

CHAPTER-V: OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records in the commercial tax offices in respect of profession tax and office of the Excise Commissioner, Deputy Commissioner of Excise and Superintendents of Excise on excise duty/fee conducted during the year 2008-09 revealed non-levy of tax and penalty, non/short realisation, non-levy of duty/fee, loss of revenue etc., amounting to Rs. 27.29 crore in 17,007 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
Profession tax			
1.	Non-levy of tax and penalty	16,597	14.00
State Excise			
1.	Non-levy of differential duty on IMFL	6	3.11
2.	Loss of revenue due to non-settlement/delay in settlement/non-renewal of excise shops	31	3.06
3.	Non/short realisation of excise duty/ transport fee	186	0.27
4.	Non-realisation/non-levy of initial fees (application fees, user charges and label registration fees on transfer of license)	31	0.04
5.	Other irregularities	156	6.81
Total		410	13.29
Grand Total :		17,007	27.29

During the year 2008-09, the Excise department accepted non/short realisation of duty/fees, loss of revenue and other deficiencies amounting to Rs. 79.14 lakh in 208 cases pointed out in 2008-09. The department recovered Rs. 88,000 in eight cases pointed out in 2008-09 and earlier years.

After issue of the draft paragraphs, the Excise department recovered Rs. 4.59 lakh pertaining to a single observation pointed out by audit during 2008-09.

A few illustrative audit observations involving Rs. 14.57 crore are discussed in the following paragraphs.

5.2 Audit observations

Scrutiny of the records in the commercial tax offices in respect of profession tax and office of the Excise Commissioner, Deputy Commissioner of Excise and Superintendents of Excise on excise duty/fee revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non-levy of profession tax and non-levy of bottling licence fee as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. The Government may consider issuing instructions for effective profession tax collection system and to improve internal control mechanisms to avoid occurrence of such omissions.

Profession Tax

5.3 Non-levy of profession tax

Non-compliance of the provisions of the Orissa State Tax on Professions, Trades, Callings and Employments Act, 2000 and CCT's instructions by the AAs resulted in non-levy of tax and penalty of Rs. 14.00 crore.

Under the provisions of the Orissa State Tax on Professions, Trades, Callings and Employments Act, 2000, every person liable to pay tax is required to obtain a certificate of enrolment from the assessing authorities (AAs). Further, the Act provides that if a person liable for enrolment fails to apply for such certificate, a penalty not exceeding rupees five for each day of delay is leviable.

With a view to augment revenue collection the CCT, Orissa instructed the field functionaries in November 2004 to collect adequate and quality intelligence about dealers/organisations defrauding and cheating Government and obtain information from specified sources to identify persons liable to pay tax and get them registered. Further, the Government decided in December 2004 to set up profession tax cells in each circle to identify potential tax payers and to assist, enroll and register the drawing and disbursing officers and assessees for mobilising collection of the tax.

In order to ascertain whether all persons liable to be covered under certain classes of assessee specified in the Schedule to the Act were brought into the tax net, details were collected from the Central Excise department in respect of service providers, local branches of the Life Insurance Corporation of India in respect of insurance agents, local telecom districts of Bharat Sanchar Nigam Limited in respect of owners of STD booths and State Directorate of Medical Education and Training in respect of nursing homes, medical clinics, etc. Similarly, information was also gathered from Yellow Pages and websites in respect of beauty parlours, advertising firms/agencies, travel agents, transport contractors, clearing and forwarding agents, private doctors, technical and professional consultants, tutorial institutes, computer training institutes, etc.

The details collected were cross verified by audit between November 2008 and March 2009 with the records of Commercial Tax department relating to

the registration and assessment of profession tax in 11 circles⁷⁶ for the period from 2003-04 to 2007-08 and it was revealed that 16,597 persons had not enrolled themselves under the Act. The non-enrolment of these persons resulted in non-levy of revenue of Rs. 3.52 crore. Besides, penalty upto Rs. 10.48 crore calculated upto March 2008, was also leviable. Category wise details are given in the following table.

