

CHAPTER VII OTHER TAX RECEIPTS

7.1 Results of audit

Test check of records in the offices dealing with assessment and collection of electricity duty, stamp duty & registration fees and other tax receipts conducted in audit during the year 2004-05, revealed underassessment/non-levy etc. of tax amounting to Rs.820.36 crore in 172 cases, which broadly fall under the following categories :

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
A. ELECTRICITY DUTY			
1.	Non-assessment/non-realisation of Electricity Duty	24	530.69
2.	Non-assessment/non-realisation of interest	7	171.75
3.	Irregular adjustment of duty	2	58.24
4.	Others	7	50.48
Total:		40	811.16
B. STAMP DUTY AND REGISTRATION FEES			
1.	Non-realisation of deficit Stamp Duty and Registration Fees	44	5.17
2.	Blockage of Government Revenue	32	1.38
3.	Others	24	1.66
Total:		100	8.21
C. OTHER TAX RECEIPTS			
1.	Profession Tax	24	0.43
2.	Luxury Tax and Agricultural Income Tax	8	0.56
Total:		32	0.99
Grand Total:		172	820.36

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.558.61 crore in 130 cases of which 105 cases involving Rs.557.91 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.1.46 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.396.22 crore highlighting important observations are given in the following paragraphs:

A. ELECTRICITY DUTY

7.2 Assessment, Levy and Collection of Electricity Duty

7.2.1 Introduction

Assessment, levy and collection of electricity duty on consumption of energy within West Bengal are regulated by the Bengal Electricity Duty (ED) Act, 1935 and the West Bengal Duty on Inter State River Valley Authority Electricity (ISRV) Act, 1973 as amended from time to time and the rules framed under both the Acts. Under the ED Act, every licensee has the statutory obligation to collect electricity duty from the consumers along with its energy charges and pay the same to the State Government and furnish returns within the prescribed time. On the other hand, under the ISRV Act, every person/consumer receiving energy from the Inter State River Valley Authority, Damodar Valley Corporation (DVC) has the responsibility to pay duty directly to the State Government in a similar manner as provided in the ED Act. Non-licensees such as owners of cold storages/cinema houses etc. are liable to pay duty for consumption of energy from their unregistered generating sets for own purposes.

The Director of Electricity Duty, West Bengal administers various provisions of the ED Act and Rules with the help of Electricity Duty Officer, Administrative Officer and several Inspecting Officers posted both at headquarters in Kolkata as well as two zonal offices in Asansol and Jalpaiguri. Electricity duty officer is responsible for assessment and collection of duty in respect of licensees viz. West Bengal State Electricity Board (WBSEB) and Calcutta Electric Supply Corporation (CESC) and inspecting officers are responsible for assessment and collection of duty payable by non-licensees of the districts of South 24 Parganas, North 24 Parganas and area of supply of the licensee CESC. In respect of licensees of other districts, Collectors are responsible for assessment and collection of electricity duty.

The Chief Electrical Inspector, West Bengal is responsible for inspection of electrical installations and estimation of duty payable by the consumers of the DVC under the ISRV Act. The District Collectors are responsible for recovery of arrears under both the Acts.

7.2.2 Arrears of Electricity Duty

No record on account of uncollected electricity duty was maintained by the Department, as such, the exact amount of arrears outstanding as on 31 March 2004 could not be ascertained. Scrutiny of returns furnished by the licensee and information collected from the directorate of electricity duty and six¹ Collectorates revealed that the duty recoverable from a licensee and 389 non-licensees amounted to Rs. 207.90 crore as of 31 March 2004 as shown below :

(Rupees in crore)

Licensee / Non-licensee	Period	Recoverable duty
Calcutta Electric Supply Corporation (CESC) Ltd., Licensee	December 1990 to April 1994	117.84
	May 1994 to July 1996	88.12
389 non licensees	April 1999 to March 2004	1.94
Total		207.90

After this was pointed out between November 2004 and March 2005, the Government stated in August 2005 that after proper determination of electricity duty payable by CESC, necessary steps would be taken for realisation. In 96 cases, electricity duty of Rs.11.79 lakh had been realized from non-licensees of eight² districts at the instance of audit. Report on realisation in remaining cases has not been received (October 2005).

