

CHAPTER IV

TAXES ON VEHICLES AND STATE EXCISE

4.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2003 to March 2004, revealed non/short collection of tax, fees, penalty etc., amounting to Rs.25.34 crore in 164 cases, which broadly fall under the following categories.

(in crore of rupees)			
Sl. No.	Categories	No. of cases	Amount
Taxes on vehicles			
1	Short/non collection of tax	97	13.51
2	Short/non collection of fees	26	3.02
3	Short/non collection of penalty	5	0.03
4	Others	12	0.27
Total		140	16.83
State Excise			
1	Non/short levy of excise duty	2	0.62
2	Non/short collection of licence fees, privilege fees, etc.	13	1.33
3	Non/short collection of penalty/ interest	5	0.26
4	Other cases	4	6.30
Total		24	8.51
Grand Total		164	25.34

During the course of the year 2003-2004, the Department accepted under assessments etc., amounting to Rs.14.70 lakh involving 30 cases of which six cases amounting to Rs.2.04 lakh were pointed out during 2003-2004 and the rest in earlier years. Out of the above an amount of Rs.7.14 lakh pertaining to 23 cases has been collected (June 2004).

A few illustrative cases involving a tax effect of Rs.4.98 crore are mentioned below:

TAXES ON VEHICLES

4.2 Short levy due to mis-classification of light motor vehicle as maxi cab

Under Motor Vehicles Act, 1988, a 'maxi cab' has been defined as any motor vehicle constructed or adapted to carry more than six passengers, but not more than 12 passengers excluding the driver, for hire or reward. The tax leviable for the maxi cab was Rs.175 per seat per quarter upto 30 November 2001 and Rs.250 thereafter. Mini bus has been defined as a vehicle constructed or adapted to carry more than six passengers but not more than 25 passengers excluding the driver and the conductor. When such vehicle is used as contract carriage, the tax leviable thereon was Rs.2000 per seat per quarter upto 30 November 2001 and Rs.3000 thereafter. Inspecting Authority of the Department are required to inspect the motor vehicle before registration of such vehicles. As per return submitted by body builders to excise department, bodies for TATA 407 model chassis were fitted with seating capacity ranging between 17 and 19 excluding driver.

In twenty six¹⁶ regions, it was noticed in February 2004 that 105 vehicles of TATA 407 model were registered between December 1999 and January 2003 as maxi cab with seating capacity of 12 excluding driver. However, the bodies of these vehicles were built so as to accommodate more than 12 (in some case even 17 or 19) excluding driver. In view of this, the vehicles should have been classified as mini bus and taxed accordingly. Taking into account the minimum number of seats as 13 for classifying it as minibus, the short realisation of tax in respect of these vehicles for the period between December 1999 and March 2003 worked out to Rs.2.51 crore.

After this was pointed out in February and March 2004 in the office of Transport Commissioner, Chennai, the Department stated in February 2004 that "Maxi Cab" permits were being issued for certain vehicles i.e. TATA 407 to meet the public demand for additional transport facilities in the tourist sector. It was further stated that even though the actual seating capacity was more than 12 excluding driver, the seating capacity was restricted to 12 excluding driver, as mentioned in RC Book and when such vehicles were found plying with more passengers, tax would be collected for the offence. The reply was not tenable since there is no provision in the Act/Rules to register a vehicle with seating capacity of more than 17 in the category of vehicles having seating capacity of 12 excluding driver. Also the penalty which is a discretionary power levied for violation, is for only those vehicles which are caught and does not cover the vehicles which are registered as

¹⁶ Chennai, Coimbatore (South), Cuddalore, Dharmapuri, Dindigul, Karur, Madurai (South & North), Nilgiris, Ooty, Perambalur, Periyakulam, Pudukkottai, Ramanathapuram, Salem, Sivaganga, Srirangam, Thanjavur, Thiruchengodu, Thiruvannamalai, Tirunelveli, Tiruvallur, Tiruvarur, Vellore, Villupuram and Virudhunagar.

maxicab. In view of the above the Department may take appropriate action to register such vehicles according to its seating capacity and collect tax. Further reply was awaited (September 2004).

