

CHAPTER- IV: TAXES ON MOTOR VEHICLES

4.1 Results of audit

Test check of the records of the transport offices during the year 2008-09, revealed non/short levy of motor vehicles tax, fees, penalties/fines *etc.* and other deficiencies of Rs. 155.98 crore in 218 cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	'Levy and collection of Motor Vehicles Taxes'- A Review	01	57.68
2.	Non-realisation of motor vehicles taxes	38	17.83
3.	Non/short realisation of trade tax	21	0.70
4.	Non-imposition of fines and penalties	68	0.51
5.	Non-realisation of tax from vehicles involved in surrender	06	0.40
6.	Irregular issue of certificate of fitness	05	0.26
7.	Other cases	79	78.60
Total		218	155.98

During the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 96.04 crore in 210 cases, of which 162 cases involving Rs. 75.92 crore were pointed out during 2008-09 and the rest during the earlier years. The department reported recovery of Rs. 97.91 lakh during the year.

Audit findings of a review on **'Levy and collection of Motor Vehicles Taxes'** involving a financial impact of Rs. 57.68 crore are mentioned in the succeeding paragraphs.

4.2 Levy and Collection of Motor Vehicles Taxes

Highlights

Due to the absence of a mechanism to review the taxation register at periodical intervals, the concerned district transport officers could not detect non-payment of tax by the vehicle owners and consequently demand of Rs. 40.93 crore including penalty was not raised.

(Paragraph 4.2.7)

Due to the absence of a mechanism for reviewing of functioning of the MVIs, cases of irregular issue/renewal of certificate of fitness to transport vehicles remained undetected by the higher authorities.

(Paragraph 4.2.8)

There was no time frame prescribed for sending cases of arrears of revenue by the district transport officers to the certificate officers which resulted in non-initiation of certificate cases for realisation of revenue of Rs. 38.41 crore.

(Paragraph 4.2.12.2)

The department did not have a manual to serve as a reference point for effective practices for its efficient functioning.

(Paragraph 4.2.14.2)

Due to lack of monitoring to ensure that reliable data/information are available to the higher authorities, there were discrepancies in the various figures furnished at the State Transport Commissioner's office level and those at the DTO level. The revenue implications were substantial.

(Paragraph 4.2.14.3)

Surrender of vehicles was accepted without adherence to the prescribed procedures which resulted in non-realisation of Rs. 2.53 crore.

(Paragraph 4.2.18)

Transfer of ownership of the vehicles/issue of duplicate registration certificates were allowed without realisation of upto date tax, resulting in non-realisation of Rs. 1.31 crore during 2003-08.

(Paragraph 4.2.20)

4.2.1 Introduction

The functioning of the Transport Department and the levy and collection of tax and fee in the State are governed by the Motor Vehicles (MV) Act, 1988, the Central Motor Vehicles (CMV) Rules, 1989, the Bihar Motor Vehicles (BMV) Rules, 1992 and the Bihar Motor Vehicles Taxation (BMVT) Act and Rules, 1994. Major activities of the Transport Department include registration of motor vehicles, levy and collection of motor vehicle taxes, grant of driving licence and road permits and monitoring the transport system in the State. The main source of revenue in the department comprises tax/additional tax on the motor vehicles and fee for registration, grant of driving licence and issue of road permits *etc.*, apart from fines and penalty for default.

A review of 'Levy and collection of Motor Vehicles Taxes' covering the period from 2003-04 to 2007-08 in the State of Bihar by audit revealed a number of system and compliance deficiencies as discussed in the succeeding paragraphs.

4.2.2 Organisational set up

At the apex level, the State Transport Commissioner (STC), Bihar is the head of the department and is responsible for the administration of the Acts and Rules and all policy matters. In performance of his duties, he is assisted by two Joint State Transport Commissioners at the headquarters. The State has been divided into nine regions and 38 districts which are controlled by the secretaries of the regional transport authorities and the district transport officers (DTO) respectively. They are assisted by the motor vehicles inspectors (MVI) in discharging their duties.

4.2.3 Audit objectives

The review was conducted with a view to ascertain whether:

- the provisions of the BMVT Act and Rules made thereunder and departmental instructions were adequate to safeguard the revenue;
- the provisions of the Acts and the Rules made thereunder were being implemented effectively;
- the motor vehicle taxes, fees and fines were properly assessed, collected and deposited; and
- an internal control mechanism existed within the department and was adequate and effective to check leakage of revenue.

4.2.4 Audit scope and methodology

The review was conducted⁷² through test check of the records of the STC, Bihar, 10⁷³ out of 38 DTOs and two⁷⁴ out of nine regional transport authorities for the year 2003-08 between November 2008 to February 2009 and May 2009 to July 2009. The review also contains cases of similar nature which came to notice during compliance audit during 2008-09 or earlier years. These cases have also been appropriately mentioned in this review.

The selection of the units was based on statistical sampling through population proportionate sampling with replacement and simple random sampling with replacement method. The details of the statistical sampling technique are explained at Annexure I.

4.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the cooperation of the Transport Department in providing necessary information and records to audit.

⁷² During the period March - April 2009, review could not be conducted due to holding of general elections and bye-elections in the State.

⁷³ Begusarai, Bhabhua, Bhagalpur, Bhojpur, Chapra, Darbhanga, Gaya, Muzaffarpur, Patna and Purnea.

⁷⁴ Chapra and Patna.

An entry conference was held with the STC in November 2008 in which the scope and methodology of audit was discussed. The findings of the review were forwarded to the department and the Government in August 2009 for their response. An exit conference was held on 20 November 2009 in which the results of audit and the recommendations were discussed. The STC, Bihar attended the meeting.

After the cases were pointed out, the department accepted all the audit observations and stated in November 2009 that reports had been called for from the concerned DTOs for taking necessary action. Further development has not been reported (January 2010). Reply of the Government has not been received (January 2010).

Audit findings

4.2.6 Trend of revenue

The Bihar Budget Procedures provide that the estimates of receipt should show the amount expected to be realised within the year. In estimating the revenue, the calculation should be based upon the actual demand including any arrears due for the past years and probability of their realisation during the year. The controlling officer is required to examine the budget proposals received from the concerned field officers and submit it to the Finance Department.

