

CHAPTER-IV: OTHER TAX RECEIPTS

(A) TAXES ON VEHICLES, GOODS AND PASSENGERS

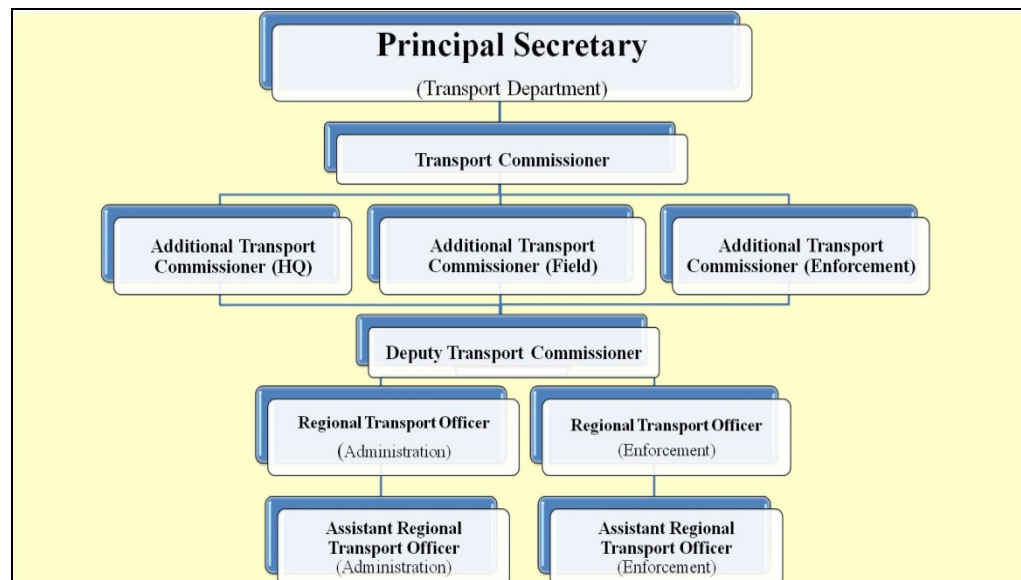
4.1 Tax administration

The levy and collection of motor vehicles tax and fee in the State is governed under the Motor Vehicles Act, 1988 (MV Act), the Central Motor Vehicles Rules, 1989 (CMV Rules), the Uttar Pradesh Motor Vehicles Taxation Act, 1997 (UPMVT Act), the Uttar Pradesh Motor Vehicles Taxation Rules, 1998 (UPMVT Rules), the Carriage by Road Act, 2007 (CBR Act), the Carriage by Road Rules, 2011 (CBR Rules), and various Notifications, Circulars and G.O.s issued by the Government and the Department from time to time.

The Principal Secretary, Transport, Uttar Pradesh is the administrative head at the Government level. The entire process of assessment and collection of taxes and fee is administered and monitored by the Transport Commissioner (TC), Uttar Pradesh, who is assisted by three Additional Transport Commissioners at Headquarters.

There are six¹ Deputy Transport Commissioners (DTCs), 19² Regional Transport Officers (RTOs) and 75 Assistant Regional Transport Officers (ARTOs) (Administration) in the field. RTOs perform the overall work of issue and control of permits of transport vehicles. The ARTOs perform the work of assessment and levy of taxes and fee regarding both transport vehicles and other than transport vehicles. Respective RTOs are responsible for the overall administration of the Sub-Regional Transport Offices. The organisational setup is described below:

Chart 4.1- Organisational setup



There are 114 Enforcement squads in the State, each consisting of one ARTO (Enforcement), one supervisor and three Enforcement constables. These are attached to the Headquarters and deployed at the district level. Two special Enforcement squads are posted at the Headquarters. 10 Regional Transport

¹ Agra, Bareilly, Kanpur Nagar, Lucknow, Meerut and Varanasi.

