

CHAPTER 5 MOTOR VEHICLES TAX

5.01 Results of audit

Test check of records in the offices of the Transport department, conducted in audit during the year 2000-2001, revealed non/short realisation of revenue amounting to Rs.4.42 crore in 107 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No	Categories	Number of cases	Amount
1.	Non/short levy/assessment/realisation of tax	71	2.32
2.	Non/short levy of penalty	7	0.17
3.	Irregular exemption	3	0.02
4.	Other cases	26	1.91
Total		107	4.42

During the course of the year 2000-2001 the concerned department accepted underassessments etc. of Rs.1.64 crore in 52 cases of which 37 cases involving Rs.1.26 crore had been pointed out in audit during the year 2000-2001 and the rest in earlier years.

A few illustrative cases involving Rs.1.85 crore highlighting important observations are given in the following paragraphs.

5.02 Evasion of tax and penalty due to non-enforcement of internal control

Under the West Bengal Motor Vehicles Tax Rules, 1957, every person by whom a motor vehicle is used or kept for use is required to submit declaration in prescribed form giving necessary particulars to the taxing officer for the purpose of assessment of tax. As a measure of internal control a tax demand register is required to be maintained in taxing office to watch the demand and collection of tax as well as for verification of correct assessment of tax.

Scrutiny of records maintained in the Additional Regional Transport Office, Durgapur revealed (July 2000) that tax for current period was accepted on the basis of payee's copy of tax receipts for the previous periods instead of verification of the same from the tax demand register. Test check of available records revealed that some unscrupulous owners/agents took the advantage and produced fake or tempered receipts along with the declaration forms for assessment of current tax and thereby evaded arrear tax and penalty of Rs.5.92 lakh in 181 cases during the years between 1996 and 1999. Thus failure to enforce internal control system in assessment and collection of tax resulted in evasion of tax and penalty to the extent of Rs.5.92 lakh for the same period.

On this being pointed out (July 2000), the Registering Authority, Durgapur, stated (July 2000) that immediate step was taken to lodge FIR with the police as soon as such fraudulent activities came to their notice and the concerned cashier was arrested and placed under suspension. Tax Demand Register has been updated since April 1999.

Government to whom the matter was reported in October 2000 has endorsed (July 2001) the views of the department. The department had taken action only in respect of the two cases which they had detected, but no action was taken in regard to other cases pointed out by audit.

5.03 Failure to realise additional tax

Under the West Bengal Additional Tax and One Time Tax on Motor Vehicles Act, 1989 as amended from time to time, additional tax on omnibuses used under contract to carry passengers on hire is leviable at the rate of rupees four thousand per annum from April 1989 and rupees six thousand per annum from 25 November 1991. Penalty at the rate of 100 per cent of total additional tax due is leviable when the tax has become arrear for more than 75 days from the due date.

Scrutiny of records in the Regional Transport Office, Cooch Behar revealed (December 1999) that a large number of omnibuses having seating capacity

between 11 (ID) and 15 (ID) registered as contract carriages (called maxi taxis) to carry passengers on hire basis were not paying additional tax since the date of their registration. The owners moved the Hon'ble High Court, Calcutta against levy of additional tax on their vehicles. The Hon'ble Court in their interim judgement of December 1994 directed the owners to pay tax inclusive of the additional tax. But even after lapse of six years after the issue of Court's final judgement delivered in August 1995 upholding the interim order, the department had failed to levy the full amount of additional tax though a part of the tax was regularly paid by the owners. This led to non/short-realisation of additional tax of Rs.75.83 lakh inclusive of penalty on 69 vehicles between April 1989 and November 1999.

On this being pointed out (December 1999), the taxing officer stated (August 2001) that action was being taken to realise additional tax with penalties in respect of the vehicles on the basis of final judgement, if any, in the case. The reply is not tenable as final judgement had already been delivered in August 1995. Report on further action taken has not been received (October 2001).

The matter was reported to Government in March 2000 followed by reminder issued up to July 2001; their reply has not been received (October 2001).

5.04 Evasion of tax and additional tax on motor cars and omnibuses

Under the West Bengal Motor Vehicles Taxation Laws, tax and additional tax at the rate of one twelfth of annual tax/additional tax is leviable on a motor vehicle for each month during its period of temporary registration. Where payment of taxes has not been made within seventyfive days from the dates of their becoming due, a penalty at the rate of one hundred per cent of arrear tax is leviable.

Scrutiny of records in the Regional Transport Office, Hooghly revealed (January 2000) that one motor car manufacturing unit got registered temporarily 29219 motor cars and 2645 trekers for one month between 14 November 1994 and 5 April 1997 in favour of various dealers, undertakings

etc. both within and outside the State without payment of due tax and additional tax. The evaded amount of taxes had been calculated at Rs.28.97 lakh. A penalty of Rs.28.97 lakh was also leviable on arrear taxes making total dues at Rs.57.94 lakh.

