

CHAPTER VI

OTHER TAX AND NON-TAX RECEIPTS

6.1 Tax administration

This chapter consists of receipts from Entertainments Duty, Electricity Duty, State Education Cess (EC), Employment Guarantee Cess (EGC), Tax on Buildings (with larger Residential Premises) (MTOB), Land Revenue etc. The administration is governed by Acts and Rules framed separately for each Department.

6.2 Results of audit

In 2013-14, test check of the records of 407 units relating to the Entertainment Duty, Taxes and Duties on Electricity, Education Cess/Employment Guarantee Cess, Profession Tax, Repair Cess, Land Revenue etc. showed non/short credit of lapsed deposits into Government revenue account and other irregularities amounting to ₹ 580.28 crore in 9,986 cases, which fall under the following categories as indicated in the **Table 6.2**.

Table No. 6.2

(₹ in crore)			
Sr. No.	Category	No. of cases	Amount
1	Performance Audit on “Assessment, collection and accounting of Maharashtra Tax On Buildings (with larger Residential Premises)”	1	93.95
2	Entertainment Duty	1,475	13.14
3	Taxes and Duties on Electricity	656	12.86
4	Land Revenue	297	170.69
5	Repair Cess	3,144	183.10
6	Education Cess/Employment Guarantee Cess	126	92.68
7	Maharashtra Tax on Buildings (with Larger Residential Premises)	1,831	4.07
8	Profession Tax	2,446	3.14
9	Non-Tax Receipt	10	6.65
Total		9,986	580.28

During the year 2013-14 as well as during earlier years, the concerned Department accepted underassessment, short levy, etc. and recovered ₹ 17.29 crore in 1,534 cases of which 143 cases involving ₹ 4.65 crore related to 2013-14 and the rest to earlier years.

A Performance Audit on “Assessment, collection and accounting of Maharashtra Tax on Buildings (with larger Residential Premises)” with total financial effect of ₹ 93.95 crore and a few audit observations involving ₹ 65.67 crore are included in the succeeding paragraphs.

SECTION A

Maharashtra Tax on Buildings (with larger Residential Premises)

6.3 Performance Audit on “Assessment, Collection and Accounting of Maharashtra Tax on Buildings (with larger Residential Premises)”

Highlights

- Audit noticed absence of a mechanism to ascertain effective utilisation of living space and the extent to which the objective of the Maharashtra Tax on Buildings (with larger Residential Premises) Act, 1979 (MTOB Act) was fulfilled.

(Paragraph 6.3.6.1)

- Notifications for levy and collection of MTOB were not issued in respect of 15 municipal corporations formed after 1989; of these, five corporations were levying and collecting the tax, while the remaining ten corporations were not collecting tax.

(Paragraph 6.3.6.2)

- Notification for fixation of rate of MTOB on capitalised value of properties was not issued. Non-realisation of revenue amounting to a minimum of ₹ 74.85 crore was due to inaction on the part of the Urban Development Department (UDD) to permit Municipal Corporation of Greater Mumbai (MCGM) to issue bills at provisional rates.

(Paragraph 6.3.6.3)

- The municipal corporations did not maintain a uniform database of properties, due to which the possibility of some properties remaining un-assessed could not be ruled out.

(Paragraph 6.3.6.4)

- We noticed that four municipal corporations had not remitted taxes amounting to ₹ 4.26 crore into Government Account. The information regarding non-remittance of revenue by the corporations was not available with the UDD.

(Paragraph 6.3.6.5)

- In four corporations 1,711 properties had escaped assessment resulting in non-realisation of revenue of ₹ 1.99 crore.

(Paragraphs 6.3.7.1 and 6.3.7.2)

6.3.1 Introduction

Assessment, collection and accounting of tax on buildings with larger residential premises are governed by the Maharashtra Tax on Buildings (with Larger Residential Premises) Act, 1979 (MTOB Act) and Rules made thereunder. This tax is levied on residential premises in corporation areas, the floorage of which exceeds 125 square meters in Greater Mumbai and 150 square meters in other corporation areas. Besides augmentation of the revenue receipts, the objective for levy of the tax was to keep a check on extravagant use of available living space, availability of more residential accommodation in thickly populated cities. The administration of MTOB Act falls under the Urban Development Department (UDD) of the State Government. The Municipal Corporations (MCs) have been empowered to implement the Act on behalf of the State Government. The tax collected by the MCs is remitted into the treasury as per the provisions of the Act.

The collection of tax under MTOB Act is made in the manner in which the property tax is collected in that area under the relevant municipal law. The Assessor and Collectors in the respective MCs are entrusted with the assessment, collection of MTOB and remittance thereof to the Government account.

