

CHAPTER-VI: Other Tax Receipts

6.1 Results of audit

Test check of records of land revenue, land and building tax and luxury tax conducted in audit during the year 2002-03 revealed under assessments and loss of revenue etc. amounting to Rs.816.04 crore in 3,905 cases which broadly fall under the following categories.

(Rupees in crore)			
S. No.	Category	Number of cases	Amount
A. Land Revenue			
1.	Non-regularisation of cases of trespassers on government land	2,588	14.02
2.	Non-recovery of conversion charges from <i>khatedars</i>	612	11.47
3.	Non-recovery of premium and rent from central/state government/department/ undertakings	95	3.80
4.	Non-recovery of price of command/un-command/custodian/ceiling land etc.	281	6.74
5.	Other irregularities including irregular allotment of land to private/charitable educational institutions.	217	763.49
Total		3,793	799.52
B. Lands and Buildings Tax			
6.	Short levy due to under valuation of properties.	27	7.81
7.	Short levy due to mistakes in assessments	9	0.37
8.	Other irregularities.	75	7.23
Total		111	15.41
C. Luxury Tax			
9.	Non-levy of luxury tax	1	1.11
Total		1	1.11
Grand total		3,905	816.04

During the year 2002-03, the Department accepted under assessment etc. of Rs.7.30 crore involved in 672 cases of which 96 cases involving Rs.4.90 crore had been pointed out in audit during 2002-03 and rest in earlier years. Further, the Department recovered Rs.43.48 lakh in 469 cases during the year 2002-03 of which 99 cases involving Rs.2.09 lakh related to the year 2002-03 and rest to the earlier years.

A few illustrative cases involving Rs.5.74 crore highlighting important audit observations are given in the following paragraphs:

A. Land Revenue

6.2 Short recovery of premium

In pursuance of Government of Rajasthan circular dated 2 March 1987, government agricultural land can be allotted to a central government organisation for commercial use on payment of cost at the commercial rate. The commercial rate for sale of land would be the rates as approved by the District Level Committee (DLC) of that area.

In Shree Dungargarh Tehsil (Bikaner district), it was noticed in June 2002 that government agricultural land measuring 2,151 square metre was allotted in August 2000 to a corporation for establishment of petrol pump; Rs.2.09 lakh instead of the prevalent commercial value of land of Rs.17.21 lakh (at the rate as prescribed by DLC) was charged from the corporation. The undervaluation of land resulted in short recovery of Rs.15.12 lakh.

The omission was pointed out to the Department in August 2002 and to the government in February 2003. In reply the Department stated in August 2003 that demand had been raised and action was being taken for recovery. Further reply was awaited (August 2003).

6.3 Short recovery of premium and lease rent

According to Government notification dated 2 August 1984, an allotment of government land on lease may be made to the Rajasthan State Road Transport Corporation (RSRTC) on payment of premium equal to the prevailing market price of agricultural land in the neighbourhood in addition to annual lease rent at the rate of 10 percent of such premium.

In Tehsil Revder (District Sirohi), it was noticed that government agricultural land measuring 12 *bigha* was allotted in December 1999 to RSRTC and recovery of Rs.2.83 lakh made instead of Rs.14.58 lakh being premium equal to prevailing market price with lease rent at the rates prescribed. This resulted in short recovery of premium of land and lease rent of Rs.11.75 lakh.

On this being pointed out in audit, the Department stated in July 2003 that, as per decision of DLC dated 27 September 2000, the land situated at a distance of more than 500 metres from national/state highway and district road may be treated far from the main road. The reply of the Department was not tenable as the land was allotted in December 1999, and therefore, the decision of DLC dated 27 September 2000 would not be applicable. Moreover, the land was also situated on Revder-Selwara main road.

The Government to whom the matter was reported in March 2003, confirmed the reply of Department in August 2003.

B. Lands And Buildings Tax

6.4 Non-valuation of land

Under Rajasthan Lands and Buildings Tax Act, 1964 (RL& BT Act) and rules made thereunder, tax on land or building or both is leviable on the market value of the property and in accordance with the instructions issued by the department.

In Bikaner, it was noticed in July 2002 that the Assessing Authority assessed the market value of property of *Prasar Bharti* as Rs.2.29 crore for land measuring 43,562 square feet out of total area of 28,46,374 square feet and levied tax at Rs.3.33 lakh for the year 1998-99 and onwards. The value of vacant land measuring 28,02,812 square feet remained unassessed. This resulted in short recovery of tax amounting to Rs.3.65 crore for the period from 1998-99 to 2001-02.

On this being pointed out in audit, the Department/Government intimated in May 2003 that demand for Rs.5.61 crore (including penalty and interest) had been raised. Report on recovery has not been received (August 2003).

6.5 Short levy of tax due to undervaluation of land

Under RL & BT Act, tax on land or building or both is leviable on the market value of property. As per departmental instructions, the rates of land as fixed by the Registration and Stamps Department would be applicable for valuation of land with effect from 1 April 1991. The market value of land for subsequent period was to be based on a 10 per cent annual increase for residential properties and 20 per cent for commercial purposes. The Government clarified in December 1998 that the value of property would be determined on market price, if it exceeds the price fixed by the District Level Committee (DLC).