On this being pointed out (January 2000), the taxing officer stated (February 2001) that demand notice for realisation of the entire amount has been issued in January 2001 against the company. It was intimated (August 2001) that no amount was realised till date.

The matter was reported to Government in March 2000 followed by reminders issued up to July 2001; their reply has not been received (October 2001).

5.05 Short realisation of additional tax due to registration of vehicles under inappropriate category

Under the Motor Vehicles Act, 1988, a private service vehicle means a motor vehicle constructed to carry more than six persons excluding the driver (omnibus) and ordinarily used by the owners for carrying persons in connection with his trade or business. In Kolkata and Howrah regions a public service vehicle having seating capacity below 38 and in other regions with seating capacity below 25 other than educational institutional bus or private service vehicle can be registered only as contract carriages attracting levy of higher rates of additional tax.

Scrutiny of records in the Public Vehicles Department, Kolkata and Regional Transport Office, Nadia revealed (between May 1997 and August 1998) that 60 motor vehicles (Kolkata 44, Nadia 16) having seating capacity between 9 and 20 were registered between December 1991 and December 1997 as private service vehicles in individual names. It was noticed from registration forms submitted by the owners alongwith other documents viz. copies of owner's own trade licence, proof of owner's proprietorship business that none of these individual owners was connected with any trade or business, a precondition for registration as a private service vehicle. In absence of any proof of carrying business, registration of these transport vehicles would come

under the category of contract carriage used for hire or reward on realisation of additional tax accordingly. Failure to register them under the appropriate category resulted in short realisation of additional tax of Rs.10.55 lakh between December 1991 and August 1999.

On this being pointed out (between May 1997 and August 1998), the taxing officer, Kolkata admitting the observations stated (April 2000) that arrear additional tax on one vehicle is being realised in instalments and other vehicles had been black listed and the Assistant Director (Enforcement) had been requested (July 2001) to seize the vehicles and realise the dues. The taxing officer, Nadia stated (between November 1998 and March 1999), *inter alia*, that evidences of owners' trade/business were obtained before registration as private service vehicle.

Government to whom the cases were reported between September 1997 and October 1998 endorsed (November 1998 and August 1999) the views of the taxing officer, Nadia. Further verification of records in Nadia revealed (February 2001) that difference of additional tax on 2 vehicles had been realised, evidences of trade from 7 owners were obtained from subsequent periods, while no such evidence in respect of the rest 7 owners could be shown till February 2001.

5.06 Irregular exemption of tax

As per Government notification of 7 July 1989 issued in supersession of all previous notifications in this regard, fire fighting vehicles except those owned by the Director of Fire Services under the Government, and ambulances owned by any one other than those specified in the said notification were not entitled to exemption from tax, additional tax from April 1989.

Scrutiny of records in the Regional Transport Office, Murshidabad and Additional Regional Transport Office, Barrackpur revealed (between December 1999 and February 2000) that exemption from tax and additional tax was allowed on 6 fire fighting vehicles and 3 ambulances during the

periods between January 1992 and November 2000 although the owners did not belong to the exempted category. This resulted in non-realisation of Government revenue of Rs.7.35 lakh.

On this being pointed out (between December 1999 and February 2001), the taxing officer, Murshidabad stated (August 2001) that action had been taken to realise the tax, while the taxing officer, Barrackpur, directed (August 2001) the owner to pay the tax. Report on realisation has not been received (October 2001).

The cases were reported to Government between March and April 2000 followed by reminders issued upto July 2001; their reply has not been received (October 2001).

5.07 Short realisation of tax and additional tax

(a) Under the West Bengal Motor Vehicles Taxation Laws, Motor Vehicles tax (M.V. Tax) on a motor car is leviable on its weight and that on an omnibus is chargeable on its seating capacity. Additional tax on a motor car of individual is fifty per cent of tax and on an omnibus owned by any firm, establishment, institution, company etc is rupees two thousand (up to 35 I.D.) and rupees five thousand (above 35 I.D.) as "bus of company", whereas that on an omnibus owned by individual and used for carrying passengers under contract on hire basis is leviable at rupees six thousand per year as contract carriage irrespective of seating capacity.