As per Section 3.3 of the MTOB Act, the tax is levied and collected on the basis of the rateable value/capital value and the area of the property, which is similar to assessment of property tax by the respective MCs. Rateable value means the annual letting value (as given in the ready reckoner) of the property less 10 percent for repairs. Capital Value is based on the value of the property as mentioned in the Stamp Duty Ready Reckoner (SDRR) prepared under Bombay Stamp (Determination of True Market Value of Property) Rules, 1995, and if the property does not feature in the SDRR, then on the basis of market value of the property as fixed by the Commissioner. There are 26 Municipal Corporations in the State. The State Government has classified the Municipal Corporations in category A¹ (1 MC), B² (2 MCs), C³ (4 MCs) and D⁴ (19 MCs) based on the criteria like population, per capita income and per capita area.

6.3.2 Audit scope and methodology

Performance Audit of MTOB was conducted between October 2013 and June 2014. A test check of the records of 10 MCs covering the period from 2009-10 to 2013-14 was carried out. For the purpose of this Performance Audit, all corporations falling in categories A, B and C were selected. As the revenue receipts for the tax is low for 'D' category corporations, three⁵ 'D' type corporations were selected. The selection is given in **Table 6.3.2**.

¹ 'A'-Municipal Corporation of Greater Mumbai.

² 'B'-Nagpur and Pune.

³ 'C'-Nashik, Navi Mumbai, Pimpri-Chinchwad and Thane.

⁴ 'D'-Ahmednagar, Akola, Amravati, Aurangabad, Bhiwandi-Nizampur, Chandrapur, Dhule, Jalgaon, Kalyan-Dombivali, Kolhapur, Latur, Malegaon, Mira-Bhayandar, Nanded-Waghala, Parbhani, Sangli-Miraj-Kupwad, Solapur, Ulhasnagar and Vasai-Virar.

⁵ Amravati, Aurangabad and Kalyan-Dombivali Municipal Corporation.

Table 6.3.2

Category of corporations	Total corporations	Corporations selected for Performance Audit
‘A’	1	1
‘B’	2	2
‘C’	4	4
‘D’	19	3
Total	26	10

An entry conference was held in June 2014 with the Principal Secretary, UDD and the officers of the MCs in which the objective, scope and methodology of the Performance Audit were discussed. The exit conference was held on 17 November 2014.

6.3.3 Audit objectives

The Performance Audit was taken up with a view to ascertain whether:

- the system of levy and collection of taxes was efficient and effective;
- the exemptions/ refunds granted were in conformity with the Government policy;
- the provisions of the Act and Rules relating to assessment, levy and collection of tax were adequate and enforced effectively to safeguard revenue collection; and
- an effective monitoring and internal control mechanism was in place.

6.3.4 Audit criteria

The levy and collection of tax on buildings with larger residential premises were examined with reference to:

- the Maharashtra Tax on Buildings (with larger residential premises) Rules, 1979;
- the Resolution/Notifications issued by of the Government from time to time.

6.3.5 Trend of revenue

6.3.5.1 Preparation of budget estimates

As per the Maharashtra Budget Manual, Budget Estimates (BEs) should be prepared to achieve as close an approximation to the actuals as possible based on the tax collections and other receipts under the MTOB Act, any recognizable regularity in the figures of the past years, amount outstanding at the end of the current year and amount likely to be collected in the next financial year.

It was noticed that the budget estimates for MTOB were not being prepared by the UDD, though it was administering the tax.

In the exit conference the Pr. Secretary, UDD stated that the budget estimates were prepared by the Finance Department.

6.3.5.2 Targets and achievement

The Budget Estimates and actual revenue realised as provided by the Office of the Principal Accountant General (Accounts & Entitlements), Maharashtra during the years 2009-10 to 2013-14 in respect of MTOB were as given in **Table 6.3.5.2:**

Table 6.3.5.2

Year	Budget Estimates	Actual collection	Variations (+) excess / (-) shortfall	(₹ in lakh) Percentage of variation
2009-10	178.50	564.80	(+)386.30	(+)216.41
2010-11	00.00	61.51	(+)61.51	NA
2011-12	61.34	155.63	(+)94.29	(+)153.71
2012-13	61.34	98.17	(+)36.83	(+)60.04
2013-14	107.06	179.01	(+)71.95	(+)67.20

The above table reveals that variation between the Budget Estimates and the actual collection ranged from 60.04 *per cent* to 216.41 *per cent* indicating therein that the Budget Estimates were not framed on realistic basis. There was a need to have a relook at the entire budgetary process so as to ensure that the Budget Estimates conform to requirements prescribed in the Budget Manual.

The steep drop in revenue during 2010-11 was due to less collection of MTOB by MCGM during 2010-11, it had contributed only ₹ 4.78 crore towards revenue collection and thereafter no tax was realised by the MCGM.

Audit findings

6.3.6 System Deficiencies

6.3.6.1 Absence of mechanism to check the extravagant use of available living space

One of the objectives of the MTOB Act was to check extravagant use of the available living space in thickly populated cities so that more residential accommodation could become available in these areas.

