

CHAPTER V

OTHER TAX RECEIPTS

5.1 Tax administration

The assessment and collection of Stamp Duty and Registration Fees, Profession Tax, Electricity Duty and Amusement Tax are governed by separate sets of Acts and Rules. These taxes are administered by Finance (Revenue) department headed by the Principal Secretary, Finance who is assisted by the concerned directorates.

5.2 Results of audit

We test checked the records of 46 units relating to Stamp Duty and Registration Fees, Profession Tax, Electricity Duty and Amusement Tax and found underassessment of tax and other irregularities involving ₹ 47.35 crore in 96 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
STAMP DUTY AND REGISTRATION FEES			
1.	Non-realisation of Stamp Duty and Registration Fees	15	0.87
2.	Non-issuance of demand notice for realisation of Government revenue	13	2.94
3.	Other irregularities	23	0.42
Total		51	4.23
PROFESSION TAX			
1.	Non-realisation of profession tax due to non-enrolment	18	0.44
2.	Non-realisation of profession tax from enrolled professionals	5	0.10
3.	Other irregularities	12	0.81
Total		35	1.35
ELECTRICITY DUTY			
1.	Non-realisation of assessed electricity duty/interest	2	40.86
2.	Other irregularities	3	0.01
Total		5	40.87
AMUSEMENT TAX			
1.	Non-realisation of entertainment tax	1	0.70
2.	Other irregularities	4	0.20
Total		5	0.90
Grand total		96	47.35

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 8.81 crore in 74 cases, of which 59 cases involving ₹ 8.47 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 43.28 lakh was realised in 18 cases during the year 2009-10.

A few illustrative cases involving ₹ 2.43 crore are mentioned in the following paragraphs.

5.3 Audit observations

Scrutiny of the records in the offices of the Additional District Sub-Registrars, Sub-Registrars and Profession Tax Officers indicated non-realisation of stamp duty, registration fees and profession tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit repeatedly, but not only do these persist; they also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

A. STAMP DUTY AND REGISTRATION FEES

5.4 Non-realisation of deficit stamp duty and registration fees due to non-issuance of demand notice

Rule 3(8) of the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS(PUI)] Rules, 2001 provides that where the registering authority has reason to believe that market value of the property has not been truly set forth in the instrument presented for registration, he shall ascertain the market value of the property and issue notice to the executant directing him to pay the deficit stamp duty and registration fees within 30 days from the date of receipt of such notice.

5.4.1 We found in 15¹ Registration Offices of 10² districts between July 2008 and June 2009 that 1,110 documents presented for registration between April 2004 and October 2008 were kept in abeyance due to undervaluation of property. Though the registering authorities subsequently determined the market value of the property in all the cases, demand notices were not issued to the executants for payment of the deficit stamp

duty and registration fees. This resulted in non-realisation of revenue of ₹ 1.32 crore (Stamp Duty: ₹ 1.07 crore and Registration Fees: ₹ 25.32 lakh).

After we pointed out the cases, the registering authorities of 11³ units in 814 cases involving ₹ 1.02 crore stated between March 2009 and June 2009 that action was being taken to issue demand notices for realisation of the deficit stamp duty and registration fees. The registering authorities of four⁴ units in the remaining 296 cases involving ₹ 30.17 lakh, did not furnish any specific reply.

¹ ADSR, Balichak, Baruipur, Bhagwangola, Chakdah, Domjur, Galsi, Kalyani, Katwa, Khandaghosh, Memari, Medinipur, Mothabari, Panskura, Raigunj and Rampurhat.

² Birbhum, Burdwan, Howrah, Malda, Murshidabad, Nadia, Paschim Medinipur, Purba Medinipur, South 24-Parganas and Uttar Dinajpur.

³ ADSR, Balichak, Baruipur, Chakdah, Domjur, Galsi, Katwa, Medinipur, Memari, Mothabari, Panskura and Raiganj.

⁴ ADSR: Bhagwangola, Kalyani, Khandaghosh and Rampurhat.

We reported the matter to the Government who stated in May 2010 that an amount of ₹ 2.66 lakh has been realised in 13 cases. Report in respect of the remaining 1,097 cases has not been received (October 2010).

We further noticed that the rules do not provide for a time frame for ascertaining the market value of the property and issuing the demand notice to the executant and its absence has resulted in non-realisation of Government revenue. **It is recommended that the Government may consider providing a time frame for ascertaining the market value of the property and issuing demand notices to the executants in the interest of Government revenue.**

The WBS(PUI) Rules, 2001 provide that if demand raised for payment of deficit duty is not paid within the stipulated period of 30 days mentioned in the demand notice the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) for determination of market value of the property.