Scrutiny of records in the Regional Transport Office, Hooghly and Public Vehicles Department, Kolkata revealed (between May 1998 and January 2000) that 2204 omnibuses were registered temporarily by a motor car manufacturing unit for one month in favour of various establishments, companies etc. in Hooghly between 6 April 1997 and 19 July 1999 on realisation of tax and additional tax as individual motor car instead of at the rate of bus of a company. Further, in Kolkata, 8 omnibuses owned by individuals and used for carrying students, employees of companies etc were

charged with additional tax between 25 November 1991 and July 1998 at the rate of bus of a company instead of as contract carriage. This resulted in short realisation of additional tax of Rs.6.03 lakh (Hooghly Rs.4.78 lakh and Kolkata Rs.1.25 lakh).

On the cases being pointed out (between May 1998 and January 2000), the taxing officer, Kolkata stated that necessary action was being taken to realise the short payment and the taxing officer, Hooghly stated (August 2001) that demand notice had been issued in January 2001.

The cases were reported to Government (between September 1998 and March 2000) followed by reminders issued up to July 2001; their reply has not been received (October 2001).

(b) Under the West Bengal Additional Tax and One Time Tax on Motor Vehicles Act 1989, additional tax on any motor car owned by a company (other than those owned by company registered under Companies Act 1956), office establishment, undertaking etc. is leviable at the rate of rupees five hundred per annum, while that on a motor car (unladen weight between 1001 kgs and 1200 kgs) owned by an individual is payable at the rate of rupees two hundred per annum.

Scrutiny of records in the Regional Transport Office, Hooghly revealed (January 2000) that altogether 22,328 motor cars (ULW between 1001 kgs and 1200 kgs) were registered temporarily for one month by one motor car manufacturing unit in favour of various dealers, office establishments, companies etc. on payment of additional tax at the rate applicable to individual owner. This resulted in short realisation of additional tax of Rs.5.58 lakh.

On this being pointed out (January 2000), the taxing officer stated (August 2001) that demand notice had been issued in January 2001 against the company.

The matter was reported to Government in March 2000 followed by reminders issued up to July 2001; their reply has not been received (October 2001).

5.08 Loss of revenue due to adoption of incorrect gross vehicle weight

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax on goods vehicle is levied on its gross vehicle weight (GVW). As per Home (Transport) Department's notification of May 1984, gross vehicle weight of a goods vehicle registered between 1968 and March 1983 is to be fixed at one hundred fifty per cent of manufacturer's laden weight (MLW) or 16,200 kgs, whichever is less. Accordingly, GVW of two manufacturers namely "Saktiman and TMB" goods vehicle is to be fixed at 13539 kgs/13538 kgs being one hundred fifty per cent of MLW of 9026 kgs/9025 kgs.

Scrutiny of records in the Additional Regional Transport Office, Tamluk revealed (July 1999) that GVW of 58 above mentioned goods vehicles was fixed between 11500 kg. and 11950 kg. As a result, tax on each vehicle had been realised at the rate of Rs.3688 per year instead of Rs.5000 per year with consequent loss of Rs.5.75 lakh for the period between June 1985 and December 1999.

On this being pointed out (July 1989), the authority stated (July 2001) that realisation had been made in respect of 44 out of 58 vehicles on re-fixation of RLW and in respect of the remaining vehicles action to re-fix RLW was being taken.

The matter was reported to Government in November 1999 followed by reminders issued up to July 2001; their reply has not been received (October 2001).

5.09 Failure to realise arrear tax

Under the provisions of the West Bengal Motor Vehicles Tax Rules, 1957, before accepting additional tax for any period on a motor vehicle, the taxing authority shall satisfy himself by cross-verification of entries in the Tax Demand Register as well as previous tax tokens that additional tax in respect of that vehicle for all the earlier periods has been paid. Further, under the

provisions of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, additional tax is leviable on express stage carriages and contract carriages at the rate of rupees four thousand from 1 April 1989 and rupees six thousand from 25 November 1991. A penalty at the rate of one hundred per cent of tax is leviable where the tax has been in arrears for more than seventyfive days.

Scrutiny of records in the Regional Transport Offices at Dakshin Dinajpur and Birbhum revealed (between January 1997 and August 1998) that in Dakshin Dinajpur additional tax in respect of 10 express buses was realised from July 1994 onwards without collecting the same for the period between April 1989 and June 1994, while in Birbhum additional tax on 12 express and contract carriages was not levied at all and it was levied short on one express bus for various periods ranging between April 1989 and July 1998. This resulted in non/short realisation of revenue of Rs.10.43 lakh including penalty.

On this being pointed out (between January 1997 and August 1998), the taxing officer, Dakshin Dinajpur stated (February 2000) that the owners had been asked to deposit arrear dues, while the taxing officer, Birbhum stated (August 2001) that Rs.46554.50 had been realised and demand notice would be issued shortly to realise the balance amount. Further report on realisation has not been received (October 2001).

The cases were reported to Government between March 1997 and October 1998 followed by reminders issued up to July 2001; their reply has not been received (October 2001).