Sl. No.	Entry No. of the Schedule and category of assessees	Period of tax (between)	No. of persons not enrolled	Rate of tax per annum (Rupees)	Amount of tax leviable (Rupees in crore)	Penalty (Rupees in crore)	Total (Rupees in crore)
1.	5 Insurance Agents	April 2003 and March 2008	7,723	350 ⁷⁷	1.20	6.30	7.50
2.	13 STD/ ISD/ Local Booths	November 2004 and March 2008	4,512	600	0.87	2.63	3.50
3.	6(b) Contractor of any description engaged in any work	April 2003 and March 2008	1,434	1,500 ⁷⁷	0.32	0.41	0.73
4.	16 Transport contractors/ Agencies including clearing and forwarding agencies	November 2004 and March 2008	797	2,500	0.36	0.28	0.64
5.	17 Advertising Firms/ Agencies and Travel Agents	-do-	450	2,500	0.21	0.16	0.37
6.	11(i) Nursing Home, Medical Clinics, Pathological Laboratories, Diagnostic, X-ray and Scanning Centres	-do-	442	2,500	0.21	0.16	0.37
7.	9 Technical and Professional Consultants including RCC consultants, Architects, Engineers, Tax Consultants, Chartered Accountants and Cost Accountants	April 2003 and March 2008	338	1,200 ⁷⁷	0.13	0.20	0.33

⁷⁶ Bhubaneswar I, Bhubaneswar II, Bhubaneswar III, Bhubaneswar IV, Cuttack I (East), Cuttack I (West), Cuttack I (Central), Cuttack I (City), Cuttack II, Rourkela I and Rourkela II.

⁷⁷ In the absence of annual income/turnover/length of standing in profession of the persons, average rates of tax rounded off to the nearest tax slab have been adopted.

Sl. No.	Entry No. of the Schedule and category of assesseees	Period of tax (between)	No. of persons not enrolled	Rate of tax per annum (Rupees)	Amount of tax leviable (Rupees in crore)	Penalty (Rupees in crore)	Total (Rupees in crore)
8.	10 Tutorial Institutions, Training Institutions including Computer training	November 2004 and March 2008	367	2,500	0.12	0.10	0.22
9.	6(a) Estate Agents, promoters, brokers or commission agents	April 2003 and March 2008	297	1,000	0.06	0.11	0.17
10.	8(a) Beauty parlour	-do-	100	1,000 (Non-AC rate)	0.02	0.10	0.12
11.	3 Medical practitioners including medical consultants	-do-	137	1,200 ⁷⁷	0.02	0.03	0.05
Total			16,597		3.52	10.48	14.00

It was also seen that the administration of profession tax Act in the State suffered due to non-creation of a separate establishment for the purpose of conducting surveys and collection of information from various sources in order to bring the persons evading tax into the tax net.

After the cases were pointed out, all the AAs stated between January and March 2009 that necessary action would be taken to enroll and assess the persons after examining each case. A report on further development has not been received (October 2009).

The matter was reported to the Commissioner of Profession Tax/Government in April 2009; their reply has not been received (October 2009).

State Excise

5.4 Non-levy of bottling licence fee

Non-levy of bottling licence fee resulted in non-realisation of revenue of Rs. 57.39 lakh.

As per the Excise Policy for 2007-08, bottling licence fee at the rate of Rs. 3 per bulk litre (BL) is leviable on beer manufactured irrespective of brand or purpose. Besides, in respect of export brand bottling fee of Re. 1 per BL of beer is also leviable.

Scrutiny of the records of the Superintendent of Excise (SE), Khurda and Bolangir in July and September 2008 revealed that two breweries

⁷⁷ In the absence of annual income/turnover/length of standing in profession of the persons, average rates of tax rounded off to the nearest tax slab have been adopted.

manufactured 64.50 lakh BL of beer during 2007-08 of which 19.13 lakh BL were of export brand. It was seen that neither did the breweries pay the bottling licence fee nor did the department raise demand for the same on the export brand which resulted in non-levy of bottling licence fee of Rs. 57.39 lakh.

After the case was pointed out, the Government stated in May 2009 that bottling fee at the rate of Re. 1 per BL of beer exported had been realised and it was not legally permissible to realise bottling fee twice on the same product. The fact, however, remains that two separate fees such as bottling licence fee and bottling fee together with export fee are leviable under the Excise Policy.