² Agra, Aligarh, Allahabad, Azamgarh, Banda, Bareilly, Basti, Faizabad, Ghaziabad, Gonda, Gorakhpur, Jhansi, Kanpur Nagar, Lucknow, Meerut, Mirzapur, Moradabad, Saharanpur and Varanasi.

Officers (Enforcement) are posted at the district level, under the control and supervision of an Additional TC (Enforcement) at the Headquarters and six Deputy TCs at the zonal³ level. The Enforcement administration is responsible for checking offences related to plying of unregistered vehicles/ overloaded vehicles/ tax evasion/ vehicles plying in the state without valid permits, driving licenses, certificates of fitness, and in violation of the applicable norms of pollution, statute and rules.

A software viz., *VAHAN* had been adopted by the Department for automating the processes of vehicle registration, issue/ renewal of permits, calculation and payment of taxes and fees, issue/ renewal of fitness certificates, issue of challans and payment of the penalty amount. *VAHAN* is therefore an important monitoring tool at the disposal of the Department. This software also has the facility to generate reports like arrears of revenue, lists of vehicles without permit and certificate of fitness, etc. However, objections raised by the CAG in the previous reports indicate that the Departmental authorities have regularly failed to take cognisance of such exception reports leading to recurring instances of non-compliance with the statutory provisions.

4.2 Results of audit

During 2017-18, Audit test checked 89,221 vehicles (11 *per cent*) out of 8,18,953 vehicles registered in 59⁴ out of 76 Auditable units (78 *per cent*) of the Transport Department. Of the test checked cases, Audit noticed irregularities amounting to ₹ 37.60 crore in respect of 35,895 vehicles (40 *per cent*). Revenue collected by the Department during the year 2016-17 aggregated to ₹ 5,148.37 crore of which, the audited units collected ₹ 4,199.31 crore (82 *per cent*). Audit scrutiny revealed instances of short realisation of tax, non-levy of additional tax and fitness fee, non-imposition of penalty and other irregularities amounting to ₹ 37.60 crore in 670 paragraphs as shown in **Table - 4.1**.

Table – 4.1

Sl. No.	Categories	Number of paragraphs	Amount (₹ in crore)	Share in <i>per cent</i> to the total objected amount
1.	Short realisation of			
	• Passenger tax/ additional tax	334	25.15	66.89
	• Goods tax			
2.	Evasion of tax			
	• Passenger tax/ additional tax	58	2.70	7.18
	• Goods tax			
3.	Other irregularities⁵	278	9.75	25.93
Total		670	37.60	

Source: Information available in the Audit office.

³ Agra, Bareilly, Kanpur Nagar, Lucknow, Meerut and Varanasi.

⁴ One Principal Secretary, One Transport Commissioner, 13 RTOs and 44 ARTOs.

⁵ 1. Procedural Lapses.

2. Delay in compliance of orders.

3. Compounding not done as per rules.

4. Non maintenance of GPF Pass Book and Cash Book, etc.

The Department accepted (between April 2017 and September 2019) 14,640 cases amounting to ₹ 17.79 crore pointed out in the year 2017-18. The Department reported (between April 2017 and September 2019) recovery of ₹ 19.85 crore out of which 27 cases of ₹ 1.56 crore is related to the year 2017-18 and the rest of the cases pertain to the earlier years.

Irregularities involving 1,306 cases worth ₹ 4.77 crore have been illustrated in this chapter. Out of these, some irregularities have been regularly reported during the last five years as detailed in **Table-4.2**. Most of the audit observations are of a nature that may reflect similar errors/omissions in other units of the concerned State Government department, but were not covered in the test check conducted during the year. The Department/Government may therefore like to internally examine all other units with a view to ensuring that they are functioning as per requirement and rules.