As per the provisions of the Bihar Financial Rules read with the Bihar Treasury Code, the controlling officer is required to ensure timely reconciliation between the departmental figure and those appearing in the Finance Accounts. The budget estimates and actual collection as reported by the department and those appearing in the Finance Accounts for last five years are indicated in the table below:

(Rupees in crore)

Year	Budget estimates	Revenue collection as per		Variation in receipts between departmental figure and Finance Accounts (4-3)	Variation between budget estimate and receipts (Finance Accounts) (per cent) (2-3)
		Finance Accounts	Department		
1	2	3	4	5	6
2003-04	275.00	209.50	217.81	8.31	(-) 65.50 (23.8)
2004-05	250.00	212.78	257.21	44.43	(-) 37.22 (14.9)
2005-06	310.00	302.44	308.47	6.03	(-) 7.56 (2.4)
2006-07	350.00	181.38	202.14	20.76	(-) 168.62 (48.2)
2007-08	375.00	273.21	245.86	27.35	(-) 101.79 (27.1)

Thus, during 2003-08, the revenue collection was lower by 14.9 *per cent* to 48.2 *per cent* than the budget estimates except during 2005-06 where the variation was marginal (2.4 *per cent*). The reasons for substantial shortfall during 2006-07 and 2007-08 were attributed mainly to reduced rates of road

tax on transport vehicles. Besides, there was variation of Rs. 52.18 crore in receipts as appearing in the Finance Account and those furnished by the Department to audit. This indicates that timely reconciliation of the figures as required under the existing rules was not done, which also points towards deficient accounting and reporting mechanism.

System deficiencies

4.2.7 Raising of demand and collection of revenue

Under the provisions of the BMVT Act and the Rules made thereunder, tax on the motor vehicles including the Government vehicles is to be paid to the respective registering authority within 15 days from the commencement of the quarter. However, the registering authority may exempt the vehicle owner from the payment of tax, if he is satisfied that the prescribed conditions have been fulfilled by the vehicle owner. Further, the department had issued an instruction in May 2005 to all the DTOs that the owners of trailers which is registered as transport vehicle may opt for registering their vehicles as vehicle used solely for agricultural purpose and onetime tax paid by them. In case of non-payment of tax despite notices, certificate proceedings are to be initiated as per the executive instructions issued between March 1999 and January 2001. Non-payment of tax beyond 90 days attracts penalty at twice the amount of tax due.

Audit scrutiny revealed that the department has not installed a mechanism for periodic review of the taxation register by the DTOs and has also not prescribed the time frame within which a demand notice is to be issued.

In 35 DTOs⁷⁵, it was noticed that in case of 3,057 transport vehicles (including 64 Government vehicles and 1,661 trailers) the owners did not pay the tax for periods falling between January 1999 and December 2007. In the absence of periodic review of the taxation register, the DTOs could not detect and raise the demand. This resulted in non-realisation of tax of Rs. 40.93 crore including penalty calculated for the period from July 2003 to June 2008.

The Government may consider prescribing a system of reviewing the taxation registers by the DTOs at periodic intervals and a definite timeframe for issuing demand notice in case of default in payment of tax.

4.2.8 Functioning of Motor Vehicle Inspectors (MVI)

As per the provisions of the CMV Rules read with the BMV Rules, the MVI while inspecting a transport vehicle for granting/renewing the certificate of fitness, shall fill form 'MV inspection slip' and obtain legible pencil impression of the chassis number of the vehicle so inspected on the 'MV inspection slips'.

Further, according to the executive instruction issued by the STC, Bihar, in

⁷⁵ Begusarai, Bhabhua, Bhagalpur, Bhojpur, Chapra, Darbhanga, Gaya, Muzaffarpur, Patna and Purnea (Review); Araria, Arwal, Aurangabad, Banka, Bettiah, Buxar, Gopalganj, Jamui, Jehanabad, Katihar, Khagaria, Lakhisarai, Motihari, Munger, Nalanda, Nawada, Saharsa, Samastipur, Sasaram, Sheikhpura, Sheohar, Sitamarhi, Siwan, Supaul and Vaishali (compliance audit).

April 1994, the MVIs are prohibited from granting/renewing the certificate of fitness to those transport vehicles for which tax has not been paid. As held by the High Court⁷⁶ of Patna, tax token being an evidence of payment of tax, is required to be produced for obtaining the certificate of fitness.

Audit scrutiny revealed that the Department has not prescribed any return/report to be furnished by the MVIs to the higher authorities based on which the latter could monitor the performance of the MVIs and take timely corrective action. The following deficiencies were noticed in the functioning of the MVIs.

4.2.8.1 Issue/renewal of certificate of fitness to transport vehicles

During test check of the certificate of fitness registers of transport vehicles with other corresponding records in four DTOs⁷⁷, it was noticed that in case of 9,591 transport vehicles, the owners had applied for renewal of certificate of fitness of their transport vehicles during the year 2007-08. In these cases, the MV inspection slips were not found kept in the case records of the vehicles. In absence of the 'MV inspection slips' it could not be ascertained whether the pencil impression of the chassis numbers of the vehicles were obtained by the MVIs and whether proper test regarding the road worthiness of the vehicles carried out prior to issue of certificate of fitness. **This was highly irregular as plying of these vehicles without proper inspection was fraught with the risk of causing damage to public life and property.**

4.2.8.2 Irregular issue of certificate of fitness to transport vehicles

In eight DTOs⁷⁸, cross verification of the certificate of fitness register of the transport vehicles with the taxation register, indicated that the certificates of fitness for 178 transport vehicles were issued without ensuring upto date payment of tax. The omission not only violated the rules and STC's orders but also resulted in non-realisation of tax of Rs. 6.75 crore including penalty pertaining to the period between July 2003 and June 2008.

4.2.8.3 Plying of surrendered vehicles

In DTO, Muzaffarpur, it was noticed from the surrender/certificate of fitness register of the transport vehicles and other relevant records that 18 vehicles obtained certificate of fitness from the MVI during April 2007 to March 2008, while these vehicles were shown surrendered on the surrender register. Thus, it was evident that in these cases, the MVI had not ensured that upto date tax has been paid. Besides, issue of certificates of fitness to these vehicles confirms that the vehicles were produced before the MVIs and thus moved from the declared place of parking mentioned in the undertaking. Hence the vehicle owners were liable to pay tax and penalty of Rs. 82.17 lakh. The case records of the vehicles in which surrendered certificate of registration, tax token *etc.* were kept, were not furnished for audit scrutiny despite repeated reminders.