We found that the basic data like number of larger flats / premises, area of taxable properties, etc. was not available with the UDD. It had not put in place any system for obtaining this information from the MCs. As such, it was not possible to ascertain the extent to which this objective was achieved.

In the exit conference the Pr. Secretary, UDD accepted the fact of non-maintenance of data and stated that a new software package has been installed in the MCs in January 2014 in which basic data like number of larger flats/premises, area of taxable properties, etc. will be captured.

It is recommended that Department may put in place a mechanism to compile / consolidate all data on properties on which MTOB is leviable.

6.3.6.2 Non-issue of notifications

Section (1)(3)(b) of the MTOB Act provides that the State Government may bring the MTOB Act into force in such area/areas of the municipal corporations of other city/cities and with effect from such date or dates as the State Government may, by notification in the Official Gazette.

The MTOB Act extends to the whole of the state of Maharashtra. We found that eleven corporations were formed till 1989 and notifications were issued in respect of all these 11 corporations⁶ from time to time. Thereafter, 15⁷ more corporations were formed latest being Vasai- Virar City MC in 2009, but in none of these MCs, notification for implementation of MTOB Act was issued (July 2014). Of these 15 corporations, we found that five⁸ corporations were collecting the tax while the remaining were not collecting the tax.

In the exit conference, the Pr. Secretary, UDD stated that it was not mandatory to issue notifications, and further stated that matter regarding non-collection of tax and issue of notification would be examined.

To safeguard the Government revenue it is recommended that Government may follow the provisions of MTOB and issue notifications for collection of tax in respect of all MCs.

6.3.6.3 Non-issue of notification for fixation of rates of MTOB

The Urban Development Department vide Government Resolution dated 27 April 2010, amended the MTOB Act by inserting sub-section (4) in Section 3. As per the amended Act, MTOB shall be levied on the capital value of the buildings in those MCs where property tax was levied on the capital value under the provisions of the relevant municipal laws. The MTOB was required to be levied on all buildings or parts thereof at a rate not exceeding 0.05 *percent* of the capital value. The rate of tax was required to be specified by the State Government by issue of a separate notification. However, no such notification has been issued till date.

In the Municipal Corporation of Greater Mumbai (MCGM), the system of levy and collection of property tax and MTOB were shifted from Rateable Value to Capital Value since April 2010. Thereafter, though MCGM started collection of property tax on the basis of Capital Value from April 2010 onwards the collection of MTOB was discontinued. MCGM sent a proposal to the UDD in June 2011 for issue of provisional bills at the pre-revised rate. In May 2013, MCGM proposed a rate of 0.03 *per cent* of the CV for levy of MTOB and also asked for permission for issue of provisional bills pending the approval of the

⁶ Amravati, Aurangabad, Kalyan-Dombivali, Kolhapur, MCGM, Nagpur, Nashik, Pimpri-Chinchwad, Pune, Solapur and Thane.

⁷ Ahmednagar, Akola, Bhiwandi-Nizampur, Chandrapur, Dhule, Jalgaon, Latur, Malegaon, Mira-Bhayandar, Nanded-Waghala, Navi Mumbai, Parbhani, Sangli-Miraj-Kupwad, Ulhasnagar and Vasai-Virar.

⁸ Ahmednagar, Chandrapur, Dhule, Malegaon and Navi Mumbai.

proposed rate. However, no action was taken by UDD in this regard. As per the data collected from MCGM, MTOB recoverable at the proposed rate of 0.03 *per cent* of the capital value of properties liable to be taxed under MTOB Act aggregated to ₹ 74.85 crore.

In the exit conference the Pr. Secretary, UDD did not give any specific reply for non levy of MTOB. Besides, action taken on the proposal sent by MCGM which could have earned a revenue of ₹ 74.85 crore was also not intimated. The Pr. Secretary stated that the matter would be examined in detail.

It is recommended that the UDD may issue a notification specifying the exact percentage of CV for levy of MTOB in the interest of the revenue of the State.

6.3.6.4 Improper maintenance of computerised database

All the MCs were computerised for levy and collection of MTOB. Scrutiny of computerised database in 10 corporations revealed the following deficiencies:

In Thane and Pune MCs, there was no provision in the database for entering area of the residential property. Thus, the correctness of tax which is based on the area could not be ascertained.

In Amravati, Aurangabad and Nagpur MCs, though there was provision for entering the area of the property in the database, but the database was found incomplete to the extent mentioned in **Table 6.3.6.4**.

Table 6.3.6.4

Municipal Corporations	Total Records	Records with area	Records without area	Percentage of records without area
Amravati	1,40,151	1,20,112	20,039	14
Aurangabad	1,68,576	0	1,68,576	100
Nagpur	1,43,912	5,386	1,38,526	96

In Navi Mumbai MC, individual flat wise area available in the buildings was not recorded in the database. In absence of complete database, the possibility of properties remaining un-assessed/less assessed to MTOB could not be ruled out. This indicates that corporations did not follow a uniform procedure in computerisation the records of properties.

