands totalling Rs. 3.95 lakh had been raised in 27 cases. Reply in other cases and report on recovery in respect of 27 cases has not been received (November 2007).

3.4 Non/short realisation of fees

As per the Motor Vehicles (MV) Act, 1988 read with the Government of Orissa, Commerce and Transport (Transport) Department notification dated 24 January 2003, rates of various fees such as fee for countersignature of permit and transfer of permit for various class of vehicles were enhanced and process fee was introduced with effect from 28 January 2003. The department by an order of March 2003, however, postponed the collection of fees at the rates prescribed in the above notification.

Test check of the permit registers and other connected records in STA, Orissa, and 25 RTOs¹⁴ including check gates between May 2006 and March 2007 revealed that during the period from April 2005 to March 2006, the aforesaid fees were either not realised or realised at pre-revised rates in 1.45 lakh cases due to postponement of the process fees by executive orders of March 2003. Thus, irregular issue of executive order postponing collection of fees at revised rates levied by the Government led to non/short realisation of fees amounting to Rs. 1.69 crore.

After the cases were pointed out, the Government stated in September 2007 that audit contention was not sustainable in view of the Government order of March 2003. The reply is not tenable as the rates published in the gazette had already come into force and charging of old rates by an executive order was irregular since executive orders cannot overrule the statutory provisions. Further reply has not been received (November 2007).

3.5 Loss/non-realisation of compounding fees from goods vehicles carrying excess load

Under section 194 of the MV Act, the compounding fees for carrying excess load by goods vehicles shall be a minimum of Rs. 2,000 and an additional amount of Rs. 1,000 per ton of excess load over and above the registered laden

13 Angul, Balasore, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Phulbani, Rourkela, Sambalpur and Sundargarh.

14 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangapur, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

weight (RLW). In unified border check posts¹⁵, the details of vehicles like registration number of vehicles, RLW, weight of goods loaded etc., coming from other States and vice versa are recorded by the commercial tax wing and MV tax wing simultaneously.

During the test check of outgoing vehicles registers of the commercial tax wing conducted between April 2005 and August 2005 in two check posts¹⁶ under two regions¹⁷, it was noticed that 979 goods vehicles carried excess load beyond the RLW and the excess load ranged from 590 to 26,930 kgs. Of this, 188 vehicles had Orissa registration mark and 791 vehicles were vehicles of other states. Cross verification with the outgoing vehicle registers maintained by the MV wing located at the same place revealed that the excess load was not reflected in the records and the overloaded vehicles were allowed to pass through the check posts to other States without realisation of the prescribed compounding fees. This led to loss of revenue of Rs. 1.05 crore in respect of 791 vehicles of other states and non-realisation of Rs. 21.97 lakh in respect of 188 vehicles with Orissa registration mark.

After the cases were pointed out, RTO, Jharsuguda (Kanaktora check post) agreed that steps would be taken to locate the vehicles in the check post and to realise the Government dues. No reply was received from RTO, Sundargarh (Telijore check post).

The matter was brought to the notice of the Transport Commissioner (TC)/Government in April 2007; the Government stated in September 2007 that compliances were yet to be received from the concerned RTOs. A report on further development has not been received (November 2007).

3.6 Non-realisation of composite tax for goods vehicles under reciprocal agreement

Under the provisions of the OMVT Act, when a goods vehicle enters the State under the terms of an agreement with any other State, it is liable to pay additional tax for each entry into the State at the prescribed rate. As per the Government of Orissa decision of February 2001, goods vehicles belonging to Andhra Pradesh (AP) and authorised to ply in Orissa under the reciprocal agreement were required to pay composite tax of Rs. 3,000 per vehicle per annum. The tax was payable in advance on or before the 15th April every year to the STA, Orissa. In case of delay in payment, penalty of Rs. 100 for each calendar month or part thereof was also leviable in addition to the composite tax.

