

Chapter V: Other Tax Receipts

5.1 Results of audit

Test check by audit of records of electricity duty and entertainment duty/tax during the year 2005-06 revealed irregularities amounting to Rs.71.93 crore in 57 cases which broadly fall under the following categories:

(In crore of rupees)

Sr. No.	Category	Number of cases	Amount
A	Electricity duty		
1.	Non deposit of electricity duty	1	35.20
2.	Incorrect carry forward of figure of electricity duty.	1	0.47
	Total	2	35.67
B	Entertainment duty		
1.	Non recovery of entertainment duty/tax from cinema houses/video parlour	30	25.55
2.	Non realisation of entertainment duty from cable operators	15	1.92
3.	Other irregularities	9	4.62
4.	Review on "Collection of entertainment tax/duty".	1	4.17
	Total	55	36.26
	Grand Total	57	71.93

During the year 2005-06, the department recovered Rs. 78 lakh entertainment tax/duty in nine cases relating to audit findings of previous years.

The results of review on 'Collection of entertainment tax/duty' and a few illustrative cases highlighting financial irregularities involving Rs.39.37 crore are given in the following paragraphs:-

A: Electricity Duty

5.2 Unauthorised retention of electricity duty

Under the Punjab Electricity Duty Act, 1958 and Rules made thereunder, electricity duty leviable on energy supplied by the Punjab State Electricity Board (board) shall be collected by the board alongwith the bills for energy supplied to consumers and deposited with Government by 20th of the following month. The board shall submit to the Chief Electrical Inspector (CEI), by 20th of every month a statement in the prescribed form showing duty assessed, realised, deposited and balance retained/unrecovered. The Act is silent about the levy of interest for late deposit of duty.

Test check of records of CEI in August 2005, revealed that the board collected electricity duty amounting to Rs. 239.46 crore from consumers alongwith the bills for energy supplied from April 2004 to March 2005. The board deposited an amount of Rs. 204.26 crore in Government account and retained an amount of Rs. 35.20 crore unauthorisedly. Besides, there is a loss of revenue by way of interest, which could not be levied on the outstanding dues in the absence of any provisions in the Act/Rules.

Government to whom the matter was referred in December 2005 stated that the suggestion to include a clause enabling levy of interest on delayed payment of electricity duty would be considered while framing Rules under the new Electricity Duty Act passed by Government in 2005.

B: Entertainment tax/duty

5.3 Review on collection of entertainment tax/duty

Highlights

Non/incorrect reporting of arrears of entertainment tax/duty of Rs.2.56 crore resulted in suppression of arrears.

(Paragraph 5.3.7.2)

Entertainment duty of Rs.2.44 crore was neither demanded nor paid by cable TV operators.

(Paragraph 5.3.9)

Entertainment duty amounting to Rs.28.20 lakh was not recovered from proprietors of two amusement parks.

(Paragraph 5.3.10)

Non maintenance of uniformity in the rates of admission, resulted in short collection of revenue of Rs.58.15 lakh.

(Paragraph 5.3.14)

Due to application of incorrect formula, Rs1.04 crore was short collected from seven cinema houses during 2000-01 to 2004-05.

(Paragraph 5.3.15)

5.3.1 Recommendations

Government may consider the following suggestions for speedy realisation of revenue:

- prescribe time schedule for payment of entertainment duty,
- prescribe rules and regulations for levy of interest on delayed payment of entertainment duty,
- identify unauthorised cable television operators(CTVOs) through survey and co-ordination with Department of Posts and bring them under the tax net,
- strengthen internal control mechanism to ensure regular monitoring of determination and collection of demand of entertainment tax/duty.

5.3.2 Introduction

Levy and collection of entertainment tax/duty is governed by the Punjab Entertainment Tax (Cinematograph Shows) Act, 1954 (PET Act) as amended from time to time and the Punjab Entertainment Duty Act, 1955 (PED Act). As per the provisions of the Acts and Rules made thereunder, tax/duty at prescribed rate is payable to the State Government on all payments for admission to any entertainment which includes any exhibition, performance, amusement, games, sports or race to which people are admitted on payment.