Table - 4.2

Nature of observation	(₹ in crore)											
	2012-13		2013-14		2014-15		2015-16		2016-17		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Penalty under Carriage by Road Act not levied	--	--	--	--	1,786	4.08	1,430	4.00	836	2.18	4,052	10.26
Additional tax on JnNURM buses not levied	--	--	248	19.20	464	30.36	805	35.69	210	1.95	1,727	87.20

Recommendations:

1. The Department should initiate systemic measures to ensure that the shortcomings repeatedly reported by Audit do not recur.
2. The Department should introduce more effective measures to monitor and ensure recoveries of the large amounts of non/ short realisations pointed out in Audit Reports.

4.3 Penalty not imposed on overloaded goods vehicles under the Carriage by Road Act

The Transport Department failed to stop unsafe vehicles from plying on roads and also did not impose penalty amounting to ₹ 2.16 crore under the Carriage by Road (CBR) Act on 913 goods vehicles which were seized for overloading.

The CBR Act, 2007 provides for imposition of penalty equal to the penalty prescribed under MV Act on over loaded motor vehicles (goods) in additional to the penalty already imposed on and realised from such vehicles.

The CBR Act also provides that any unregistered common carrier⁶ engaged in

⁶ Common carrier means a person engaged in the business of collecting, storing, forwarding or distributing goods to be carried by goods carriages under a goods receipt and includes a goods booking company, contractor, agent, broker and courier agency engaged in door to door transportation of documents/ goods/ articles utilising the services of a person either directly or indirectly to carry or accompany such documents, goods or articles.

the business shall be punishable for the offence with a fine of ₹ 4,000⁷ per offence.

Previous Audit Reports of 2014-15 to 2016-17 had highlighted persistent loss of Government revenue amounting to ₹ 10.26 crore due to non-imposition of penalty under CBR Act on 4,052 overload vehicles.

To evaluate the corrective measures adopted by the Department in this regard, Audit test checked the records of 50 RTOs/ ARTOs out of 59 RTOs/ARTOs during 2017-18. In 913 out of 13,398 cases of overloading of goods vehicles during December 2015 to December 2017, Audit noticed that the concerned RTOs/ ARTOs (Enforcement) failed to impose a penalty⁸ on the vehicle owner/lease holder amounting to ₹ 2.16 crore under the CBR Act which was equivalent to the amount of penalty imposed under MV Act (**Appendix-XIV**).

Audit reported the matter to the Departmental (between May 2017 and April 2018). In the exit conference (December 2018), the Department stated that three vehicles of districts Muzaffarnagar and Mirzapur had been penalised under the CBR Act and ₹ 0.76 lakhs had been recovered as penalty. The Department further stated that the maximum number of vehicles which are included in the Audit observation are only transporting minerals from the mines for sale in the market. Whether these vehicles, which are registered in the Mining Department, need to be penalised under the CBR Act, was not clear. The matter therefore needed a clarification from the Mining Department.

In continuation of the above matter, Audit held (April 2019) a meeting with both the Geology and Mining Department and the Transport Department in which it was recommended by Audit that as overladen vehicles transporting minor minerals were also unsafe, the transport vehicles of the mining lease holders may be brought under the purview of the CBR Act, 2007. The Mining Department may update its online application for downloading MM 11 form by adding fields related to laden and unladen weight of the vehicles engaged in transporting of minor minerals. The MM 11 should also mention the CBR registration number.

The Department in its reply dated 12 April 2019, stated that necessary orders had been issued to all Enforcement teams to compulsorily register common carriers under the CBR Act. Audit is however of the opinion that above would not cover all vehicles transporting minor minerals.

Recommendations:

The Transport Department may register vehicles carrying minor minerals under the definition of common carrier of the CBR Act, 2007 to stop such overloaded vehicles carrying minor minerals.

The Geology and Mining Department may in consultation with the Transport Department work out an online system for detecting the overloaded vehicles running on road based on the MM 11 operated by the Transport Department.

⁷ UP Notification No 7/800/30-4-2014-172/89 dated 05 June 2014.