7.2.3 Non-realisation of Electricity Duty

From the licensees under the ED Act.

Under the ED Act and Rules framed thereunder, every licensee is required to collect duty from its consumers and to pay the same to the State Government within 60 days and submit returns within 70 days. State Government by a notification issued in April 2001 enhanced the period of submission of returns from 70 days to 90 days.

Secretary, Finance Department directed WBSEB and CESC in March 2003 to pay electricity duty in cash to the State Government within due date with effect from 1 April 2003

- **Non-raising of demand**

WBSEB collected electricity duty of Rs 189.92 crore during the period from 2001 to 2003 from its consumers to whom electricity was supplied but it did

¹ Burdwan, Hooghly, Howrah, Jalpaiguri, Paschim Medinipur and Purulia

² Burdwan, Hooghly, Jalpaiguri, Kolkata, North 24 Parganas, Paschim Medinipur, Purulia and South 24-Parganas.

not deposit the same to the Government account. The Department made no efforts to recover the same and even demand notices were not issued. This resulted in non-raising of demand of Rs. 189.92 crore and unauthorized retention of Government money.

CESC Ltd. collected electricity duty of Rs. 167.90 crore from its consumers during the year 2003-04. However, it deposited only Rs.73 crore into the Government account. No action was taken to raise the demand for realising the balance amount of electricity duty of Rs. 94.90 crore from CESC. This resulted in undue benefit of Rs.94.90 crore to CESC in the form of retention of Government money unauthorisedly.

After this was pointed out in March 2005, the Government stated in August 2005 that action was being taken to assess the duty payable by the above two licensees. Report on final action taken has not been received (October 2005).

Incorrect payment of duty by the consumers under ISRV Act.

Under the ISRV Act and Rules framed thereunder, a consumer receiving energy from an inter state river valley authority is required to pay electricity duty at a prescribed rate on the units of energy consumed and to submit monthly returns in prescribed forms in prescribed manner. Where non-payment or incorrect payment of duty has been made, the assessing authority may serve notice to the person liable to pay duty for furnishing data necessary for assessment. If data are not furnished within one month, the assessing authority may assess to the best of his judgement .

Chittaranjan Locomotive Works (CLW) is liable to pay electricity duty for energy consumed in the premises used for residential purposes at the rate of 10 *per cent* of net charge for energy consumed with effect from April 1993.

- Scrutiny revealed that CLW irregularly deposited duty at the rate of eight paise per unit upto October, 2002. In spite of submission of consumption statement, no action to assess the extent of short payment of duty for the period from November 2000 to October 2002 was initiated by the assessing authority. This resulted in short realisation of duty of Rs.44.93 lakh.

After this was pointed out in February 2005, the Government stated in August 2005 that proposal for assessment of duty could not be made as the CLW did not submit the relevant records. The reply is not tenable as no steps were taken to assess the consumer on best judgement basis by the assessing authority.

- As per the provisions of the ISRV Act, electricity duty is leviable on the fuel surcharge which is to be included in gross charge of energy consumed for the purpose of payment of electricity duty.

Durgapur Steel Plant (DSP) receives energy from DVC for consumption in industrial manufacturing and domestic purposes. The DVC raised a bill for Rs.4.94 crore in March 2004 which included fuel surcharge of Rs.1.07 crore for the period from April to December 2003 for consumption of 1,43,31,510 units of energy.

Scrutiny of returns, challans and energy bills submitted by DSP revealed that fuel surcharge³ was excluded from payment of electricity duty. This resulted in short payment of electricity duty of Rs.6.61 lakh.

After this was pointed out in February 2005, the Government stated in August 2005 that the DSP had been advised in March 2005 to pay the short paid amount. Report on realisation has not been received (October 2005).

- **Non-assessment of duty**

Scrutiny revealed that three⁴ consumers neither submitted any return nor paid electricity duty for various periods between November 2001 and March 2004. No action was taken by the assessing authority to call for the consumption data for assessing the duty for the said period. This resulted in non-assessment of duty of Rs.99.22 lakh calculated on the basis of last assessment.