In the exit conference the Pr. Secretary, stated that a new software package has been installed in the MCs in January 2014 in which basic data like number of larger flats/premises, area of taxable properties, etc., will be captured. However, the Department did not specify the flow of information relating to buildings from MCs to UDD.

It is recommended that UDD may make efforts for a complete database and instruct the MCs to update their database so that all taxable properties are assessed to tax.

6.3.6.5 Non-remittance of MTOB into Government Account

Under the provisions of Section 14(1) of MTOB Act, the amount of tax and penalty recovered by any MC shall be paid to the State Government within a period of 30 days from the date of such recovery.

As per Section 15(1) of the Act if any municipal corporation makes a default in the collection or payment to the State Government of any sum due in respect of the tax under this Act, the State Government may, after holding such inquiry as it thinks fit, fix a period for the collection or payment of such sum.

The information relating to non-remittances was not available with the UDD. The Government was not aware of the amounts due to them. Information collected from 10 corporations revealed that four corporations had not remitted taxes amounting to ₹ 4.26 crore into Government Account as shown below in **Table 6.3.6.5**.

Table 6.3.6.5

(₹ in lakh)			
Sr. No.	Name of corporation	Period	Amount
1.	Navi Mumbai	April 2012 to March 2014	54.72
2.	Aurangabad	April 2009 to March 2014	37.51
3.	Nagpur	April 2009 to March 2014	16.50
4.	Pune	April 2013 to March 2014	317.04
Total			425.77

We also noticed that these amounts were lying with the corporations for periods ranging from one month to 36 months.

6.3.6.6 Non-submission of returns

Under the provision of Section 14(3) of the MTOB Act, the Municipal Commissioner is required to furnish, within three months from the date of expiry of every year, a return showing the aggregate amount of tax assessed in respect of that year, and the aggregate amount of such assessed tax and penalty, if any, collected in that year, to the State Government.

Scrutiny of records in selected MCs revealed that none of the corporations had submitted the prescribed returns, to the UDD during 2009-10 to 2013-14. The receipt of the same was also not monitored by the UDD.

After this being pointed out, the MCs stated that they would henceforth submit the required returns.

In the exit conference, the Pr. Secretary, UDD accepted that a proper system to monitor the receipt returns from MCs would be put in place.

6.3.6.7 Internal audit

Scrutiny of records relating to internal audit of the selected MCs revealed that in Aurangabad and Nagpur Municipal Corporations, internal audit was not carried out during the period covered by audit. As such the adequacy of

prescribed controls for detection/prevention of evasion of taxes was not evaluated by these corporations.

Further, the UDD also did not carry out any inspection/audit about the correctness of levy and collection of MTOB by the MCs that could have promptly brought the irregularities/non-collection and non-remittance to the notice of the Department.

6.3.6.8 Non-reconciliation of revenue receipts

As per the provisions of Rule 98(2)(v) of the Maharashtra Treasury Rules, 1968, as soon as possible after the end of every month, every head of the office who is collecting money on behalf of the Government is required to prepare a statement of the amount credited by him into the Government Treasury and get the same verified by the Treasury Office and obtain a certificate stating that the amount has been verified and found correct.

Scrutiny of records in five⁹ MCs revealed that the remittances of MTOB during the period from 2009-10 to 2013-14 were not reconciled with the records of concerned treasuries. In the absence of timely reconciliations, the possibility of non-detection of irregularities or being detected late cannot be ruled out.

In the exit conference, the Pr. Secretary, UDD stated that the issues regarding reconciliation of the remittances will be taken care of at the earliest.

6.3.7 Non/short levy of MTOB

Section 3 of MTOB Act, 1979 provides that tax shall be levied and collected on all buildings or parts thereof situated in corporation areas, containing any residential premises:

- if situated in MCGM, the floorage of such premises is more than 125 square meter and the rateable value (RV) thereof is more than ₹ 1,500 and
- if situated in any other corporation area, where the floorage is more than 150 square meter and the RV thereof is more than ₹ 1,500.

The rate of tax in respect of such residential premises is 10 *per cent*.

6.3.7.1 Non-levy of MTOB in three MCs (Nagpur, Pune and Thane)

Scrutiny of the Assessment books¹⁰, Inspection Books¹¹ and other records relating to the Assessment and Collection of 10 corporations revealed that in three MCs, 229 properties escaped assessment resulting in non-realisation of ₹ 36.74 lakh as given in **Table 6.3.7.1**:

⁹ Amravati, Aurangabad, Nagpur, Nashik and Pune.

¹⁰ Assessment Book contains Area, Rateable Value, Type of construction, Year of Construction, Location

¹¹ Inspection Book contains Area, Rateable Value, Type of construction, Location, Inspectors remarks regarding inspection.