5.4.2 We found in the offices of the Additional District Sub-Registrar (ADSR), Ramnagar and Sutahata in the district of Purba Medinipur between August 2008 and May 2009 that 68 documents presented for registration between April 2004 and November 2006 were kept in abeyance due to undervaluation of properties. The registering authorities subsequently assessed

the market value of the properties at ₹ 16.83 crore against the set forth value of ₹ 7.37 crore and issued demand notices to the executants for payment of the deficit stamp duty and registration fees of ₹ 52.47 lakh (stamp duty: ₹ 41.38 lakh and registration fees: ₹ 11.09 lakh) within 30 days. Though the executants did not pay the deficit stamp duty and registration fees within the stipulated period, the registering authorities did not refer the cases to the Collector/DIGR for determination of the market value of the properties even after lapse of an average period of 35 months from the date of presentation of the instruments as no time frame has been prescribed in the Act or Rules to refer such cases to the Collector/DIGR. This resulted in non-realisation of revenue of ₹ 52.47 lakh.

After we pointed out the above observations, the department stated between August 2008 and May 2009 that steps would be taken to refer the pending cases to the Collector/DIGR for early disposal.

We reported the matter to the Government who stated in July 2010 that an amount of ₹ 17.83 lakh has been realised in 19 cases. Report on action taken in the remaining cases has not been received (October 2010).

Thus, it would be seen from the above that delay in referring the cases to the concerned authorities results in delay in realisation of the Government revenue. **It is recommended that the Government may consider issuing directions to the department for prescribing a time limit for referring the cases to the Collector/DIGR.**

B. PROFESSION TAX

5.5 Non-raising of demand and non-realisation of profession tax

Rule 15 (2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Rules, 1979 provides that any person or employer who stood enrolled before the commencement of the year, is liable to pay profession tax at the prescribed rate before 30th September each year. In case of non-payment, the Profession Tax Officers (PTOs) who are also the Assessing Authority (AA) shall serve a notice of demand directing the defaulter to pay the dues within 15 days from the date of receipt of notice.

We found in four⁵ unit offices between November 2006 and September 2009 that 216⁶ enrolled persons/ employers/ owners of nursing homes, diagnostic centres, beauty parlours, foreign liquor shops, etc. had not paid profession tax for different periods ending between 2004-05 and 2008-09. The PTOs did not assess and issue any demand notice to those defaulters resulting in non-realisation of profession tax of ₹ 52.70 lakh.

The PTOs of two⁷ units admitted the audit observations (November 2006 and June 2007) in respect of 187 cases involving ₹ 5.41 lakh. The PTOs of the remaining two units in 29 cases involving ₹ 47.29 lakh did not furnish any specific reply.

We forwarded the cases to the Government between December 2006 and October 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

5.6 Non-realisation of profession tax due to non-enrolment

Section 5 (2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 provides that every person coming under the purview of the Act shall obtain a certificate of enrolment from the prescribed authority and pay tax at the prescribed rates.

We cross verified the records of four⁸ licence issuing offices with those of three⁹ unit offices of profession tax between December 2008 and October 2009 and found that 89¹⁰ professionals,

⁵ ACPT, Kolkata West Range ; PTOs South Unit- I, Howrah, Central Unit-V, Barasat and Central Unit-VII, Baruipur.

⁶ LIC Agents-135, Employer-25, Owners of Diagnostic Centres - 26, Nursing Homes-16, Beauty Parlours - 3, Eye Care Centres-2, X-ray clinics-3 and Others-6.

⁷ AAs, Central Unit-V, Barasat and Central Unit -VII, Baruipur.

⁸ Serampore Municipality, Siliguri Municipal Corporation, Chief Medical Officer of Health, Barasat and Superintendent of Excise, North 24-Parganas.

⁹ DCPT, South Unit-III, Serampore, PTO, North Unit-I, Siliguri and PTO, Central Unit-V, Barasat.

¹⁰ Postal agents -32, Computer Training/Education Centre -10, Cinema Halls -3, Health Care Centre -1, Beauty Parlours - 4, Restaurants - 3, Bhawans - 7, Foreign Liquor Shops - 8 and Clinical Establishments/Diagnostic Centres - 21.

traders, etc. had not enrolled themselves under the Act and continued with their professions without payment of tax during the period between April 2004 and March 2009. The PTOs failed to bring these persons under the tax net and recover tax at the prescribed rate. Absence of a mechanism for cross verification with the records of license granting authorities in order to bring persons evading tax into the tax net resulted in non-realisation of profession tax of ₹5.99 lakh.

The PTOs of two¹¹ units admitted the audit observations between April and October 2009, in respect of 36 professionals, traders, etc. involving ₹2.25 lakh but did not furnish any report regarding their enrolment and realisation of tax. The Deputy Commissioner of Profession Tax, West Bengal, South Unit-II, Serampore in respect of the remaining 53 professionals, traders, etc. involving ₹3.74 lakh, did not furnish any specific reply.

We forwarded the cases to the Government between January and November 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

The Government may consider establishing a mechanism for cross verification with the records of license granting authorities to bring professionals, traders and other eligible persons evading tax into the tax net.

¹¹ PTO, North Unit- I, Siliguri and PTO, Central Unit -V, North 24 -Parganas.