

## CHAPTER VI AMUSEMENT TAX

### 6.1 Results of audit

Test check of the records of the amusement tax during the year 2006-07, revealed underassessment, non-levy etc. of tax amounting to Rs. 10.32 crore in 12 cases, which broadly fall under the following categories:

*(Rupees in crore)*

Sl. No.	Categories	No. of cases	Amount
1.	Non-levy of luxury/entertainment tax	5	5.36
2.	Short levy of penalty	2	4.80
3.	Irregular allowance of excess credit	1	0.09
4.	Non/short levy of interest	4	0.07
<b>Total</b>		<b>12</b>	<b>10.32</b>

During the course of the year 2006-07, the department accepted underassessment, short levy etc. of Rs. 14.68 lakh involved in three cases which were pointed out in audit during the instant year.

After issue of draft paragraphs, the department recovered an amount of Rs. 9 lakh in respect of a single observation during 2006-07.

A few illustrative cases involving Rs. 5.20 crore highlighting important observations are mentioned in the following paragraphs.

## **6.2 Non-levy and non-realisation of entertainment tax**

Under the provisions of the Bengal Amusement Tax (AT) Act, 1922, admission to an entertainment includes admission to any place in which entertainment is held and an entertainment tax at the rate of 20 *per cent* is payable on the value of tickets sold for such admission.

Test check of the records of the Agricultural Income Tax Officer (AITO), Kolkata in November 2006 revealed that the entertainment activities provided by the Science City, Kolkata since its inception in 1997, *inter alia*, included space theatre, time machine, 3D theatre, ropeway, toy train, roller coaster, monorail, caterpillar etc., against payment of entry money/admission fee for each activity. Though the activities commenced long back, yet the financial records were made available to Audit from 2002-03 onwards only. It was noticed that, during the period between 2002-03 and 2005-06, the Science City authorities collected entry fee of Rs. 22.97 crore for admission to different entertainment activities and rides. However, entertainment tax though payable on such admission fee, was neither paid by the Science City authorities nor demanded by the department. This resulted in non-levy and consequent non-realisation of entertainment tax of Rs. 4.59 crore.

The Government to whom the case was forwarded in January 2007 stated in July 2007 that the authority of Science City had been asked in March 2007 to deposit the due tax at an early date. A report on recovery has not been received (September 2007).

## **6.3 Non-levy of luxury tax on banquet hall charges**

Under the provisions of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax (WBELT) Act, 1972, a luxury tax is to be charged, levied and paid to the State Government by the proprietor of every hotel in which there is provision of luxury i.e. airconditioning. Such tax is calculated at the rate of 10 *per cent* of the daily charges realised or realisable for an occupied room provided with luxury. The Government of West Bengal by a notification issued in April 1997 clarified that the daily charge for an occupied room would cover the charge for lodging only.

Scrutiny of the assessment records of hotels under the AITO, Kolkata in November 2006 revealed that two star hotels viz., 'Taj Bengal' and 'The Park' received Rs. 3.09 crore as rental/hire charges for banquet halls provided with luxury as reflected in their annual accounts for the years 2002-03 and 2003-04. But the assessing authority (AA) while assessing luxury tax between March and December 2005, did not include rental/hire charges for banquet halls which resulted in non-levy of luxury tax of Rs. 30.87 lakh.

The Government to whom the cases were reported in January 2007 stated in July 2007 that rental/hire charges collected by the hotel for providing

temporary accommodation in the banquet hall for the purpose of meeting could not be treated as lodging charge and, therefore, was not chargeable to tax under the provision of the Act. The reply is not tenable as hire/rental charges collected for banquet hall is for temporary accommodation which means lodging and is subject to tax under the provisions of the Act. Further, the concerned AA while completing the assessments between February 2000 and February 2004 for the years 1999-2000 and 2001-02 duly levied luxury tax on hire/rental charges of banquet halls of two other hotels.

#### **6.4 Non-levy of entertainment tax on horse racing**

Under the AT Act, entertainment tax shall be charged at the rate of 60 *per cent* on all payments for admission to horse racing for entertainment. Further, the Act defines 'admission' as admission as a spectator, an audience and also a participant.

Scrutiny of the records of M/s Royal Calcutta Turf Club under the AITO, Kolkata in November 2006 revealed that though the club received Rs. 39.61 lakh as entrance fee, subscription and entry money during 2004-05, entertainment tax was neither paid by the club nor was any demand raised by the AA for payment of tax. This resulted in non-levy of entertainment tax of Rs. 23.77 lakh.

The Government to whom the case was forwarded in January 2007 stated in July 2007 that the horse owners were providers of entertainment and entry fee received from them were not chargeable to tax. The reply is not tenable as all payments including those for admission to take part in the horse racing either as a spectator or a participant are taxable as per the Act.

#### **6.5 Non/short levy of interest**

Under the provisions of the WBELT Act, a proprietor who fails to make payment of any tax within the prescribed date has to pay a simple interest at the rate of two *per cent* for each calendar month of default.

Scrutiny of the records under the AITO, Kolkata in November 2006 revealed that a proprietor defaulted in payment of admitted tax of Rs. 1.67 crore for the years 2002-03 and 2003-04 for periods ranging between one and seven months from the due dates of payment. Further scrutiny disclosed that the AA while finalising assessments between February 2005 and January 2006 short levied interest in one case and did not levy interest in the other. This resulted in non/short levy of interest of Rs. 6.07 lakh.

The Government to whom the case was reported in January 2007 stated in July 2007 that in one case interest was assessed at Rs. 4.98 lakh which was realised in February 2007. Reply in the other case has not been received (September 2007).