Table 6.3.7.1

(₹ in lakh)			
Sr. No.	Name of corporation	No. of properties	Amount of MTOB (2009-14)
1.	Nagpur	68	1.32
2.	Pune	153	31.03
3.	Thane	8	4.39
Total		229	36.74

The above fact indicates that there is a need for the UDD to monitor the assessments made by the MCs so as to ensure the correct levy and collection of MTOB.

6.3.7.2 Non-levy of MTOB in MCGM

In MCGM, it was seen that 1,482 properties escaped assessment resulting in non-realisation of tax of ₹ 162.28 lakh for the year 2009-10 as given in **Table 6.3.7.2.**

Table 6.3.7.2

(₹ in lakh)			
Sr. No	Ward	No. of properties	Non-levy of MTOB (2009-10)
1.	D-Ward	214	28.13
2.	F-North	110	12.84
3.	H-West	236	38.94
4.	L-Ward	424	30.43
5.	N-Ward	97	7.56
6.	P-South	126	9.76
7.	R-Central	59	4.62
8.	S-Ward	195	28.54
9.	T-Ward	21	1.46
Total		1,482	162.28

Out of these, 50 property owners were continuous defaulters since the implementation of the Act in 1979.

MCGM stated that as soon as the new system for levy of MTOB on the basis of CV is implemented, these properties would be taxed and arrears would be recovered.

It is recommended that UDD specify the rate of percentage of CV for levy of MTOB so that MCGM may start assessing and levying tax on properties which have escaped assessment.

6.3.7.3 Short levy of MTOB in MCGM

During 2009-10, MCGM was collecting MTOB on RV basis. Scrutiny of computerised data furnished to audit by Assessment & Collection Department of MCGM and assessment books maintained in the Ward Offices revealed that

though MCGM had revised the RV, the revised rate were not applied in 73 cases during 2009-10 resulting in short levy of ₹ 7.96 lakh as detailed in **Table 6.3.7.3:-**

Table 6.3.7.3

(₹ in lakh)							
Sr. No.	Wards of MCGM	No. of flats	Old Rateable Value as per the records	Old MTOB (10% of Rateable Value)	Revised Rateable Value	Revised MTOB (10% of Rateable Value)	Short levy of MTOB (2009-10)
1.	F-North	30	33.03	3.30	36.95	3.70	0.40
2.	H-West	43	9.07	0.91	84.62	8.46	7.56
Total		73	42.10	4.21	121.57	12.16	7.96

MCGM stated (March 2014) that supplementary bills would be issued after implementation of amended software package based on CV System of property tax.

6.3.7.4 Incorrect application of rates

As per Bombay Provincial Municipal Corporation Act, rateable value means annual letting value after deduction of 10 *per cent* for repairs. MTOB is levied at the rate of 10 *per cent* of the rateable value (RV).

Scrutiny of database of MTOB payers in Pune Municipal Corporation (PMC) revealed that while determining the RV of properties, deduction for repairs etc. from the annual rent was allowed at 15 *per cent* as against 10 *per cent*. This resulted in non-realisation of revenue to the extent of ₹ 11.25 lakh as detailed in **Table 6.3.7.4:**

Table 6.3.7.4

(₹ in lakh)					
Year	RV fixed @ 85 percent of annual rent (100-15)	RV to be fixed @ 90 percent of annual rent (100-10)	Short fixation of RV	Rate of MTOB (in percent)	Short levy of MTOB
2009-10	215.50	228.18	12.68	10	1.27
2010-11	412.17	436.41	24.25	10	2.42
2011-12	436.78	462.48	25.69	10	2.57
2012-13	518.49	548.99	30.50	10	3.05
2013-14	329.15	348.51	19.36	10	1.94
Total					11.25

After this being pointed out, the PMC stated (May 2014) that 15 *per cent* deduction was allowed as per resolution passed by the General Body of the PMC in its meeting held on 3 April 1970. The reply of the corporation is not correct as MTOB is levied by the State legislature and the rate of tax cannot be decreased.

In the exit conference, the Pr. Secretary, UDD stated that the matter would be examined and corrective measures will be taken.

It is recommended that UDD may advise the corporations to collect the revenue in accordance with the Acts and rules passed by the State legislature.

6.3.7.5 Collection of revenue by the MCs

Under the provisions of Section 14(3) of the MTOB Act, the Municipal Commissioner is required to furnish, within three months from the date of expiry of every year, a return showing the aggregate amount of tax assessed by the assessing authority in respect of that year, and the aggregate amount of such assessed tax and penalty, if any, collected by the collecting authority in that year, to the State Government.

UDD had not put in place any mechanism to monitor the receipt of the MCs. Thus, the total revenue due and collected was not available with the Department. We collected the information from the MCs audited.