After this was pointed out in February 2005, the Government stated in August 2005 that proposal for assessment of two⁵ consumers had been sent to the

³ Average rate of energy charge was determined at Rs.2.70 per unit (Rs.3.88 crore/ 1,43,31,510 KWH) without taking into consideration the amount of arrear fuel surcharge. The rate of energy should be Rs.3.45 per unit (Rs.4.94 crore/1,43,31,510 KWH).

⁴ Bharat Aluminium Co.Ltd.,Chittaranjan Locomotive Works and Hindustan Cables Ltd.

⁵ Bharat Aluminium Co.Ltd., and Hindustan Cables Ltd.

Collector, Burdwan in May 2005 and the CLW authority had been requested to furnish all relevant records. Report on final outcome has not been received (October 2005).

7.2.4 Irregular excess credit in assessment

The ED Act and Rules framed thereunder provides that every licensee is required to collect duty from its consumers and pay the same to the State Government within 60 days and submit returns thereof within 70days.

It was noticed that electricity duty of Rs.282.25 crore was due from CESC as on March 2001. Government in November 2001 issued orders for adjustment of Rs.218.68 crore, being the energy charges payable by local bodies to the corporation. However, the assessing authority adjusted the entire amount after allowing rebate of Rs. 5.54 crore resulting in excess adjustment of Rs.58.03 crore.

After this was pointed out in March 2005, the Government stated in August 2005 that the adjustment orders for Rs.58.03 crore could not be issued for want of authentication of energy bills from the concerned local bodies/authorities. After receipt of authentication, action would be taken for regularisation.

The reply of the Government was not acceptable as three more assessments have already been made in 2003-04 and in none of the assessment orders the over adjustment was regularized. Moreover, crediting of the amount in excess of that sanctioned by Government for adjustment was incorrect.

7.2.5 Incorrect deduction of electricity duty by licensees

Under the ED Act, any sum due on account of electricity duty or interest, if not paid within the prescribed period and in the prescribed manner, shall be recoverable as a public demand either from the consumer or from the licensee. For this purpose a return in Form B showing the details of defaulters of electricity duty is required to be submitted to the assessing authority within prescribed period.

Scrutiny of returns submitted by two licensees, WBSEB and CESC revealed that the licensees made less payment of electricity duty of Rs. 39.71 crore for different periods from July 1996 to March 2003. However, the licensees

neither submitted monthly returns in Form 'B' showing the details of defaulters in support of the deduction nor did the assessing authority while finalising the assessments between December 1999 and March 2003 call for the same. In the absence of this vital information the Department is not in a position to recover the duties from the defaulting consumers. This resulted in non-realisation of duty of Rs.39.71 crore.

After this was pointed out in March 2005, the Government did not furnish any specific reply.

7.2.6 Irregular allowance of rebate to CESC

Under the ED Act, a licensee shall be entitled to a rebate for his cost of collection of the duty at the rate of one *per cent* on the amount of duty collected and paid by him within 60 days after expiry of the month for which the duty relates. By a memorandum issued by the Finance Department in July 1970, all the licensees were required to deposit the entire amount of collection of electricity duty to the Government and draw the amount of rebate admissible to them at the prescribed rate by submission of bills for the purpose.

Scrutiny of records revealed that the licensee CESC collected electricity duty of Rs.769.31 crore during the period from July 1996 to March 2003 but did not pay the duty within the due date of payment. Ad-hoc payment of Rs.318.59 crore in cash was made between August 1997 and June 2003 i.e. after expiry of 13 months. The assessing authority, while making assessment of duty between December 1999 and November 2003, allowed Rs.9.50 crore towards rebate which was incorrect. This resulted in short realisation of revenue of Rs 9.50 crore by allowing undue benefit to CESC.

After this was pointed out in March 2005, the Government stated in August 2005 that for the lapse in payment of electricity duty collected, the licensee could not be penalized twice by imposing interest and denying rebate. The reply is not tenable as the rebate is an incentive for prompt collection and remittance of revenue in Government exchequer whereas the interest is a penal measure for retention of Government money. Denial of incentive in the form of rebate is not a penal measure.