The Acts empower Government to exempt any entertainment from entertainment tax/duty by general or special order. No entertainment tax/duty is, however, collected on public entertainments where the net proceeds of collection are devoted to philanthropic, charitable, educational or scientific purposes.

5.3.3 Organisational set up

Levy, collection and assessment of entertainment tax/ duty under the Acts, is administered by the Excise and Taxation Commissioner (Commissioner). He is assisted by Deputy Excise and Taxation Commissioner (DETC) and Assistant Excise and Taxation Commissioner (AETC) with the assistance of Excise and Taxation Officers (ETOs) and other allied staff at district level.

5.3.4 Scope of audit

Mention was made in paragraph 6.5 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 1999, highlighting the shortcomings during the years from 1994-95 to 1997-98 regarding the demand and collection of entertainment tax/duty.

With a view to examine that entertainment tax/duty has been correctly levied/collected and compliance made to the recommendations of PAC, the records of the Commissioner's office at Patiala and 10* out of 21 districts for the period 2000-01 to 2004-05 were test checked between April and November 2005.

5.3.5 Audit objectives

Test check of the records of Commissioner/AETCs was conducted with a view to ascertain:

- effectiveness of the system to assess, collect and raise the demand of entertainment tax / duty due to Government,
- compliance of the prescribed rules and procedure with consequent revenue loss in the event of deviation thereto,
- existence of internal control mechanism to ensure proper use of forms/returns to avoid leakage of revenue,
- adequacy of the provisions of the Act/Rules/instructions for the purpose of prompt recovery of tax/duty.

* Amritsar I and II, Hoshiarpur, Jalandhar I and II, Ludhiana I, II and III, Patiala and Ropar.

5.3.6 Trend of revenue

Year wise budget estimates and actuals as regard to the collection of tax/duty for the period 2000-01 to 2004-05 were as under:

(In crore of rupees)

Year	Budget estimate	Actuals	Shortfall(-)/excess(+)	Percentage of excess(+)/shortfall(-)
2000-01	9.60	11.52	(+) 1.92	(+)20.00
2001-02	15.50	11.71	(-) 3.79	(-)24.45
2002-03	19.52	10.43	(-) 9.09	(-)46.57
2003-04	15.63	9.19	(-) 6.44	(-)41.20
2004-05	10.00	6.43	(-) 3.57	(-)35.70

The reasons for increase in 2001-02 and 2002-03 and decrease in 2003-04 and 2004-05 in budget estimates and actuals in 2004-05 though called for (December 2005) have not been received. However, the AETCs stated (May/October 2005) that some cinema houses have been closed down.

5.3.7 Position of arrears

5.3.7.1 As per the statement of old outstanding arrears under PET and PED Acts, arrears amounting to Rs.15.73 crore were outstanding as on 31 March 2005. The yearwise details of arrears of entertainment tax and duty though called for in December 2005 have not been supplied so far (August 2006).

The stage wise position of arrears is as under:-

(In crore of rupees)

1	Stay by High Court and civil courts	6.48
2.	Stay by DETC	1.57
3.	Amount allowed to be collected in instalments	0.48
4	Others	7.20
	Total	15.73

5.3.7.2 Short reporting of arrears

Test check of records of six AETCs revealed that arrears of entertainment tax/duty outstanding as on 31 March 2005 were reported short of Rs.2.56 crore to Commissioner as per details given below:-

(In lakh of rupees)

Sr. No	Name of district	Amount recoverable as per books of AETCs	Amount reported by AETCs to ETC	Difference
1	Hoshiarpur	58.74	23.95	34.79
2	Jalandhar I	87.47	71.80	15.67
3	Jalandhar II	19.15	Nil	19.15
4	Ludhiana I	62.56	6.95	55.61

5	Ludhiana III	65.10	Nil	65.10
6	Ropar	65.89	Nil	65.89
	Total	358.91	102.70	256.21

5.3.8 Internal control mechanism

5.3.8.1 The PET Act and the PED Act empower the departmental authorities to enter premises to inspect and search and impose penalty on proprietors of entertainment houses/places/parks to ensure compliance of the provisions made in the Acts *ibid*.