Information obtained from 10 MCs relating to demand raised and amount collected in respect of MTOB revealed that there were arrears of ₹ 12.66 crore as on 31 March 2014 as shown in **Table 6.3.7.5**:

Table 6.3.7.5

(₹ in crore)		
Sr. No.	Name of MC	Arrears
1.	Amravati	0.070
2.	Aurangabad	0.050
3.	Nagpur	0.180
4.	Pimpri Chinchwad	1.980
5.	Pune	0.240
6.	Kalyan Dombivali	0.100
7.	Navi Mumbai	0.170
8.	Greater Mumbai	9.790
9.	Nashik	0.080
10.	Thane	0.001
Total		12.660

Age-wise arrears was not available with the MCs.

After this was pointed out, the concerned MCs stated that demand notices are being issued to reduce the arrears and penalty is imposed wherever necessary.

It is recommended that UDD may put in place a mechanism to monitor the demands raised, tax collected and remitted into the treasuries and take steps to minimise arrears. Also, a mechanism may be adopted to ensure that returns are submitted on time.

6.3.8 Conclusion

The Performance Audit revealed the following deficiencies:

Budget Estimates revealed a huge variation with actuals ranging from 60.04 *per cent* to 216.41 *per cent*. UDD neither had any basic data like number of larger flats/premises, area of taxable properties nor had put in place any system for obtaining the same from the MCs. UDD had not issued notifications for levy of MTOB in respect of 15 MCs. Since April 2010, UDD has not issued notifications for fixing the rate of percentage of CV. PMC applied incorrect rates while calculating rateable value. MCs did not follow a uniform procedure in computerisation of properties. Five corporations had not remitted taxes into Government Account. None of the corporations had submitted the prescribed returns, to the UDD during 2009-14, there were arrears in 10 MCs as on 31 March 2014. Internal audit was not carried out in Nagpur and Aurangabad during the period covered by audit. In five MCs, the remittances of MTOB during the period from 2009-10 to 2013-14 were not reconciled with the records of concerned treasuries.

6.3.9 Recommendations

The Government/Department may consider:

- **putting in place a mechanism to compile /consolidate all data on properties on which MTOB is leviable;**
- **ensure issuing notification specifying the percentage of capital value for levy of MTOB in MCGM; and**
- **putting in place suitable mechanism to ensure that MCs collect the tax at prescribed rates and timely remit the same to the Government Accounts along with prescribed returns.**

The Pr. Secretary, UDD accepted the recommendations in the exit conference.

SECTION B

ENTERTAINMENTS DUTY

6.4.1 Non/short recovery of entertainment duty from cable operators

Under the Bombay Entertainments Duty Act, 1923 (BED Act), every Collector is required to maintain a recovery register in which the amount of ED due, received, and deposited by each cable operator is recorded.

During test check of Recovery Register of 22 offices (four ¹² Deputy Collectors, seven ¹³ Resident Deputy Collectors and 11 ¹⁴ Taluka Magistrates) between February 2012 and January 2014, we noticed that entertainment duty amounting to ₹ 1.43 crore was not paid by 336 cable operators during various periods between November 2008 and March 2013. No action was taken for realisation of the revenue from these cable operators. Further, interest at the prescribed rates and penalty were also leviable.

After we pointed out the cases, the Department accepted the observation and communicated recovery of ₹ 9.15 lakh from 40 cable operators between October 2012 and November 2013. Report on recovery of the balance amount along with interest and penalty has not been received.

The matter was brought to the notice of the Government in May and June 2014. Their reply has not been received (December 2014).

6.4.2 Non-recovery of entertainment duty from permit room/beer bar with live orchestra

Under the provisions of section 3(11) of BED Act, read with order dated 17 September 2010 issued by the Revenue and Forest Department, Entertainment Duty is recoverable at the rate of ₹ 50,000 per month from permit room/beer bar with live orchestra located in Municipal Corporation areas with effect from 20 January 2010. Such duty is recoverable in advance by the 10th day of the month to which it relates and is watched through the live orchestra recovery register. As per Section 9B of the BED Act, interest at the rate prescribed from time to time is also leviable.

During test check of live orchestra recovery register of five offices (one ¹⁵ DC and four ¹⁶ TMs) between May 2013 and January 2014, we noticed that Entertainment Duty amounting to ₹ 40 lakh was not paid/recovered from 18 permit rooms/beer bars with live orchestra during various periods between April 2012 and March 2013. This resulted in non-realisation of entertainment duty to that extent. Further, interest at the prescribed rate was also leviable.

¹² Mumbai (Zones III, V, VII and IX).

¹³ Mumbai (Zones I and XI), Pune (Zones B, C, E, G and M).

¹⁴ Andheri (Zones I, III and IV), Borivali (Zone V, VI and VII), Kurla at Mulund (Zones XI and XII), Kalyan, Thane and Ulhasnagar.

¹⁵ Mumbai (Zone XI).

¹⁶ Andheri (Zones I and IV), Kurla at Mulund (Zone XI), Thane.