7.2.7 Non/short levy of duty on energy consumed in residential complexes of Government establishments

Under the provisions of the ED Act, electricity duty shall not be leviable on the net charge for energy consumed by any Government or Railway administration, save in respect of premises used for residential purposes.

Scrutiny of records revealed that the North Frontier Railway, Katihar Division made payment of electricity duty at lesser energy tariff while two⁶ Railway and two⁷ Defence establishments did not make payment of electricity duty for consumption of energy in residential complexes during various consumption periods between April 1999 and March 2004. No action was, however, taken to assess and realize duty from the Railway and Defence Establishments resulting in non- realisation of electricity duty of Rs 1.36 crore.

After this was pointed out between November and December 2004, the Government stated in August 2005 that proposal for realisation of electricity duty from the Railway authorities had been sent between March and July 2005 to the respective District Collectors. The Defence Authorities had submitted records very recently and proposal for assessment in respect of Garrison Engineer, Hasimara had been sent to the Collector, Jalpaiguri in July 2005. Report on realisation has not been received (October 2005).

7.2.8 Non-finalisation of assessments of non-licensees

Under the ED Act, every person generating energy from diesel generating set, coal based generating plant or gas based generating plant for his own consumption in any industrial or manufacturing process (including cold storages and cinema houses) is liable to pay electricity duty at the prescribed rate if it is not registered under the Act, *ibid*.

The Inspecting Officer (Technical) is responsible for estimation of electricity duty payable by a person other than a licensee in Jalpaiguri and Paschim

⁶ North Frontier Railway – Alipurduar Division and South Eastern Railway – Kharagpur Division

⁷ Garrison Engineer – Binnaguri and Hasimara

Medinipur districts and the responsibility for assessment of electricity duty rests with the Collectors.

Scrutiny of records of Collector, Jalpaiguri and Paschim Medinipur revealed that in 21 cases electrical energy was generated and consumed from diesel generating sets for various consumption periods between June 1979 and October 2004 without registration. In Paschim Medinipur district the Inspecting Officer estimated the duty at Rs.7.24 lakh and sent the proposal for assessments to the Collector, Paschim Medinipur between May 2000 and July 2002. However, the assessment was not finalised till date. Besides, in Jalpaiguri district no estimation was made by the Inspecting Officers. Consequently, the actual amount payable could not be ascertained. However, on the basis of last assessment made the duty was estimated at Rs.3.62 lakh. Non-finalisation of the assessment resulted in non-realisation of electricity duty of Rs.10.86 lakh.

After this was pointed out between November and December 2004, the Government did not furnish any specific reply.

7.2.9 Irregular exemption of duty to CTC

The ED Act provides for exemption of electricity duty payable by some consumers for certain categories of consumption. The Calcutta Tramways Company (CTC) Ltd. is not included in the list of consumers entitled for exemption of electricity duty for consumption of energy.

Scrutiny of records revealed that the licensee CESC supplied energy to CTC but did not collect the electricity duty from the CTC erroneously treating it as an exempted unit. This resulted in loss of revenue of Rs.88.42 lakh during the period from 2000-01 to 2002-03 as detailed below:

(Rupees in lakh)

Period	HT Consumption	LT Consumption	Total Consumption	Electricity Duty leviable @ 7.5 per cent
2000-01	3,48,89,097	93,69,888	4,42,58,985	33.19
2001-02	3,10,43,002	89,23,301	3,99,66,303	29.97
2002-03	3,17,73,623	19,04,195 (upto September 2002)	3,36,77,818	25.26
Total:				88.42

After this was pointed out in March 2005, the Government stated in August 2005 that a reference, seeking authority for allowance of exemption of electricity duty to CTC, had been made with the licensee CESC in June 2005. Report on further development has not been received (October 2005).