⁷⁶ Patna Zila Truck Association Vs State of Bihar 1993 (1) PLJR 211.

⁷⁷ Begusarai, Gaya, Muzaffarpur and Purnea.

⁷⁸ Begusarai, Bhagalpur, Gaya, Muzaffarpur, Patna and Purnea (Review); Buxar and Vaishali (compliance audit).

4.2.8.4 Authorisation of non-transport vehicle to ply as a transport vehicle

As per the provisions of the MV Act read with the CMV Rules, agricultural tractor-trailer are non-transport vehicles which are registered as agriculture tractor-trailer after paying onetime tax of Rs. 3,000 or Rs. 5,000 as the case may be.

Scrutiny of the records of DTOs, Begusarai and Purnea, revealed that the MVIs irregularly issued certificates of fitness to 77 tractor-trailers which were registered as agricultural tractor-trailer on payment of onetime tax.

Issue of certificate of fitness applicable to transport vehicles to agricultural tractor-trailers without payment of annual tax, was not only irregular but was also fraught with the risk of these vehicles being illegally plied for commercial purposes without payment of the annual tax as applicable to transport vehicles. That such tax had not been paid had also not been verified by the MVI before issuing the certificates of fitness.

The Government may consider installing a mechanism for monitoring the functioning of the MVIs by higher authorities. Also, there should be frequent checks by the Enforcement Wing to detect illegal commercial plying of such vehicles.

4.2.9 System of granting exemption of tax

Under the provisions of the BMVT Act read with the BMVT Rules, where the taxing officer on an application accompanied by an undertaking of the owner of a motor vehicle, is satisfied after enquiry that a motor vehicle has not been used for a continuous period of more than a calendar month, he may exempt the payment of tax and write off the amount of the arrears of tax upto a maximum of Rs. 4,000 under intimation to the STC, Bihar and where the amount of the arrears exceed Rs. 4,000, he may refer the matter to the STC, Bihar or to any other competent authority for decision.

Audit scrutiny revealed that **no time limit has been prescribed for sending and disposal of such cases** which resulted in blocking of revenue as discussed below.

4.2.9.1 In nine DTOs⁷⁹, it was noticed that surrender of 69 vehicles requiring exemption from the payment of tax by the STC/higher authorities were accepted and forwarded to the higher authority between December 2002 and November 2006. These cases involving revenue of Rs. 40.40 lakh were still pending for decision till January 2010.

After the cases were pointed out, the department accepted the audit observation and stated (November 2009) that 44 cases have been disposed. Scrutiny however, revealed that these included only three out of the 69 cases pointed out by audit in which only Rs. 35,803 has been recovered in one case and exemption of Rs. 27,197 has been granted in the other two cases out of Rs. 40.40 lakh. Further report in the remaining cases has not been received (January 2010).

⁷⁹ Bhabhua, Bhagalpur, Bhojpur, Chapra, Darbhanga and Patna (Review); Gopalganj, Samastipur and Siwan (compliance audit).

4.2.9.2 In DTO, Gaya, it was noticed that 67 vehicles were released after acceptance of their surrender between September 2002 and September 2005 by the DTO. Though, the tax exemption involving Rs. 8.96 lakh was required to be granted by the higher authority in these cases, the DTO did not forward the cases to the appropriate authorities for granting the exemption. Also, the vehicles were released after the surrender period was over. This is fraught with the risk of irregular granting of tax exemption and usurping of the powers of higher officials.

The Government may consider prescribing a definite timeframe for forwarding the cases and granting exemption by appropriate authorities.

4.2.10 Authorisation of national permit for goods carriage

Under the provisions of Section 81 of the MV Act, a permit other than a temporary or a special permit shall be issued for a period of five years or upto the age of the vehicle not exceeding fifteen years, whichever is earlier. As per the provisions of the National Permit Scheme⁸⁰, the owner of the vehicle is required to obtain an authorisation for one year at a time on payment of a fee⁸¹ of Rs. 500 alongwith the prescribed composite fee⁸² for the State where the vehicle is to be plied. In case of non-payment of the composite fee within the due date *i.e.* 15 days prior to the expiry of authorisation, penalty at the rate of Rs. 100 per month or part thereof is leviable.

Audit scrutiny revealed that there is no system in the department to periodically review the national permit register to detect non-payment of authorisation and composite fees by the national permit holders.

Test check of the records of the State Transport Authority revealed that in 105 cases subsequent authorisation for plying of goods vehicle under national permit was neither renewed for different periods falling between January 2005 and February 2009 nor were the permits surrendered. This resulted in non-realisation of authorisation fee of Rs. 1.05 lakh. Besides, composite fee pertaining to the other States and penalty at the prescribed rate was also leviable.

4.2.11 Disposal of bank drafts received from other States

Bank drafts received from the other States on account of the composite fee under the national permit scheme are required to be deposited in the specified nationalised bank. The disposal of the bank drafts is to be watched through a register. As per the instruction of the STC, Bihar in March 1996 and March 2005, the amount deposited in the authorised bank during April to February is to be transferred to the State Bank of India, Secretariat Branch, Patna in such a manner that all the receipts during a particular month are transferred latest by

⁸⁰ A permit granted to goods carriages to operate throughout the territory of India or in such contiguous States, not being less than four in number (three in case of Bihar).

⁸¹ The annual fee, not exceeding one thousand rupees, which may be charged by the appropriate authority of a State to enable a motor vehicle, covered by the permit used in other States subject to the payment of taxes or fees, if any, levied by the States concerned.

⁸² A sum fixed by the concerned State Government in lieu of the tax and additional tax on an annual basis for plying the vehicle under national permit scheme.

the 1st week of the subsequent month and the amount collected in the month of March is to be transferred by 31st March positively, so that all amounts deposited in a financial year are transferred to the Government account within the same financial year. In case of failure to transfer the collection by bank to the Government account, the STC is to issue cheques against the balance at the bank.

Audit scrutiny revealed that the bank draft register was not maintained properly. Also, the register was not being updated at periodic intervals and submitted to the higher authority for verification and monitoring due to which the STC remained unaware of delayed remittance of revenue/non-revalidation of bank drafts as pointed out in the succeeding paragraphs.