After we pointed out the cases, the Department accepted the observation and communicated recovery of ₹ 5 lakh from four defaulters between May 2013 and October 2013. Report on the recovery of the balance amount along with interest and penalty has not been received.

We reported the matter to the Government in May 2014; their reply has not been received (December 2014).

6.4.3 Non-recovery of entertainment duty in case of dishonored cheques

Deputy Collectors, Mumbai (Zones V, VII and XI), Taluka Magistrates Andheri (Zones I, III and IV) and Kurla at Mulund (Zone IX, XI and XII))

As per the provisions of BED Act, Entertainment Duty can either be paid in cash or through cheque. Further, if the cheque through which Entertainment Duty is paid is dishonoured for any reason whatsoever, the Department has to immediately recover the amount in cash along with interest from the defaulters and also initiate action under the provisions of Section 138 of Negotiable Instruments Act (Amended), 1988 (NI Act).

During test check of the records of nine offices between January 2012 and December 2013, we noticed from the cheque/ dishonoured cheque register that in 72 cases, cheques issued by cable operators for payment of Entertainment Duty aggregating ₹ 25.57 lakh were dishonoured during various periods between July 2008 and March 2013. These amounts should have been recovered in cash along with interest. The concerned officers neither took any action to recover the amount from the defaulters nor initiated proceedings as contemplated under the Negotiable Instrument Act. This resulted in non-realisation of Entertainment Duty aggregating ₹ 25.57 lakh and interest thereon.

After we pointed out the cases between February 2012 and February 2014, the Department accepted the observation and communicated recovery of ₹ 1.54 lakh in eight cases. Report on recovery of the balance amount has not been received.

We reported the matter to the Government in May and June 2014; their reply has not been received (December 2014).

6.4.4 Non-forfeiture of security deposits

DC (ED), Mumbai and Mumbai Suburban District, Bandra (East)

As per the provisions under Rule 14 of the Bombay Entertainment Duty Rules, 1958, every organiser shall pay security deposit to the prescribed officer as that officer may decide. If an organiser fails to submit returns under Rule 16 or 21 within 10 days of the date of the performance of the entertainment or such extended period not exceeding one month, the prescribed officer may, after giving the organizer a week's notice, forfeit the security deposit.

During test check of the Personal Ledger Account and cash book of two offices in August 2013 and January 2014, we noticed that security deposits aggregating ₹ 3.74 crore collected from 218 organizers for the events

organized between April 2012 and March 2013 were lying in PLA, outside the Consolidated Fund of the State. The organizers neither submitted the returns within the prescribed period, nor had sought any extension for the same. The organisers also did not apply for the refunds for security Deposit. As such these were required to be forfeited which was not done.

After we pointed out the cases in September 2013 and February 2014, the Department confirmed the facts and stated that the action for forfeiture of the security deposits is under progress and same would be credited into the Government Account soon. Further progress in the matter has not been received.

The matter was brought to the notice of the Government in June 2014; their reply has not been received (December 2014).

SECTION C

LAND REVENUE

6.5 Short levy of Non-Agricultural Assessment, Zilla Parishad/Village Panchayat Cess and Increased Land Revenue

The Government of Maharashtra vide GR dated 23 October 2007, revised the rates of Non-Agriculture Assessment (NAA) of land in rural areas of Maharashtra especially for occupants of Class-II land from 1 August 2008 as one paisa to five paisa per square meter (sqm). Further, under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 with effect from 1 August 1975, "Increase of land revenue" (ILR) is also payable at 100 *per cent* in cases where land holding is more than 12 hectare. Similarly, under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and Bombay village Panchayat Act, 1958, cess at the rate of eight times of NAA is also leviable in the areas covered by the Act.

Scrutiny of records in Tahsildar Tasgaon, District Sangli, revealed (March 2013) that an area of 3,74,200 sqm in Class-II land in Village Turchi, Tahsil Tasgaon was under the use for non-agriculture purpose. The department levied NAA at the pre-revised rate at one paisa per sqm for the year 2008-09 to 2012-13 amounting to ₹ 1.87 lakh¹⁷ instead of revised rate at five paisa per sqm for the year 2008-09 to 2012-13 amounting to ₹ 9.36 lakh¹⁸. This has resulted in short levy of NAA amounting to ₹ 7.48 lakh.

After we pointed out (March 2013), Tahsildar, Tasgaon has accepted (March 2013) the observation and stated that the demand notice would be issued to party to recover the deficit amount of NAA. Report on recovery has not been received (December 2014).

¹⁷ NAA ₹ 3,742 + ILR ₹ 3,742 + ZP/VP cess ₹ 29,936 = ₹ 37,420 per year. NAA along with ILR and Cess for five years = 5 x ₹ 37,420 = ₹ 1,87,100

¹⁸ NAA ₹ 18,710 + ILR ₹ 18,710 + ZP/VP cess ₹ 1,49,680 = ₹ 1,87,100 per year. NAA along with ILR and Cess for five years = 5 x ₹ 1,87,100 = ₹ 9,35,500

The matter was reported to Government (May 2014); their reply has not been received (December 2014).