B. STAMP DUTY AND REGISTRATION FEES

7.3 Non-realisation of deficit Stamp Duty and Registration Fees

Under the Indian Stamp Act, 1899, as applicable in West Bengal, read with Departmental circular issued in July 1998, where the registering authority has reason to believe that the market value of the property has not been truly set forth in the document presented for registration, he is authorised to register such document provisionally. Thereafter, he is required to ascertain the market value of the property and issue notice to the executant for payment of deficit stamp duty and registration fees, if any, within 30 days from the date of presentation. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) within 15 days for determination of market value of the property and collection of deficit stamp duty and registration fees.

Delay at Registration Offices

Scrutiny of records of 21⁸ Registration Offices revealed that 1,146 documents presented for registration between January 2000 and July 2004 were registered provisionally. Stamp Duty was levied on the consideration of Rs.9.21 crore set forth in the instruments instead of on the market value of the property of Rs.29.74 crore. Notices for payment of deficit stamp duty and registration fees were issued but not paid by the executants within the time limit. The registering authorities did not refer those cases to the Collector/DIGR for taking necessary action. This resulted in blockage of revenue of Rs.1.50 crore.

⁸ ADSRs of Behala, Chandannagar, Domjur, Goas, Haringhata, Indus, Janai, Jangipur, Jamalpur, Kaliagunj, Kalyani, Khargram, Katwa, Mangalkote, Nimita, Ratua, Sonamukhi, Sagardighi, Singur, Tulshihata, Uluberia.

Delay at Collector Offices

Records of 19⁹ registration offices revealed between February and September 2004 that 932 instruments valued at Rs.7.12 crore instead of Market Value of Rs.26.41 crore, had been referred to the respective Collectors between April 1999 and September 2004. However, the concerned Collectors had not initiated any action although one month to 66 months had elapsed since their receipt. Absence of a monitoring system at the higher level resulted in blockage of stamp duty and registration fees of Rs.1.40 crore as determined by the registering officers.

After this was pointed out, registration officers accepted the audit observation and stated between May and September 2004 that action was being taken to realise the amount/to refer the cases to the higher authority.

The cases were reported to the Government between April and November 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

C. PROFESSIONS TAX

7.4 Non-realisation of Profession Tax due to non-enrolment

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, every person coming under the purview of the Act shall be liable to be enrolled and pay tax at the prescribed rates. In the event of any person failing to get himself enrolled and pay tax for any period, the prescribed authority shall assess the tax due to the best of his judgment and serve on him a notice of demand. The amount of tax shall be paid by such person within 15 days from date of receipt of the notice.

Cross verification of records of four¹⁰ unit offices of the Professions Tax with the records of seven¹¹ offices revealed that 73 owners of nursing homes/pathological laboratories, 82 cable operators, 24 kerosene oil dealers, 17 mining lease holders, 13 M.R.I. distributors, 28 licensed hotel owners, 37 licensed money lenders, 17 social function hall owners, 11 petrol/diesel pump

⁹ ADSRs of Behala, Baruipur, Bhagwangola, Chandannagar, Domjur, Egra, Janai, Jangipur, Kandi, Kaliachawk, Khargram, Narayangarh, Nabogram, Singur, Sealdah, Shyampur, Sagardighi; DR, Murshidabad and Registrar of Assurance, Kolkata.

¹⁰ South Unit-III, Medinipur, Central Unit-VII, Baruipur, West Unit-IV, Bankura and North Unit-I, Siliguri.

¹¹ Collectors, Sub-Divisional Offices, Deputy Controller of Food and Supply, Chief Medical Officer of Health, Superintendent of Excise, Municipality and Head Post Office.

owners, nine foreign liquor vendors and 11 video hall owners were not enrolled between 1999-2000 and 2002-03. This resulted in non realisation of professions tax of Rs.17.68 lakh.

After this was pointed out between July 2000 and January 2004, the Professions Tax Officer (PTO), South Unit-III, Medinipur and PTO West Unit-IV, Bankura stated in December 2003 that taxes due would be realised/action was being taken while PTOs North Unit-I, Siliguri and Central Unit-VII, Baruipur did not furnish any specific reply.

The cases were reported to the Government between October 2000 and March 2004, followed by reminders issued upto June 2005, their reply has not been received (October 2005).