Test check of the records of STA, Orissa in June 2006 revealed that out of 1,806 goods vehicles of AP authorised to ply in Orissa during 2005-06 on the strength of valid permit under reciprocal agreement, composite tax for 1,021

15 Combined check post of sales tax, MV, state excise, forest etc. departments

16 Kanaktora and Telijore.

17 Jharsuguda and Sundargarh.

goods vehicles amounting to Rs. 30.63 lakh was not realised. Besides, penalty of Rs. 12.25 lakh (calculated upto March 2006) was also leviable.

After the cases were pointed out, the Government stated in August 2007 that STA, AP was requested to realise and remit the above amount. The reply is silent about the failure of the STA, Orissa to transmit the registration mark of defaulting vehicles to the check posts. The fact remained that 1,021 out of 1,806 vehicles were allowed to ply through the check gate during the entire year 2005-06 without payment of composite tax on which no action was taken by the department till it was pointed out by audit. A report on realisation has not been received (November 2007).

3.7 Non/short levy of penalty on belated payment of motor vehicles tax and additional tax

Under the OMVT Act and Rules made thereunder, penalty ranging from 25 to 200 *per cent* of the tax/additional tax due depending on the extent of delay in payment, shall be leviable if a vehicle owner failed to pay tax and additional tax within the specified period.

Test check of the records of 25 RTOs¹⁸ between May 2006 and March 2007 revealed that in 248 cases though tax/additional tax for the period from April 2003 and March 2006 were paid belatedly between April 2005 to March 2006 after delays ranging from 15 days to more than two months, penalty was either not levied or levied short by the taxing authorities. This resulted in non-levy of penalty of Rs. 14.15 lakh in 118 cases and short levy of penalty of Rs. 11.01 lakh in 130 cases.

After the cases were pointed out, the Government stated in August 2007 that Rs. 1.14 lakh had been realised in 12 cases and demands totalling Rs. 8.63 lakh raised in 81 cases. The reply in other cases and report on recovery in respect of 81 cases has not been received (November 2007).

3.8 Non/short realisation of tax from stage carriages plying without permits

Under the OMVT Act, motor vehicles tax and additional tax in respect of a stage carriage is leviable on the basis of the number of passengers (including standees) and distance to be covered in a day as per the permit. If such a vehicle is detected to be plying without a permit, tax/additional tax payable is to be determined on the basis of the maximum number of passengers (including standees) which the vehicles would have carried reckoning the total distance covered each day as exceeding 320 km i.e. at the highest rate of tax as per the taxation schedule. In case of default, penalty ranging from 25 *per cent* to double the tax due is leviable.

18 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangpur, Nuapada, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh.

Test check of the records of the STA, Orissa and 15 RTOs¹⁹ between May 2006 and March 2007 revealed that though 61 stage carriages were detected to be plying without permit by the enforcement wing during the period between February 2005 and March 2006, motor vehicles tax/additional tax were either not paid or paid at lesser rates resulting in non/short realisation of tax of Rs. 6.66 lakh. Besides, penalty of Rs. 13.33 lakh was also leviable.

After the cases were pointed out, the Government stated in September 2007 that Rs. 54,000 had been realised in three cases, Rs. 3.44 lakh was locked in three MV appeal cases and demands totalling Rs. 11.61 lakh were raised in 29 cases. A report on recovery and reply in other cases has not been received (November 2007).

3.9 Non-realisation of differential tax from stage carriages used as contract carriages

Under the OMVT Act, when a vehicle in respect of which motor vehicle tax/additional tax for any period has been paid as per the registration certificate, is proposed to be used in a manner for which higher rate of motor vehicle tax/additional tax is payable, the owner of the vehicle is liable to pay the differential tax. In case the tax is paid beyond two months after the grace period of 15 days, penalty is to be charged at double the tax due.