4.2.11.1 Delayed remittance of collected revenue

In course of the test check of the bank statements of three⁸³ out of 16 revenue collecting banks, it was noticed that the banks transferred the revenue to the SBI Secretariat Branch, Patna for credit into the Government account with delays ranging from three to 724 days.

4.2.11.2 Revalidation of expired bank drafts

Test check of the records of the STC revealed that it had sent 7,776 bank drafts of Rs. 1.76 crore received from other States for the period April 1998 to March 2008 to different authorised banks. However, the bank drafts were returned by the banks as these had expired. **The non-encashment of the drafts pertaining to the periods as old as upto 11 years remained unnoticed by the department.** All the drafts were again sent to the Indian Bank for revalidation at the bank level. These bank drafts, however, remained to be revalidated till the date of audit (September 2009) which resulted in non-realisation Rs. 1.76 crore.

The Government may take effective steps for timely encashment of the bank drafts.

4.2.12 Revenue recovery mechanism

Under the provisions of the BMVT Act and the rules made thereunder, any tax or penalty remaining unpaid is recoverable in the same manner as arrears of land revenue and as provided under the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914.

Under the PDR Act, the requiring officer is required to maintain register IX in respect of the requisition issued by him for institution of the certificate proceedings while the certificate officer is required to check the requisitions in all respects and thereafter enter in the register X. Register IX is to be compared and reconciled every month with the register X of the certificate officer. An annual statement of certificate cases is to be submitted by the DTO/requiring officer to the STC as per the instruction issued in June 1991.

Audit scrutiny revealed that **the department has not prescribed a timeframe for sending the cases of arrears of revenue by the DTOs to the certificate**

⁸³ United bank of India A/c-0045050028373, Punjab National Bank A/c - 0380002100045221 and Bank of India A/c - 440020100000517.

officers. Besides, the registers IX and X were not being reconciled periodically. Due to these deficiencies substantial amount of revenue remained unrealised as discussed below.

4.2.12.1 Arrears pending collection

The opening balance, demand raised, collection and revenue pending collection for the years 2003-08 as reported by the department is as mentioned below:

(Rupees in crore)

Year	Opening balance	Addition	Total	Disposal	Closing balance	Percentage of disposal
	<u>No. of cases</u> Amount involved	<u>Cases</u> Amount involved				
2003-04	23,897	338	24,235	602	23,633	2.48
	90.72	1.11	91.83	6.08	85.75	6.62
2004-05	23,633	886	24,519	441	24,078	1.80
	85.75	4.41	90.16	0.91	89.25	1.01
2005-06	24,078	3,246	27,324	4,529	22,795	16.58
	89.25	25.99	115.24	18.74	96.50	16.26
2006-07	22,795	1,160	23,955	1,072	22,883	4.48
	96.50	12.92	109.42	2.63	106.79	2.40
2007-08	22,883	972	23,855	548	23,307	2.30
	106.79	8.20	114.99	2.43	112.56	2.11

Thus, the arrears increased by 24.07 per cent from Rs. 90.72 crore as on 1st April 2003 to Rs. 112.56 crore as on 31 March 2008. The disposal of certified cases ranged between 1.80 and 16.58 per cent.

4.2.12.2 Initiation of certificate cases

When the requiring officer has issued a requisition for institution of the certificate proceedings and the certificate officer is satisfied that any public demand payable to the requiring officer is due, he may sign a certificate in the prescribed form stating that the demand is due and shall cause the certificate to be filed in his office. Interest at the rate of 12 per cent per annum is leviable from the date of signing of certificate till the date of realisation.

In eight DTOs⁸⁴ it was noticed that though tax amounting to Rs. 38.41 crore was outstanding for the period 2000-2008 against 1,149 defaulting vehicle owners, the concerned requiring officers did not issue requisitions for initiation of the certificate cases for realisation of revenue. Besides, interest leviable from the date of signing certificate was also foregone.

The Government may prescribe a time frame for sending the cases to the certificate officer.

⁸⁴ Begusarai, Bhagalpur, Bhojpur, Chapra, Darbhanga, Gaya, Muzaffarpur and Purnea.

4.2.12.3 Discrepancies in the registers IX and X

- Scrutiny of the register IX with relevant records *viz.* requisitions in the offices of six DTOs⁸⁵ revealed that the registers were not closed periodically. The register was also not submitted to the requiring officer for his perusal. Actual position of disposal of the certificate cases could not be ascertained from the register IX due to discrepancy in the number of cases and amount of opening and closing balances.

- In case of seven requiring officers⁸⁶ and concerned certificate officers, it was noticed that as per register IX, 6,857 cases involving Rs. 31.39 crore were pending for disposal as on 31 March 2008. Against this, only 4,682 cases involving Rs. 19.24 crore were entered in register X. Thus, 2,175 cases involving Rs. 12.14 crore had not been entered and for which certificate cases could not be initiated. This also indicates non-reconciliation of the entries in register IX with those in register X.

After the cases were pointed out, the department accepted the audit observation and stated (November 2009) that the DTOs are being directed to maintain register IX properly and compare it with the entries of register X.

The Department may ensure that these registers are reconciled monthly with those of the certificate officer.

4.2.13 Blocking/loss of revenue due to deficiency in the addresses of the vehicle owners

Under the provisions of the MV Act read with the CMV Rules, address proof of the vehicle owner is required at the time of registration of a vehicle and any subsequent change in the address is to be brought to the notice of the registering authority within 30 days.

Audit scrutiny revealed that the department did not have updated database of the address of the vehicle owners. As such no notices could be issued by the DTOs/certificate officers in case of default in payment of dues as discussed below.

- Scrutiny of the records of six DTOs⁸⁷ and concerned certificate officers revealed that notices could not be served by the certificate officers in respect of 302 certificate cases involving Rs. 2.09 crore due to non-furnishing of the correct addresses of the vehicle owners by the requiring officers.

- During scrutiny of the records of the requiring officer and certificate officer, Gaya and Patna it was noticed that the certificate officer had dropped 42 certificate cases involving Rs. 26.68 lakh due to the vehicle owners becoming non-traceable/other reasons. Despite repeated reminders by the certificate officer, the requiring officers could not provide correct information in respect of the defaulters to the certificate officer which resulted in loss of revenue of Rs. 26.68 lakh.