Test check of records of 10* AETCs revealed that no records were maintained about the number of inspections made and records seized from places of entertainment.

5.3.8.2 Internal audit system

An internal audit organisation (IAO) was set up in October 1981 as an independent organisation under the State Finance Department and entrusted *inter alia* with the internal audit of receipts to safeguard against any loss or leakage of revenue under the various revenue heads including entertainment tax /duty. By a notification issued in November 1991, the focus of internal audit was shifted from revenue to expenditure audit. It was envisaged in the notification that audit of entertainment tax/duty would not be taken up as a routine activity and could be conducted on a selective basis.

A review of record maintained by IAO, however, revealed that the IAO did not conduct internal audit of entertainment tax/duty after the issue of above notification, *ibid*. Scrutiny of records further disclosed that 112 audit notes containing 572 paragraphs involving Rs.77.19 lakh, pertaining to the period prior to November 1991, were outstanding as on 31 March 2005. The IAO attributed in March 2006 the pendency to non submission of replies by the department.

5.3.9 Non realisation of entertainment duty from cable operators

PED Act provides that entertainment duty of Rs.15,000 per annum was payable with effect from 1 April 1999 by proprietors providing entertainment with the aid of an antenna or cable television. Proprietors of cable television operators (CTVOs) are required to get themselves registered with the Department of Posts under the Cable Television Networks (Regulation) Act, 1995.

* Amritsar I and II, Hoshiarpur, Jalandhar I and II, Ludhiana I, II and III, Patiala and Ropar.

During audit of 10* AETCs, it was noticed that no efforts were made to ascertain the number of CTVOs operating under their jurisdiction. However, information collected by audit from Department of Posts revealed that 988 CTVOs were registered with the department for running cable television network during the period 2000-01 to 2004-05. Cross verification of this information with available records in AETCs offices disclosed that out of 988 CTVOs, 937 CTVOs had neither paid entertainment duty nor was it demanded by the department. This resulted in non levy and non realisation of entertainment duty of Rs.2.44 crore.

After this was pointed out, Commissioner intimated in June 2006 that recovery of Rs.4.15 lakh from seven CTVOs in Ludhiana II and III districts had been made and efforts to recover from 73 CTVOs were being made. It was also intimated that there were 21 main CTVOs and 373 franchisee of main CTVOs in six** districts. Entertainment duty was not due from the franchisee and 334 CTVOs had closed their business as per affidavits collected (May and June 2006) by the department. The reply of the department is not acceptable as there is no provision for exemption of tax to franchisee in the PED Act.

5.3.10 Non recovery of entertainment duty from proprietors of amusement parks

Under the PED Act, Government prescribed entertainment duty at the rate of 125 *per cent* of rate of admission. The rate of entertainment duty on amusement parks was reduced to 75 *per cent* with effect from April 1996. Further, Government revised the rate of duty with effect from April 2003 according to which the proprietor may at his option pay lumpsum entertainment duty amounting to Rs.60,000 per annum or 50 *per cent* of the rates of admission.

5.3.10.1 Delay in recovery due to delay in finalisation of demand

Test check of records of AETC, Amritsar I, revealed that proprietor of an amusement park did not pay entertainment duty from April 1997. The AETC directed the proprietor in November 1997 to pay the entertainment duty. The proprietor filed an appeal in Punjab and Haryana High Court against the demand which was decided in favour of the department in May 2001. The department raised the demand of entertainment duty of Rs. 49.94 lakh for the period from April 1997 to March 2000 in July 2001. The proprietor again filed an appeal against the demand to DETC. The DETC remanded the case to AETC in March 2002 for denovo assessment within 30 days but the same was not done. No further action was taken by AETC.