Test check of the records of 14 RTOs²⁰ between July 2006 and March 2007 revealed that 124 stage carriages were permitted to ply temporarily as contract carriages during the period between April 2005 and March 2006 on which higher rate of tax was applicable. Though differential tax was not paid in advance, yet no action was taken by the RTOs to issue demand notices to the vehicle owners till the date of audit. This resulted in non-realisation of differential motor vehicle tax/additional tax of Rs. 4.40 lakh. Besides, penalty of Rs. 8.79 lakh for delay in payment of tax was also leviable.

After the cases were pointed out, the Government stated in August 2007 that Rs. 1.33 lakh had been realised in 14 cases and demands totalling Rs. 7.68 lakh raised in 71 cases. A report on recovery and reply in other cases has not been received (November 2007).

3.10 Non/short realisation of motor vehicles tax/additional tax from stage carriages plying under reciprocal agreement on inter State routes

In pursuance of an agreement between the Government of Orissa and any other State, if a stage carriage plies on a route partly within the State of Orissa, it is liable to pay tax/additional tax calculated on the total distance covered by

19 Balasore, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Jagatsinghpur, Keonjhar, Koraput, Mayurbhanja, Nawarangapur, Nuapada, Puri, Rayagada, Rourkela and Sambalpur.

20 Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Jagatsinghpur, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada and Sambalpur.

it on the approved route in the State of Orissa at the rates and in the manner specified under the OMVT Act and the Rules made thereunder. In case the tax is paid beyond two months after the grace period of 15 days, a penalty is to be charged at double the tax due.

Test check of the records of the STA, Orissa, Cuttack and three regions²¹ between June 2006 and February 2007 revealed that 19 stage carriages were authorised to ply on inter State routes under the reciprocal agreement for the period from April 2003 to March 2006 on which tax of Rs. 4.88 lakh was realisable. The vehicle owners, however, paid tax of Rs. 1.25 lakh leaving a balance of Rs. 3.63 lakh. The STA and RTOs also did not initiate any action to recover the balance dues. It was further noticed that 5 out of 19 stage carriages did not pay tax for the last 12 months ending on March 2006. This resulted in non/short realisation of motor vehicles tax/additional tax of Rs. 3.63 lakh. Besides, penalty of Rs. 7.26 lakh was also leviable.

After the cases were pointed out, the Government stated in August 2007 that Rs. 97,000 had been realised in five cases and demands totalling Rs. 6.92 lakh raised in six cases. A report on recovery and reply in other cases has not been received (November 2007).

3.11 Short realisation of composite tax under the National Permit Scheme

As per the Government of Orissa notification of February 1999, composite tax for goods carriages belonging to other States/Union Territories plying in Orissa under the national permit (NP) scheme will be payable at the rate of Rs. 5,000 per annum per vehicle in advance in one instalment. In case of delay in payment, penalty of Rs. 100 for each calendar month or part thereof is also leviable.

Test check of the records of the STA, Orissa in June 2006 revealed that in respect of 276 goods carriages belonging to other States authorised to ply in Orissa during 2005-06 under the NP scheme, composite tax of Rs. 6.98 lakh was paid against Rs. 13.80 lakh payable. This resulted in short realisation of Rs. 6.82 lakh. Besides, penalty of Rs. 3.22 lakh due to default in full payment of composite tax was also leviable.

After the cases were pointed out, the Government stated in August 2007 that all the concerned STAs were requested to realise the amount and remit it to STA, Orissa. A report on recovery has not been received (November 2007).

3.12 Non-realisation of motor vehicles tax/additional tax for violation of off road declaration

Under the OMVT Act, motor vehicle tax/additional tax is to be levied on every motor vehicle used or kept for use in the State of Orissa unless prior

21 Bargarh, Keonjhar and Rourkela.

intimation of non-use of the vehicle is given to the taxing officer. If, at any time, during the period covered by such off road declaration, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period. In such a case, the owner of the vehicle is liable to pay tax and penalty as applicable due for the entire period for which it was declared off road.