In Jaipur and Alwar, it was noticed that tax amounting to Rs.59.44 lakh was short levied due to incorrect valuation of property as per details given below:

(Rupees in lakh)

S. No.	Name of office	Date of Assessment	Period	Short levy of tax	Nature of irregularity
1.	2.	3.	4.	5.	6.
1.	Jaipur (Moti Doongari Zone)	13 January 2000	1995-96 to 1999-2000	8.15	As the possession of the land was taken after April 1994, tax liabilities would commence from 1 April 1995 as per rates prescribed by DLC. The Assessing Authority worked out on 13 January 2000 the market value of land as on 1 April 1990 increased by 20 per cent per annum upto 1 April 1994 instead of market value of land as applicable from 1 April 1995..
<p>Remarks:-On this being pointed out in audit, the Department/Government stated in June 2003 that demand had been raised. Report on recovery has not been received (August 2003).</p>					
2.	Alwar	28 November 2001	1998-99 to 2001-02	9.93	The Assessing Authority computed residential land measuring 9,822.69 square yards and commercial land 7,947.33 square yards at the lower rates instead of higher rates as the said property was a plot located on main road in a corner.
<p>Remarks:-The omission was pointed out to the Department in February 2003 and reported to Government in March 2003. The Government did not agree as the property was not situated on main road, hence lower rates would be applicable (June 2003). The reply is not tenable in view of Urban Improvement Trust's letter dated 3 January 2003 accordingly to which the property was situated on the corner of 60 feet road in west and 25 feet road in north.</p>					
3.	Jaipur (Chandpole Zone)	19 December 1997	1997-98 to 2001-02	10.36	The Assessing Authority assessed the market value of land by adopting separate rates instead of a single rate for front and rear. The Assessing Authority did not include the cost of building constructed initially for Rs.91.09 lakh. The cost of various showrooms sold before assessment for Rs.2.01 crore was also deducted from the total value of land of Rs.4.27 crore.
<p>Remarks:-The omission was pointed out to the Department in January 2003 and reported to the Government in February 2003. The Government stated in July 2003 that the assessee purchased land through two sale deeds therefore, valuation of land was correctly made by applying two rates. During 1996-97 some portion of the completed building was sold, hence value of sold portion had been deducted from the total value of property. The reply was not tenable in view of the provision of the Act and rules that single rate would be applicable for valuation of entire land of an assessee. The cost of constructed area should be added initially in value of property and then deduction be allowed for the area sold.</p>					

1.	2.	3.	4.	5.	6.
4.	Jaipur (Hawa Mahal Zone)	31 December 1997	1994-95 to 1999-2000	31.00	An assessee purchased two commercial plots measuring 1,153.38 square metres situated on main bazar through sale deed for Rs.36 lakh. The Assessing Authority assessed the property for Rs.1.05 crore instead of Rs.3.81 crore at DLC rates.
Remarks:- The omission was pointed out to the Department in July 2002 and reported to Government in January 2003. The Department stated in August 2003 that the property had been re-assessed and demand of Rs.29 lakh raised.					
Total				59.44	

6.6 Short recovery of tax due to adoption of incorrect base year

Under RL & BT Act, tax on land or building or both is leviable on the market value of total property. The Act provides that in case any land or building is built, rebuilt or enlarged during any year, the owner shall be liable to pay tax from the year following the year during which such cause arises. As per departmental instructions, the land rates as decided by the Registration and Stamps Department would be applicable for valuation of land from 1 April 1991.

In Jaipur, it was noticed that the assessee got permission in March 1999 for conversion of land measuring 3,755 square yard (3,139.18 square metres) to establish a cinema hall. The Assessing Authority while assessing the property in April 2001 had not reassessed the converted land on commercial basis from April 1999. This resulted in short recovery of tax of Rs.11.59 lakh for the period from 1999-2000 to 2000-01.

The omission was pointed out to the Department in January 2003 and reported to Government in February 2003, their replies are awaited (August 2003).

C. Luxury Tax

6.7 Non-levy of Luxury tax

The Rajasthan Tax on Luxuries (In Hotel and Lodging Housing) Act, 1990 and the Rules made thereunder, provides for the levy and collection of tax at the rates prescribed on luxury provided in hotels and lodging houses. The luxury provided in a hotel means accommodation and other services including air conditioning, cooler, heater, geyser, television, radio, music, entertainment, extra beds, linen articles and the like for which the rate of charge per day or

part thereof is Rs.1200 or more. Further, where composite charges for boarding, lodging and other amenities, are levied otherwise than on daily basis, the tax liability for luxury tax shall be after excluding the items taxable under Sales Tax Act. If the hotelier fails to pay tax in time, interest at the rate of 2 per cent for each month is leviable. If a hotelier has evaded tax, he shall be liable to pay, in addition to tax, a penalty equal to double the sum of tax evaded.

A Government Company, a registered hotelier under the Act and Indian Railways are jointly plying a luxury train called 'Palace on Wheels' as part of a sight seeing package on payment of a fixed amount per person. The amount of the package is apportioned between the Company and Railways in the ratio of 42:58. The amount received by the Company aggregating Rs.8.41 crore during the years 1997-1998 to 1999-2000 included charges for accommodation, meals, housekeeping services etc. Since charges for luxuries provided and for food and beverages had not been shown separately, considering 50 per cent as the amount for luxuries, charges for luxury tax worked out to Rs.4.21 crore and was liable to be taxed under the Act. It was noticed in December 2001 that the Company did not include this in its luxury tax return. The Assessing Authority also failed to detect the irregularity. This resulted in non-levy of luxury tax of Rs.1.11 crore including interest and penalty of double the sum of tax.

On this being pointed out, the department intimated in August 2003 that demand for the year 1999-2000 had been raised in March 2003 and as the records for the years 1997-98 and 1998-99 of the dealer had been seized by the CBI, further action would be taken after release of the records.

The matter was reported to government in March 2002; their reply has not been received (August 2003).