⁸⁵ Begusarai, Bhabhua, Bhagalpur, Chapra, Darbhanga and Gaya.

⁸⁶ Begusarai, Bhabhua, Bhagalpur, Bhojpur, Chapra, Darbhanga and Gaya.

⁸⁷ Begusarai, Bhagalpur, Bhojpur, Chapra, Darbhanga and Gaya.

The Government may install stringent measures to ensure that vehicles are registered with proper documentation of address and also the addresses are verified and updated regularly.

4.2.14 Internal control mechanism

Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, safeguarding resources against the irregularities, adhering to laws, regulations and management directives and developing and maintaining reliable data. Effective internal control system both in the manual as well as computerised environments are a pre-requisite for the efficient functioning of any department. The following deficiencies were noticed in the internal control mechanism.

4.2.14.1 Maintenance of vital registers

The BMV Rules provide for maintenance and periodical updating (in March and October every year) of demand, collection and balance register by every taxing officer in Form 'N' to ensure effective control over the timely realisation of the dues. Every taxing officer shall also maintain a taxation register for each transport vehicle plying in the State in Form 'M'. Each vehicle will have a separate page earmarked for it and entries relating to the payment of tax, exemption/refund/adjustment of tax, if any, are made in the register.

Further, under the provisions of the MV Act read with the CMV Rules, every registering authority shall maintain registration record of a motor vehicle registered by him in a permanent register of motor vehicle in Form 24.

- **Registration register**

In four DTOs⁸⁸, it was noticed that the registration register was not properly maintained as the details of the vehicle owners and the vehicles were not entered in the registration register though STC, Bihar had instructed (March 1991) all the DTOs, that all the columns and rows must be filled in.

- **Taxation register**

In four DTOs⁸⁹, the taxation register was not properly maintained as details of the payment of taxes for different period, exemption, refund were not entered.

- **Demand, collection and balance register**

Out of 10 selected DTOs, demand, collection and balance register was not maintained in nine DTOs⁹⁰. In DTO Bhojpur, register was maintained but not updated periodically.

In the absence of the relevant details in the above registers, the department was handicapped in tracing the defaulting vehicle owners for taking action for recovery of dues.

⁸⁸ Bhagalpur, Gaya, Muzaffarpur and Purnea.

⁸⁹ Bhagalpur, Gaya, Muzaffarpur and Purnea.

⁹⁰ Begusarai, Bhabhua, Bhagalpur, Chapra, Darbhanga, Gaya, Muzaffarpur, Patna and Purnea.

4.2.14.2 Absence of departmental manual

In order to ensure proper functioning of the various wings of the department, it is essential that a departmental manual is prepared outlining the process required to be followed by different levels of staff.

It was, however, noticed in audit that there was no such manual in the department. In the absence of a manual in the department, the control which were required to be exercised and its efficacy could not be exercised by the higher authorities.

4.2.14.3 Reporting mechanism

Reports/returns like registration of vehicles, collection of revenue, certificate cases *etc.*, are required to be sent by the DTOs to the STC. Scrutiny revealed that though the reports/returns were being received in the STC office, **there was lack of compilation of these data and reconciliation of the information with the DTOs at periodic intervals.** This resulted in the following deficiencies.

- Cross verification of the statements furnished by the STC with the statements furnished by eight DTOs⁹¹ in respect of vehicles registered during the year 2004-08 disclosed that 60,214 vehicles registered were shown less in the statement furnished by the STC office.
- During five years (2003-08), there was discrepancy of Rs. 343.81 crore and Rs. 27.46 crore in the figures showing the revenue target and collection thereof respectively as furnished by the test checked 10 DTOs⁹² and the STC.
- It was further seen that the figures of certified arrears of revenue as supplied by the STC office to audit also differed from the figures supplied by eight DTOs⁹³. There were discrepancies of 1,805 cases involving Rs. 3.11 crore as on 31 March 2008.
- Further, in DTO Bhagalpur, it was noticed that only 12 certificate cases involving Rs. 48.18 lakh were shown in the annual statement against 41 cases involving Rs. 1.23 crore entered in register IX during the year 2006-07. This resulted in discrepancy of 29 certificate cases amounting to Rs. 74.36 lakh.

The above discrepancies also indicated lack of monitoring to ensure that reliable data/information were available to the higher authorities.

The department may prescribe a suitable mechanism for periodical reconciliation of the data with the help of information technology.

4.2.14.4 Internal audit

Internal audit is one of the most vital tools of the internal control mechanism and functions as the 'eyes' and 'ears' of the management and evaluates the efficiency and effectiveness of the mechanism. It also independently appraises

⁹¹ Begusarai, Bhagalpur, Bhojpur, Chapra, Darbhanga, Gaya, Patna and Purnea.

⁹² Begusarai, Bhabhua, Bhagalpur, Bhojpur, Chapra, Darbhanga, Gaya, Muzaffarpur, Patna and Purnea.

⁹³ Begusarai, Bhabhua, Bhagalpur, Bhojpur, Chapra, Darbhanga, Gaya and Muzaffarpur.

whether the activities of the organisation/department are being conducted efficiently and effectively.

The audit wing of the Finance Department works as the internal auditor for all departments of the State Government including the Transport Department as per order of Finance Department of May 1960. It was, however, noticed that internal audit of the test checked offices was never conducted during the years 2003-08.

This indicated that the department had no means of ascertaining the areas of malfunctioning of system and avail the opportunity of taking appropriate remedial action.

The Government may ensure that internal audit of the department is carried out at regular intervals so that the irregularities/omissions are detected timely and rectified.

Compliance deficiencies

4.2.15 Grant of driving licences

The MV Act read with the CMV Rules provide that the licensing authority shall grant driving licence (DL) to the applicant who is of minimum 18 years of age (20 years for professional DL), has passed the competency test and has held a learner's licence for minimum thirty days. The DL is valid for a period of 20 years or 50 years of age of applicant, whichever is earlier and the professional DL is valid for three years. Further, no person shall be granted a learner's licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for minimum one year. The DL is to be granted within three days after passing the competency test in terms of the instructions issued by the department in January 2001.

4.2.15.1 Scrutiny of records disclosed the following deficiencies in the observance of the provisions of Act, Rules and the departmental orders.