* Amritsar-I and II, Hoshiarpur, Jalandhar-I and II, Ludhiana-I, II and III, Patiala and Ropar.

** Amritsar II, Ludhiana-I and II (one each), Jalandhar-II (2), Patiala (10) and Ropar/Mohali (6).

After this was pointed out, the AETC made assessment in April 2006 after a period of four years and created demand of Rs.17.56 lakh (against earlier demand of Rs. 49.94 lakh). Thus, delay in assessment resulted in delay in recovery of entertainment duty. Besides this, entertainment duty for the years 2000-01 to 2002-03 has not been assessed so far.

5.3.10.2 AETC conducted the inspection of an amusement park in September 2000 and seized the balance sheet for the year 1999-2000. The department issued a notice in June 2001 for hearing, on demand of entertainment duty of Rs.10.64 lakh, which was worked out on the basis of balance sheet. Thereafter, no action was taken by AETC to assess the case. Thus, failure on the part of department to pursue the case further resulted in delay of recovery of Rs 10.64 lakh.

After this was pointed out, AETC Ludhiana II stated that the assessment was still pending. Further progress was awaited (August 2006).

5.3.11 Non determination of demand

Test check of records of three* AETCs revealed that in case of three amusement parks, proprietors had neither paid entertainment duty at the prescribed rates during 2003-04 and 2004-05 nor any demand was raised by the department. This resulted in non realisation of entertainment duty amounting to Rs.3.60 lakh.

After this was pointed out, Commissioner intimated (June 2006) in the case of Jalandhar that amusement parks are exempted from payment of entertainment duty under the tourism policy whereas action for recovery was initiated in the other two cases. Reply in the case of Jalandhar was not tenable as no orders of the Commissioner for granting exemption under tourism policy were furnished to audit.

5.3.12 Non levy of interest due to lack of provision

Under the PET Act, if any proprietor of a cinema house fails to pay the amount of entertainment tax, he shall be liable to pay interest at the rate of one *per cent* if the amount of tax due is not paid within one month and one and a half *per cent* till the default continues. However, no provision exists in the PED Act and Rules made thereunder.

During test check of records of AETCs Ludhiana and Patiala, it was noticed that proprietors of the amusement parks did not pay entertainment duty amounting to Rs 84.80 lakh pertaining to period 1994-95 to 2002-03. In the absence of any provision in the Act/Rules, interest upto March 2005 to the tune of Rs1.03 crore including Rs.44.46 lakh for the period 2000-01 to 2004-05 could not be levied. Besides, there was delay in collection of outstanding dues by the department.

* **Jalandhar, Ludhiana and Patiala.**

5.3.13 Non realisation of duty from video parlours

Under the PED Act, as amended in September 1994, lumpsum entertainment duty at a rate not exceeding Rs.8,000 per annum in the local area of a city located under the jurisdiction of municipal corporation/committee and Rs.6,000 per annum in other areas shall be recoverable in respect of entertainment provided by the proprietors of video parlour.

Test check of records of three* AETCs, revealed that 33 video parlour owners were granted licences by district magistrates for the years 2000-01 to 2004-05 for screening of video films. However, no entertainment duty was recovered from 15 proprietors of the video parlours. This resulted in non/short realisation of entertainment duty of Rs.3.90 lakh.

5.3.14 Short collection of revenue due to non maintenance of uniformity in the rates of admission

Under the PET Act, as amended in 1994, entertainment tax at the prescribed rates on the gross collection capacity per show in a cinema house was required to be paid to the State Government. Besides, the cinema owners are required to charge the rate of admission as fixed by the District Magistrate (DM). PAC while discussing paragraph 6.5.10 of the Report of Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 1999 Government of Punjab, in its 151st Report in March 2004 desired to know the reasons for not revising the cinema rates of admission of some of the cinemas in district Amritsar while it had done so in respect of other cinema halls.