Test check of the records in six regions²² between August 2006 and March 2007 revealed that 18 motor vehicles under off road declarations for the year 2005-06 were either detected plying or were not found at the declared places by the enforcement staff. No action was, however, taken by the taxing officers to realise the tax and levy penalty for violation of off road declaration. This resulted in non-realisation of tax and additional tax of Rs. 2.96 lakh. Besides, penalty of Rs. 5.91 lakh was also leviable.

After the cases were pointed out, the Government stated in August 2007 that demands totalling Rs. 5.68 lakh had been raised in six cases. A report on recovery and reply in other cases has not been received (November 2007).

3.13 Non-realisation of trade certificate tax/fees

Under the OMVT Act, read with Central Motor Vehicle (CMV) Rules 1989, dealers of motor vehicles are required to obtain trade certificate from the registering authorities by paying requisite tax/fees annually in advance. Under the MV Act, a dealer includes a person who is engaged in building bodies on the chassis or in the business of hypothecation, leasing or hire purchase of motor vehicles.

Test check of the records of eight RTOs²³ between May 2006 and March 2007 revealed that in respect of 154 dealers, trade certificate tax and fees for the period from April 2003 to March 2006 were not realised. This resulted in non-realisation of tax and fees of Rs. 4.60 lakh.

After the cases were pointed out, the Government stated in September 2007 that demands totalling Rs. 1.30 lakh had been raised in 51 cases. A report on recovery and reply in other cases has not been received (November 2007).

3.14 Short realisation of one time tax

Under the OMVT Act read with TC's circular of April 2005, the owner of a motor vehicle of the description specified in items 1, 2 and 6 of schedule I appended to the Act and motor vehicles coming under motor cab (transport) category having seating capacity of not more than six excluding the driver and intended to be used for hire and reward is liable to pay OTT equal to the rate specified in schedule III or five *per cent* of the cost of the vehicle whichever is

22 Bargarh, Bhubaneswar, Chandikhol, Dhenkanal, Ganjam, and Sambalpur .

23 Balasore, Bhadrak, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Jharsuguda and Rourkela.

higher at the time of initial registration of the vehicle. In no case shall annual tax be collected from these vehicles at the time of registration.

Test check of the registration records of four regions²⁴ between June 2006 and February 2007 revealed that OTT was not realised at the appropriate rate from 22 vehicles registered between February 2005 and February 2006. This resulted in short realisation of OTT amounting to Rs. 3.60 lakh.

After the cases were pointed out, the Government stated in September 2007 that Rs. 27,000 had been realised in three cases and demands totalling Rs. 3.33 lakh raised in 19 cases. A report on realisation has not been received (November 2007).

3.15 Short realisation of reservation fees on allotment of reserved registration numbers

Under the OMV Rules 1993 read with TC, Orissa's notification of April 2002, an owner of a two wheeler or any other motor vehicle opting for a number of his choice coming within 1,000 from the last number registered shall pay a fee of Rs. 2,000 and Rs. 4,000 respectively. The registering authority may, on an application in writing for special choice, reserve the registration number. Any number beyond 1,000 but within 10,000 from the last number registered in serial order can also be reserved on payment of Rs. 5,000 for two wheelers and Rs. 10,000 for other vehicles as per TC's circular of August 2002. Besides, specific notified numbers as decided by the STA from time to time can be reserved on payment of Rs. 5,000 for two wheelers and Rs. 10,000 for other vehicles.

Test check of the records of three RTOs²⁵ between November 2006 and January 2007 revealed that reserved numbers beyond 1,000 from the last number registered and notified numbers circulated by STA were allotted on application between May 2004 and March 2006 to nine two wheelers and 41 other motor vehicles without realising the reservation fees at the rate applicable for these numbers of choice. This resulted in short realisation of reservation fees amounting to Rs. 2.70 lakh.

After the cases were pointed out, the Government stated in August 2007 that demands totalling Rs. 95,000 had been raised in 18 cases. A report on recovery and reply in other cases has not been received (November 2007).

24 Bhadrak, Gajapati, Keonjhar and Rourkela.

25 Kalahandi, Koraput and Nayagarh.