Sl. no.	Name of DTOs	No. of DLs involved	Period	Remarks
1.	Begusarai, Muzaffarpur and Purnea	697	October 2007 to December 2007	Of the 1,035 cases checked, 338 DLs were issued within three days while there were delays ranging upto 326 days in issue of the remaining 697 cases (64.34 per cent).
2.	Begusarai, Muzaffarpur and Purnea	63	February 2007 to March 2008	Professional DLs were granted to the persons who were below 20 years of age.
3.	Begusarai and Purnea	60	November 2007 to December 2007	DLs were granted for a period of more than 20 years.
4.	Begusarai	27	November 2007	DLs were granted to the persons before they had passed the competency test.
5.	Begusarai	29	November 2007	DLs were granted to the persons who had not passed the competency test.
6.	Muzaffarpur and Purnea	13	November 2007 to December 2007	Applicants were allowed to appear in the competency test of driving before completing prescribed minimum period of 30 days after grant of learner's licence.

4.2.15.2 Loss of revenue due to irregular grant of professional driving licence

In six DTOs⁹⁴, it was noticed that the DTOs had granted 35,946 professional driving licences during 2003-08 to the applicants who were not holding licences to drive light motor vehicles. Besides violation of the provisions of the Act and Rules, this also resulted in loss of revenue of Rs. 75.49 lakh⁹⁵.

Grant of the driving licence to ineligible persons and without following prescribed procedures was fraught with the risk of damage to human life and property.

The Government may take suitable steps to ensure that the requirements for issue of DLs are followed scrupulously.

4.2.16 Assignment of new registration mark without obtaining no objection certificate/fitness certificate

Under the provisions of the MV Act read with the CMV Rules and the instructions issued by the STC (July 1991 and September 1996), where a motor vehicle belonging to another State is intended to be kept in the State for a period exceeding 12 months, the owner of the vehicle is required to apply alongwith no objection certificate from the previous registering authority and the certificate of fitness by competent authority for assignment of a new registration number. The DTO shall assign the new registration number after verification and shall enter the details in the register of motor vehicle *i.e.* name of previous registering authority, name and designation of the person who inspected the vehicle and return the certificate of registration to the vehicle owner.

Scrutiny of 'At Present' register⁹⁶ and corresponding registration register of two DTOs (Begusarai and Sheikhpura) alongwith other relevant records revealed that the present address of 105 vehicles belonging to the other States were recorded and new registration mark were also assigned without verifying the no objection certificate and without mentioning the name of the previous registering authorities. Necessary verification *i.e.* inspection of the vehicle by MVI/DTO at the time of assigning new registration mark and pasting of the engine/chassis number in the 'At Present' register or registration register were not carried out. Ignoring the above may result in assignment of new registration mark to stolen vehicle because the certificate of registration book was also changed within one week of assignment.

4.2.17 Renewal of registration of personalised vehicles

As per the provisions of the MV Act read with the CMV Rules, a certificate of registration issued for vehicles other than transport vehicle, shall be valid for a period of 15 years from the date of issue of such certificate and shall be renewable on payment of the prescribed fee for a further period of five years. If the vehicle owner fails to make an application for renewal till the expiry of

⁹⁴ Begusarai, Chapra, Gaya, Muzaffarpur, Patna and Purnea.

⁹⁵ Fees charged for grant of Learner's Licence and professional DL is Rs. 210 (Rs. 70 + Rs. 140), loss at the rate of Rs. 210 x 35,946 vehicles = 75,48,660.

⁹⁶ A register for the vehicles registered in other States.

the certificate of registration, minimum fine of Rs. 2,000 is leviable under section 192 *ibid*. The STC, Bihar reiterated (June 1991) that such vehicles should be registered well in time.

In 19 DTOs⁹⁷, certificate of registration of 1,601 vehicles other than transport vehicles which expired between January 2006 and March 2008 were not renewed after the expiry of the period of 15 years. There was nothing on record to show that these vehicles had been transferred to other regions/States. Due to non-review of the registration register as pointed out above, the concerned DTOs could not detect the expiry of the registrations and consequently did not take any step to get the registration of these vehicles renewed despite executive instruction of the STC in June 1991. This resulted in non-realisation of revenue of Rs. 35.57 lakh including fine of Rs. 32.02 lakh.

4.2.18 Tax from vehicles involved in surrender

Under the BMVT Act and the rules made thereunder, when the owner of a motor vehicle does not intend to use his vehicle for a period of more than a month but not exceeding six months at a time, he can be exempted from the payment of tax by the competent authority provided his claim for exemption is supported by the surrender of the documents for the period of non-use of the vehicle. The vehicle owner shall also from time to time furnish an undertaking to the concerned taxing officer for extension, if any, during the said period. The taxing officer in such cases, is required to carry out physical verification of the parking place of the vehicle at least once in a month in a random manner and record a memorandum of inspection in the case record of the vehicle. If at any time during the period covered by an undertaking, the motor vehicle is found to be used or kept at a place other than the place mentioned in the undertaking, such vehicle shall, for the purpose of this Act be deemed to have been used throughout the period without the payment of tax. Accordingly, tax including penalty is leviable in such cases.

Test check of the records in 10 DTOs⁹⁸ revealed that initial surrender/extension thereof for the period ranging between 17 and 60 months was irregularly granted to 106 vehicles surrendered between October 2002 and October 2007. This resulted in non-levy of tax of Rs. 2.53 crore including penalty as mentioned below:

(Rupees in lakh)					
Sl. no.	Name of DTOs	No. of vehicles	Period of tax calculated	Irregularities	Tax effect
1.	Muzaffarpur	30	01 July 2003 to 30 June 2008	The case records were not furnished for scrutiny despite reminder. As per the surrender register these vehicles were still in surrender. Further, in case of 29 out of 30 vehicles, surrender was irregularly accepted without payment of upto date tax.	136.77

⁹⁷ Begusarai, Bhagalpur, Bhojpur, Chapra, Darbhanga, Gaya, Muzaffarpur, Patna and Purnea (Review); Araria, Aurangabad, Buxar, Gopalganj, Katihar, Khagaria, Samastipur, Sasaram, Sitamarhi and Siwan (compliance audit).

⁹⁸ Begusarai, Bhagalpur, Darbhanga, Gaya, Muzaffarpur, Patna and Purnea (Review); Motihari, Samastipur and Vaishali (compliance audit).