⁸ Minimum fine of two thousand rupees and additional amount of one thousand rupees per tonne of excess load.

4.4 Additional tax on *Jn*NURM buses not levied

Additional tax of ₹ 2.61 crore was not levied on 393 *Jn*NURM buses plying outside the designated municipal areas.

No transport vehicle of the State Transport Undertaking (STU) shall be used in any public place in Uttar Pradesh unless additional tax prescribed under UPMVT Act, 1997 (as amended on 28 October 2009) has been paid. Motor vehicles of STU operating within the limits of Municipal Corporation or Municipality are exempted from the payment of additional tax.

Previous Audit Reports of 2013-14 to 2016-17 had highlighted non-levy of Additional tax on 1,727 defaulting vehicles amounting to ₹ 87.20 crore. In pursuance of the deliberations of the PAC in its meeting dated 02 July 2018 (for the Audit Report 2013-14), amount of ₹ 17.36 crore has been recovered by the Department.

To evaluate the corrective measures adopted by the Department in this regard, Audit test checked the records of three RTOs/ARTOs out of 59 RTOs/ARTOs during 2017-18. Audit cross checked the list of *Jn*NURM buses with that of routes defined under municipal corporations, and noticed that 393 out of 590 *Jn*NURM buses under three State Transport Undertakings (Kanpur City Transport Services Limited, Lucknow City Transport Services Limited and Agra Mathura City Transport Services Limited) were plying outside the designated municipal areas of these cities from February 2016 to July 2017 and for which they were liable for payment of additional tax of ₹ 2.61 crore. The concerned RTOs/ARTOs did not check the route chart of these *Jn*NURM buses and therefore failed to notice that these *Jn*NURM buses were plying outside the municipal areas as defined by the municipal corporation. As a result, additional tax of ₹ 2.61 crore was not levied as detailed in **Table 4.3**.

Table 4.3

(Amount in ₹)						
Sl. No.	Name of district		No of buses under STUs	No. of buses in which irregularity noticed	Period (Add. tax leviable)	Total Additional tax
1	RTO	Kanpur Nagar	270	183	04/16 to 04/17	11518650
2	RTO	Lucknow	260	180	04/16 to 06/17	12435750
3	ARTO	Mathura	60	30	02/2016 to 07/2017	2187000
Total			590	393		26141400

Audit reported the matter to the Department (between May 2017 and April 2018). In the exit conference (December 2018), the Department accepted the audit observation and stated that the issue of recovery of additional tax had already been taken up with the Urban Transport Directorate Authorities. However, recovery position has not been received (September 2019).