During test check of records of AETCs Amritsar I and II, it was noticed in October/November 2005 that the rates of admission in respect of six** cinema houses were not revised as laid down in the notification of June 1994 though the rates in the case of other cinema houses falling in the same municipal area were revised in July 1994. These cinema houses continued to pay tax at the pre revised rates during the period from 2000-01 to 2004-05. This resulted in short collection of entertainment tax amounting to Rs.58.15 lakh.

5.3.15 Loss of revenue due to incorrect fixation of rates

Under the PET Act, as amended in 1994, proprietor of a cinema house is required to pay entertainment tax at the prescribed rates on the gross collection capacity per show to the State Government.

During test check of records of AETC, Ropar, it was noticed that gross collection capacity in respect of seven*** cinema houses was worked out by the AETC at lower rates of admission during the period from August 1996 to March 2005 than the rates fixed by DM. This resulted in loss of revenue of

* Amritsar II, Hoshiarpur and Patiala.

** Chitra, Krishna, Nishat, Raj, Sangam and Tara.

*** Azad, Bassi, Jagmohan, J.R, Kalyan , Punjab and Shivalik.

Rs.1.34 crore which includes Rs.1.04 crore pertaining to the years 2000-01 to 2004-05.

After this was pointed out, Commissioner stated in June 2006 that notices for assessment proceedings have been issued. Further progress was awaited (August 2006).

5.3.16 Irregular exemption of entertainment tax in respect of feature films

Under the PET Act, Government is competent to grant full/part exemption from payment of entertainment tax in respect of feature films. As per Government instructions of February 1999, whenever Government issues sanction for the grant of exemption of tax to a film, DMs should suitably reduce the price of tickets reflecting the quantum of exemption so that the benefit could be passed on to the viewers. If, this was not done, the exemption shall stand automatically withdrawn.

During the audit of records of AETC Ludhiana II, it was noticed in May 2005 that DM had not reduced the rates of admission in respect of four cinema houses which exhibited feature films exempted from payment of tax as stipulated in various sanctions issued by Government during the period from 2001-02 to 2004-05. However, these cinema houses had not paid entertainment tax amounting to Rs 3.49 lakh on the plea that they had exhibited tax exempted feature films. The department had neither objected to the irregular availment of exemption nor demanded the tax due from the cinema owners. This resulted in non realisation of entertainment tax of Rs.3.49 lakh.

After this was pointed out, AETC intimated in August 2005 that rates were not to be reduced by DM. The reply is not tenable as Government orders of February 1999 specifically provide that whenever any film is declared tax free, the DM should reduce the rate of tickets of cinema houses in consultation with concerned AETC which was not done.

5.3.17 Conclusion

From the foregoing paragraphs, it is evident that the management of assessment and collection of entertainment tax /duty is not satisfactory. Provisions of the Acts/Rules/instructions were not being followed correctly. As a result there existed arrear of recovery and non determination of demands against CTVOs, proprietors of amusement parks and cinema houses. Non existence of penal clause in the PED Act for levy of interest on delayed payment of entertainment duty has increased the arrear recoverable from the proprietors of amusement parks.

5.3.18 Acknowledgement

The audit findings as a result of review were reported to department/Government in April 2006 with a specific request to attend the meeting of Audit Review Committee (ARC) on the topic so that the views of the department/Government were taken in account while finalising the review.

The meeting was held on 25 April 2006 and attended by the Financial Commissioner and Principal Secretary to Government of Punjab, Excise and Taxation Department. The audit findings included in the review were discussed and agreed to by the department. The reply of the Excise and Taxation Commissioner received in June 2006 was considered while drafting the review and views of department were incorporated.