2.	Eight DTOs ⁹⁹	52	01 April 2003 to 30 June 2008	Extension of surrender for the period ranging between 17 and 60 months was granted after expiry of the initial surrender period without obtaining fresh undertakings.	49.52
3.	Four DTOs ¹⁰⁰	14	-Do-	Initial surrender was irregularly accepted without realising upto date tax. Extension of surrender was also granted for the period ranging between 24 and 60 months without obtaining fresh undertakings.	48.83
4.	Begusarai and Patna	7	01 February 2005 to 30 June 2008	Surrender of these vehicles was rejected/cancelled between February and October 2006 but tax was not levied and collected.	11.68
5.	Muzaffarpur and Patna	3	01 July 2003 to 30 June 2008	Initial surrender was irregularly accepted without certificate of registration. Further extension for the period ranging between 17 and 60 months was granted after expiry of the initial surrender period without obtaining fresh undertakings.	6.49
Total		106			253.29

4.2.19 Short realisation of tax from buses

As per the provisions of the BMVT Act as amended from time to time and the Rules made thereunder, tax in respect of a motor vehicle is payable annually, quarterly or monthly within 15 days from the commencement of the year, quarter or month as the case may be. Further, as per the provisions of the BMVT (Amendment) Act, 2002, the tax in respect of '205 inch wheel base bus' is payable on the basis of the distance covered in a quarter after availing all admissible concessions and rebate under the Act. Non-payment of tax in time attracts penalty as per the provisions.

In five DTOs¹⁰¹, cross verification of tax realised from the owners of '205 inch wheel base bus' with the permits issued by the State Transport Authority, Patna and other regional transport authorities revealed that in respect of 19 buses, the provisional tax tokens were issued by the DTOs without obtaining the details of the distance covered by the vehicles as authorised in the permits issued from State Transport Authority or the regional transport authorities which resulted in short realisation of tax of Rs. 47.89 lakh.

4.2.20 Transfer of ownership/issue of duplicate registration certificates

Under the provisions of the MV Act read with the CMV Rules and the executive instructions of the STC, Bihar issued from time to time, the latest being issued in September 1996, the departmental authorities are to ensure that the vehicle owner attach the current tax token or one time tax token with their application alongwith the prescribed fee and other documents for transfer of ownership/issue of the duplicate certificate of registration, or no objection certificate *etc.*

Cross check of the registration register of the DTOs, Muzaffarpur and Patna with other relevant records revealed that the transfer of ownership, issue of

⁹⁹ Bhagalpur, Darbhanga, Gaya, Muzaffarpur and Patna (Review); Motihari, Samastipur and Vaishali (compliance audit).

¹⁰⁰ Gaya, Muzaffarpur, Patna and Purnea.

¹⁰¹ Begusarai, Bhagalpur, Gaya, Muzaffarpur and Patna.

duplicate certificate of registration *etc.*, were allowed/issued in respect of 30 vehicles without ensuring payment of the upto date tax. This omission not only violated the provisions of the Act, Rules and STC's order but also resulted in non-realisation of revenue of Rs. 1.31 crore including penalty for the period between April 2003 and March 2008.

4.2.21 Realisation of onetime tax

4.2.21.1 Short realisation of tax from private vehicles

Under the provisions of the BMVT Act as amended by the Bihar Finance Act, 2007 read with executive instruction issued by the STC Bihar in June 2007, onetime tax at the rate of three *per cent* of the cost of the vehicle (excluding VAT) in the omnibus group (having seating capacity from 6 to 12) registered as a personalised vehicle, shall be levied at the time of registration of the vehicle.

In DTOs, Begusarai, Muzaffarpur and Purnea, it was noticed from the registration register that the DTOs registered 199 vehicles in omnibus group as private vehicle and realised annual road tax instead of one time tax at the rate of three *per cent* of the cost of the vehicle in contravention of the Act and executive order *ibid*. This resulted in short realisation of revenue of Rs. 28.18 lakh.

4.2.21.2 Short realisation of tax from agricultural tractor/trailer owners

As per the provisions of the BMVT Act, the tractor and trailer used for agricultural purpose shall be clubbed together for the purpose of onetime tax to be levied at the rate of Rs. 3,000 per tractor-trailer in case of tractor up to 25 HP capacity and capacity of trailer not exceeding three ton. In case where the tractor is of more than 25 HP capacity and the capacity of trailer does not exceed five ton, the rate shall be Rs. 5,000 per tractor-trailer.

During scrutiny of the registration register of DTO, Purnea, it was noticed that 42 trailers having more than 25 HP capacity were registered by the DTO without clubbing with the tractor. In these cases, Rs. 2,500 as one time tax per trailer was realised treating them for agricultural use. Since trailers cannot be used without tractors or any other vehicle, it is evident that these trailers were used for commercial purpose. Thus, registering trailers for agricultural use instead of commercial use, which attracts higher rate of tax was irregular resulting in short realisation of revenue of Rs. 14.06 lakh¹⁰².

4.2.22 Issue of permits

Under the provisions of the MV Act read with the BMVT Act, the State Transport Authority may reject an application for permit in case the tax is due on such vehicles. Further, the permit shall be invalid from the date of expiry of the prescribed period till the tax is actually paid. The department had also issued instruction in September 1991 to ensure payment of tax before the issue/renewal of the permits.

¹⁰² Calculated at the rate of Rs. 2,398 per annum for 15 years x 42 commercial trailer = Rs. 15,10,740 minus Rs. 1,05,000 (tax already realised from 42 trailers at the rate of Rs. 2,500) = Rs.14,05,740.

In course of test check of the temporary and permanent permit registers of the State Transport Authority, Bihar, it was noticed that 14 temporary/permanent permits had been issued to nine vehicle owners who had not paid tax due on their vehicles. This omission resulted in non-realisation of tax of Rs. 43.36 lakh including penalty calculated for the period July 2003 to June 2008 apart from allowing the vehicle to ply on invalid permits. This indicated that the State Transport Authority office did not ensure tax compliance by the vehicle owners.

After this was pointed out, the Joint State Transport Commissioner, Patna stated that tax payment position was being ascertained from the concerned DTOs. The reply confirmed issue of permit without ascertaining upto date tax payment. Further reply has not been received (January 2010).

4.2.23 Conversion of passenger vehicles into goods carriage vehicles

The MV Act provides that no owner of a motor vehicle shall alter the use of the vehicle as contained in the certificate of registration without the authorisation of the State Government by notification in the official Gazette.