The matter was reported to the Government in May 2004 and followed up with reminder in August 2004; their reply was awaited (September 2004).

4.3 Delay in implementing Government Orders resulting in revenue foregone

By a notification issued in May 2002, Government of India enhanced the fee for issue of fresh/renewal/endorsement of driving licence in Form 7 (Laminated Card) from Rs.150 to Rs.200 per card with effect from 31 May 2002. However, the Government of Tamil Nadu, by an executive order issued in October 2002, made the enhanced fee applicable from 5 November 2002.

In the Office of the Transport Commissioner, Chennai, it was noticed in August 2003 that during the period from 1 June 2002 to 4 November 2002, fees for issue of fresh/renewal/endorsement of driving licence was collected at the pre-revised rate instead of at the enhanced rate. This resulted in loss of revenue of Rs.2.29 crore.

After this was pointed out, the Department replied in August 2003 that it was due to delayed notification and matter would be taken up with Government to obtain clarification. The fact remains that there was a delay of five months in publishing the notification by the State Government to charge fees at enhanced rates. The case was again pointed out to the Department in February 2004; their reply was awaited (September 2004).

The matter was reported to the Government in February 2004 and followed up with reminder in August 2004; their reply had not been received (September 2004).

4.4 Non/short levy of life time tax in respect of construction equipment vehicle

Government of India, Ministry of Surface Transport, New Delhi, had notified in July 2000 that construction equipment vehicles such as 'Excavator' should be treated as "Non-Transport Vehicles". Under the Tamil Nadu Motor Vehicles Taxation (TNMVT) Act, 1974, life time tax should be levied in respect of Non-Transport Vehicles as per the rate prescribed.

In six¹⁷ Regional Transport Offices, it was noticed between March 2002 and August 2003 that in respect of 27 construction equipment vehicles registered

¹⁷ Chennai (West), Dharmapuri, Erode, Nagercoil, Periakulam and Sivaganga.

between August 2000 to July 2002, either quarterly tax was levied or life time tax was short levied. This resulted in short realisation of tax amounting to Rs.5.63 lakh.

After this was pointed out between March 2002 and October 2003 to the Department and to the Government in April/May 2004; the Government replied in July 2004 that construction equipment vehicles were covered under clause 6 B of Ist schedule to TNMVT Act and so life time tax was not leviable. The reply is not tenable since this clause includes only vehicles or trailer fitted with equipments like rigs, generators or compressors and do not speak about construction equipment vehicles like excavator loaders, cranes etc.

The Government was reminded in August 2004; the reply was awaited (September 2004).

STATE EXCISE

4.5 Non collection of registration/renewal fees

Government by an order issued in October 2002 directed that renewal fees of Rs.2 lakh per annum per brand may be levied on old Indian Made Foreign Spirits (IMFS) and beer. This is in addition to registration fee of Rs.2 lakh for any new brands of IMFS¹⁸ registered during the year. Government had clarified in February 2003 that the above orders were to be applicable only from the year 2003-2004.

In the Office of Excise Supervisory Officer, Chennai it was noticed in April 2003 that while registration fee for three new brands introduced by a distillery during the year 2002-2003 was collected, the same was not collected for six old IMFS Brands manufactured by the company based on Government's clarification. Since a G.O. could not be superseded by executive instructions issued in February 2003 through letters, the non-collection of renewal fee in respect of old brand was not in order. This resulted in non-realisation of fee of Rs.12 lakh.

The matter was again reported to the department/Government in June 2004 and followed up with reminder in August 2004; their replies were not received (September 2004).

¹⁸ IMFS means spirits manufactured and compounded in India and made in colour and flavour to resemble gin, brandy, whisky or rum imported into India and includes "milk punch" and other liquors consisting of or containing spirits.