(B): STAMPS AND REGISTRATION FEES

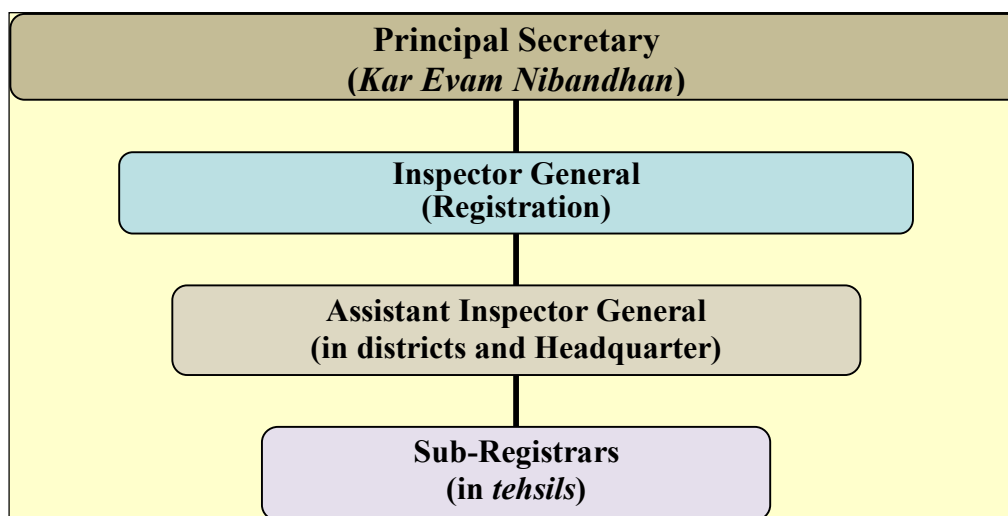
4.5 Tax administration

The levy and collection of stamp duty and registration fees in the State is governed by the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the rules framed thereunder as applicable in Uttar Pradesh. Stamp duty and registration fees are levied on the execution of instruments at the prescribed rates fixed under the above Acts. Valuation of properties is decided as per the circle rates fixed by the Collector of the district as per the provisions of the Uttar Pradesh Stamp (Valuation of Property) Rules, 1997.

The determination of policy, monitoring and control at the Government level is carried out by the Principal Secretary, Stamps and Registration. The Inspector General (Registration) (IGR) is the head of the Stamps and Registration Department. He/she is empowered with the task of superintendence and administration of the registration work. The IG is assisted by 92 Assistant Inspectors General (AIsG) at the district/ headquarters level and 355 Sub-Registrars (SRs) at the *tehsil* level respectively.

The Organisational setup is described below:

Chart 4.2 Organisational setup



4.6 Results of audit

During 2017-18, Audit test checked 2,78,192 documents (9 per cent) out of 30,45,393 documents and noticed irregularities amounting to ₹ 35.77 crore in 750 documents (0.30 per cent) in 217¹ units [out of 355 auditable units (61 per cent)] of the Stamps and Registration Department. The Department collected revenue of ₹ 11,564.02 crore (stamp duty: ₹ 6,540.84 crore and registration fees and other receipts: ₹ 5,023.18 crore) during 2016-17 out of which the audited units had collected ₹ 8,136.52 crore (70 per cent). Audit noticed deficiencies and irregularities amounting to ₹ 35.77 crore in 808 paragraphs as detailed in **Table – 4.4** These have been reported through Inspection Reports issued to various SRs test checked during 2017-18.

¹ One Principal Secretary Stamps and Registration Lucknow and 216 SRs.

Table – 4.4

Sl. No.	Categories	Number of paragraphs	Amount (₹ in crore)	Share in per cent to the total objected amount
1.	Short levy of stamp duty and registration fees due to undervaluation of properties	40	0.92	2.57
2.	Short levy of stamp duty and registration fees due to misclassification of documents	665	27.03	75.57
3.	Other irregularities	103	7.82	21.86
Total		808	35.77	

Source: Information available in the Audit office.

The Department accepted (between April 2017 and September 2019) 270 cases amounting to ₹ 11.43 crore pointed out in the year 2017-18. The Department reported (between April 2017 and September 2019) recovery of ₹ 52 lakh in 359 cases out of which four cases of ₹ one lakh is related to the year 2017-18 and the rest of the cases pertain to the earlier years.

Irregularities involving 266 cases worth ₹ 11.42 crore have been illustrated in this chapter. Out of these, some irregularities have been repeatedly reported during the last five years as detailed in **Table – 4.5** (Cases pertaining to the previous audit reports). Most of the audit observations are of a nature that may reflect similar errors/omissions in other units of the concerned State Government department, but were not covered in the test check conducted during the year. The Department/Government may therefore like to internally examine all other units with a view to ensuring that they are functioning as per requirement and rules.

Table – 4.5 Cases pertaining to the previous audit reports

Nature of observation	(₹ in crore)											
	2012-13		2013-14		2014-15		2015-16		2016-17		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Residential land valued at agricultural rate	64	2.43	97	4.35	194	7.78	214	9.66	157	6.05	726	30.27

Recommendation:

The Department should initiate suitable measures to plug the defects so as to avoid similar lapses in future.