In DTOs, Muzaffarpur, Patna and Siwan, it was noticed from the registration register and other relevant records that 18 passenger vehicles were allowed to be converted into goods carriage vehicles during the period from April 2003 to October 2007 by the DTOs concerned on the recommendation of the MVI in contravention of the provisions of the Act and the Rules. This omission not only violated the provisions of the Act and Rules but also resulted in loss of revenue of Rs. 9.25 lakh in the shape of tax.

4.2.24 Non/short realisation of trade tax from the dealers

Under the provisions of the BMVT Act and the Rules framed thereunder, tax at an annual rate as prescribed shall be paid by a manufacturer or a dealer in respect of motor vehicles which are in his possession in the course of his business as a dealer or manufacturer. Non-payment of tax within the due date attracts penalty ranging between 25 and 200 *per cent* of the tax due.

In 11 DTOs¹⁰³, it was noticed that in case of 41 dealers of the motor vehicles, trade tax at the prescribed rate was either not deposited or deposited short in respect of 1,17,557 vehicles (59,270 two wheelers and 58,287 three/four wheelers) possessed by them between the period 2003-08. The DTOs did not take any action against the defaulting traders. This resulted in non/short realisation of trade tax of Rs. 1.19 crore including penalty.

4.2.25 Cash management

Under the provisions of Bihar Treasury Code Vol-I read with the Bihar Financial Rules Vol-I, all moneys (including fine) received by or tendered to the Government servants shall be paid into the Government account immediately. Further, according to the instructions issued by the STC from time to time, the latest in January and March 2002, the counterfoil of money

¹⁰³ Begusarai, Bhabhua, Bhagalpur, Chapra, Darbhanga, Gaya, Muzaffarpur, Patna and Purnea (Review); Gopalganj and Vaishali (compliance audit).

receipts issued earlier are to be returned to the STC office before issue of fresh volumes of blank money receipts. In addition to this, the utilisation of the money receipts and amounts collected by the authorities having been deposited were also to be ensured by the revenue collecting authorities and reported to the STC office.

4.2.25.1 As per the provisions of the Bihar Financial Rules and instructions issued by the STC in December 2001, September 2002 and April 2006, departmental authorities are required to ensure that fee and tax collected is remitted to the treasury latest by the first week of the following month and the amount collected in the month of March is transferred by 31 March positively.

During scrutiny of the records of five DTOs¹⁰⁴ and Regional Transport Authorities, Patna, it was noticed that Rs. 24.88 crore collected as fee and tax through the authorised banks during the period between August 2005 and March 2008 was transferred to the Government account by the departmental authorities after delays ranging from one to 25 months.

4.2.25.2 The money receipt is a vital document, which is a token of receipt of Government revenue for various transactions. Audit scrutiny revealed that there was no proper accounting of issue and return receipt thereof of money receipt volumes as discussed below.

- Scrutiny of the records of the STC office disclosed that 286 volumes of money receipts (each containing 100 receipts alongwith carbon copy) were issued to eight officials between October 2004 and November 2008. Of this, only 139 volumes were returned till October 2009 leaving a balance of 147 money receipts.

- Scrutiny of the records of the DTO, Gaya disclosed that out of 97 volumes of money receipts received between October 2004 and September 2007, only 69 volumes were returned to the STC office between July 2006 and September 2009 leaving balance of 28 volumes. Of these, only 11 volumes were furnished to the audit for verification while the rest were not furnished despite specific requests.

Issue of money receipts volumes substantially more than the requirement is fraught with the risk of their misuse and possible misappropriation of Government revenue.

4.2.25.3 The cash management in DTO, Gaya indicated non/delayed deposit of fine as discussed below:

- Scrutiny of the office copy of one money receipt book of compounding fee with the daily collection register of computer cell of the DTO, Gaya indicated that the compounding fee of Rs. 1.91 lakh received from 27 vehicle owners during the period from May to September 2007 were deposited with delays ranging between 4 to 27 days while these amount should have been deposited within three days or next working day.

- In course of test check of the office copy of one volume of money receipt bearing serial numbers 284201C to 284300C of DTO, Gaya, it was

¹⁰⁴ Chapra and Purnea (Review); Kishanganj, Madhepura and Sitamarhi (compliance audit).

noticed that the compounding fee of Rs. 68,800 collected from 11 vehicle owners during the period from July to September 2007 under different offences of the MV Act were not found in daily collection register of computer cell in the year 2007-08, which resulted in the loss of Government revenue of Rs. 68,800.

4.2.26 Conclusion

The review on levy and collection of motor vehicles taxes revealed a number of system and compliance deficiencies. The DTOs could not detect cases of non-payment of tax due to the absence of a system of reviewing the taxation registers. Absence of mechanism for periodic review of the national permit issue registers coupled with non-updating of bank draft register led to delayed remittance of collected revenue and non-realisation of revenue. No time frame had been prescribed for sending cases of arrears of revenue to certificate officers leading to accumulation of substantial uncollected revenue. Safeguards to prevent irregular grant of driving licences and issue of certificates of fitness were not adequate which was fraught with the risk of damage to human life and property. In the absence of a manual, the various wings of the department do not have a reference point for effective practices. The proposals for granting exemption from payment of taxes on vehicles were not processed timely. The internal control mechanism in the department was weak as evidenced by poor cash management and improper maintenance of registers. Due to non-conduct of inspection by the internal audit wing the Department could not detect the loopholes and lacunae in its functioning some of which have been pointed out in this review.

4.2.27 Summary of recommendations

The Government may consider implementing the recommendations noted under the respective paragraphs with special attention on the following to rectify the system and compliance deficiencies.

- prescribe a system of reviewing the taxation registers by the DTOs at periodic intervals as well as a timeframe for issuing demand notice;
- install a mechanism for monitoring the functioning of the MVIs by the higher authorities;
- prescribe a definite timeframe for granting of exemption of tax by the appropriate authorities;
- prescribe a mechanism for periodic review of the national permit register for detecting the defaulters and issuing notice for prompt recovery of dues;
- prescribe a mechanism for monitoring the disposal and accounting of the bank drafts;
- prescribe a mechanism for periodical reconciliation of data with the help of information technology; and
- prepare departmental manual and ensure periodic inspection by the internal audit wing.