SECTION D

EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS

6.6.1 Non-recovery of education cess and employment guarantee cess

Assessor and Collectors, Mumbai (D and M/E Wards); Assistant Assessor and Collectors (AAC), Mumbai (R/N and G/N Wards) and Ulhasnagar Municipal Corporation (UMC)

As per the provision under sections 4 and 6 (b) of the Maharashtra Education Cess and Employment Guarantee Cess Act, 1962, (MECEGC Act) there shall be levied and collected education and employment guarantee cess along with property tax at the rates prescribed by the Government and credited to Government Account.

Further, as per the provision under section 10 (1) of MECEGC Act, if any person, on being served with a notice of demand for the collection of tax in pursuance of the provisions of section 9, fails to pay within the period mentioned in the notice, any amount due from him on account of tax, the municipality, or as the case may be, the Collector on being satisfied that such person has willfully failed to pay the tax may, subject to the general or special orders of the State Government, recover from him as penalty a sum not exceeding one tenth of the amount of the tax so unpaid, in addition to the amount of tax payable by him.

During test check of the records of five offices between March 2011 and June 2013, we noticed from Bill cum Collection Register, Tabulated Ward Reports and computer system that EC and EGC aggregating to ₹ 51.49 lakh was not recovered from 104 property holders during various periods between 2007-08 and 2012-13 resulting in non-realisation of Government Revenue to that extent.

After we pointed out the cases between March 2011 and July 2013, one office¹⁹ accepted the observation and stated that demand notices would be issued and recovery effected. The other four offices stated that the cases would be verified. Further action in the matter has not been received.

We brought the matter to the notice of the Government in April 2014; their reply has not been received (December 2014).

¹⁹ Assistant Assessor and Collector, G/N Ward, MCGM, Mumbai.

6.6.2 Non-recovery of education cess and employment guarantee cess in case of dishonoured cheques

Assessor and Collector (AC), Pune Municipal Corporation; Assistant Assessor and Collectors (AAC), Brihanmumbai Municipal Corporation (K Ward, H/W Ward and D Ward) and Ulhasnagar Municipal Corporation

As per provisions under Rule 100(b) of the Maharashtra Treasury Rules 1968, in the event of the cheque being dishonoured by the collecting bank for any reasons, whatsoever, the Department has to recover the dues in cash, the amount involved immediately along with interest from the defaulters and also initiate action under the provisions of section 138 of Negotiable Instruments Act (Amended), 1988 (NI Act).

During test check of the records of five offices between June 2013 and October 2013, we noticed from the cheque/dishonored cheque register that in 72 cases, cheques received amounting to ₹ 16.24 lakh were dishonored by concerned banks during various periods between 2009-10 and 2012-13. These amounts were to be recovered in cash along with interest. The concerned Department neither took any action to recover the amount from the defaulters nor initiated proceedings as contemplated under the NI Act. This resulted in non-realisation of revenue amounting to ₹ 16.24 lakh and interest thereon.

After we pointed out the cases between July 2013 and October 2013, the concerned corporations stated that action would be taken for recovery of dishonored cheques.

We brought the matter to the notice of the Government in May 2014; their reply has not been received (December 2014).

6.6.3 Non-remittance of education cess and employment guarantee cess

Municipal Corporations of Kolhapur, Nagpur and Pune

As per provision under sections 4 and 6 (b) of the Maharashtra Education Cess and Employment Guarantee Cess Act, 1962, read with rule 4 of Education (Cess) Tax on Lands and Buildings (Collection and Refund) Rules, 1962, cess and penalty collected by the Municipal Corporation (MC) during any calendar week are required to be credited into the Government account before the expiry of the following week. If any MC defaults in payment of any sum under the Act, Government may, after holding such enquiry as it thinks fit, fix a period for the payment of such sum. The Act also empowers the Government to direct the banks/treasury in which the earnings of the MC are deposited, to pay such sum from the bank account to the Government. There is no provision in the Act to levy interest or penalty on delay in remittance of Government revenue by the MC.

During scrutiny of the Tax Collection Registers of three MCs between May 2013 and July 2013, we noticed that the MCs did not remit revenue amounting to ₹ 59.10 crore relating to EC and EGC which was collected during the years from 2011-12 to 2012-13. The Government also did not initiate any action either to fix a period for the payment of the dues or direct the bank to pay the amounts due from the accounts of the MCs.

After this, being pointed out in June and in August 2013, the Assistant Assessor and Collector, Kolhapur and Pune MCs stated that the collected amount would be remitted to the Government Account.

We brought the matter to the notice of the Government in May 2014; their reply has not been received (December 2014).