4.7 Compliance with Acts/Rules

The Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the Uttar Pradesh Stamp (Valuation of Property) Rules, 1997 made thereunder provide for:

- (i) payment of registration fees at the prescribed rate; and
- (ii) payment of stamp duty by the executants at the prescribed rate.

Failures of the Departmental officers to comply with the above mentioned provisions are highlighted below:

4.8 Residential land valued at agricultural rate

Residential land measuring 5.09 lakh square meter was wrongly registered for ₹ 58.56 crore at agricultural rates. Correct valuation at the residential rate worked out to ₹ 256.09 crore which resulted in short levy of Stamp Duty and Registration Fees by ₹ 11.42 crore.

The IS Act, 1899 defines that stamp duty on a deed of conveyance is chargeable either on the value of the consideration set forth therein or on the market value of the property, whichever is higher. The Inspector General of Registration (IGR), vide guidelines issued in June 2003, further clarified that a property in the same *arazi*² number should not be split in more than one parts for different purposes i.e. one part for agriculture and the other for non-agriculture for the purpose of levy of stamp duty.

A *Khasra* based search facility to get the details of lands sold in a given *Khasra* was available in the *PRERNA*³ software. However, this feature was not being used by the SRs while determining the stamp duty to be charged at the time of registration of the sale deeds of land.

Audit Reports for the year 2012-13 to 2016-17 had highlighted short levy of stamp duty and registration fee amounting to ₹ 30.27 crore in 726 cases due to valuation of residential land at agriculture rates by SRs (refer **Table 4.5**).

To evaluate the corrective measures adopted by the Department, Audit test checked the records of 120 Sub-registrar offices (SROs) out of 217 audited units. In the 120 SROs audit noticed that 266 sale deeds (out of 1,06,266 sale deeds checked) of land at agricultural rates. In 266 of the test checked sale deeds related to 5.09 lakh square meters of residential land valued at ₹ 58.56 crore, the deeds were registered at agriculture rates in violation of the 2003 clarification of the IGR. As a result, stamp duty and registration fees of only ₹ 3.98 crore was levied. Out of these 266 cases audit further noticed that a part of the same *arazi* (on same day, in 12 cases - ₹ 0.86 crore, within one to 30 days, 73 cases - ₹ 2.36 crore and 31 days to 2,167 days, 181 cases - ₹ 8.20 crore) was sold earlier or on the same day at residential rates. Hence, the land in question should have also been valued at ₹ 256.09 crore at the prevalent residential rates with due stamp duty and registration fees of ₹ 15.40 crore being charged. The incorrect valuation of property and under-utilisation of features of *PRERNA* thus resulted in short levy of stamp duty and registration fees of ₹ 11.42 crore (**Appendix-XV**).

Audit reported the matter to the Department (between May 2017 and April 2018). During the exit conference (14 November 2018), the Department accepted the audit observation and stated that the order dated 5 June 2003 will be examined and, in future, spot verification reports will be provided to the audit party. In this respect the orders would be issued by the Government (October 2018). Further, in their reply, the Department also stated that out of 286 cases initially pointed out, 20 cases were found duly stamped. In 39 cases,

² *Arazi*, *Khasra* and *Gata* numbers are same and show the particular number of a land holding in a locality.

³ *PRERNA* (Property Evaluation and Registration Application) Software was introduced by the Department on 1 August 2006 for computerisation of the registration process.

RCs amounting to ₹ 48.52 lakh had been issued and of which, ₹ 21.47 lakh had been recovered. In rest of the cases, replies were yet to be received.

Recommendation:

The Stamps and Registration Department should ensure correct valuation of property using features available in the *PRERNA* Software and, after a mandatory physical verification by SR or *Tehsildar/Patvori* where a part of the same arazi has been sold within a reasonable short period at residential rates.