

CHAPTER-IV

EXECUTIVE SUMMARY

Trend of revenue The variation between the BEs and Actuals had increased from 16.16 *per cent* in 2010-11 to 18.18 *per cent* in 2011-12 indicating that the BEs were not prepared on realistic basis.

Revenue Impact of Audit Reports During the last five years, we had pointed out audit observations with revenue implication of ₹ 369.60 crore in 22 paragraphs through the Audit Reports. Of these, the Department/ Government had accepted audit observations in 20 paragraphs involving ₹ 96.75 crore and had since recovered ₹ 12.65 crore.

The recovery in accepted cases was very low (13.07 *per cent* of the accepted money value).

Results of audit We test checked the records of offices of Commissioner of Transport, Regional Transport and Assistant Regional Transport Offices in the State during the year 2011-12 and noticed under assessment of tax and other irregularities involving ₹ 15.88 crore in 123 cases.

During the course of the year, the Department accepted underassessment and other irregularities of ₹ 17.18 crore in 81 cases, of which seven cases involving ₹ 9.59 lakh were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 1.10 crore was realised in 41 cases during the year 2011-12 by the Department.

What we have highlighted in this Chapter Operators of 1,697 omnibuses, who kept their vehicles for use exclusively as contract carriage and 1,436 vehicles used for transport of goods, had neither paid tax nor filed non-use declarations for various periods between 2008-09 and 2010-11. The Departmental officials failed to issue demand notices and initiate recovery action prescribed in the Act. This resulted in non-realisation of motor vehicles tax of ₹ 16.34 crore including interest of ₹ 1.30 crore and penalty of ₹ 1.71 crore.

CHAPTER-IV TAXES ON VEHICLES

4.1 Tax administration

The State Commissioner of Transport (CoT) heads the Gujarat Motor Vehicle Department (GMVD) under the administrative control of the Additional Chief Secretary to the Government of Gujarat in the Ports and Transport Department. He is assisted by a Joint Commissioner and 82 officials at GMVD head office. There are 26 Regional Transport Offices (RTO). There are 10 permanent check posts⁹³ and three internal check-posts⁹⁴ working under 10 RTOs.

4.2 Trend of revenue

Budget Estimates (BEs) and Actual receipts from Motor Vehicle Tax during the last five years from 2007-08 to 2011-12 along with the total tax/non-tax receipts during the same period are exhibited in the following table.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax and non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2007-08	1,284.00	1,310.09	(+)26.09	(+)2.03	26,494.88	4.94
2008-09	1,412.40	1,381.66	(-) 30.74	(-) 2.18	28,656.35	4.82
2009-10	1,450.00	1,542.64	(+)92.64	(+)6.39	32,191.94	4.79
2010-11	1725.00	2003.68	(+)278.68	(+)16.16	41,253.65	4.86
2011-12	1900.00	2251.03	(+)351.03	(+)18.48	49,528.81	4.54

Sources: Finance Accounts of the State.

As would be seen from the above the variation between the BEs and Actuals had increased from 16.16 *per cent* in 2010-11 to 18.18 *per cent* in 2011-12 indicating that the BEs were not prepared on realistic basis.

The reasons for variations though called for were not furnished by the Department (July 2012).

⁹³ Ambaji, Amirgarh, Bhilad, Dahod, Deesa, Shamlaji, Songarh, Tharad, Waghai and Zalod
⁹⁴ Budhel (Bhavnagar), Kavdi (Amnagar) and Samkhiyali (Bhuj)

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 105.19 crore. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12.

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears
2007-08	89.54	59.73	75.73
2008-09	75.73	24.66	80.07
2009-10	80.07	26.36	96.06
2010-11	96.06	88.55	123.23
2011-12	123.23	18.04	105.19

Sources: Information furnished by Department.

The above table indicates that arrears of revenue increased from ₹ 89.54 crore to ₹ 105.19 crore during the period of five years. The Department did not furnish the reasons for increase arrears of revenue. The Department needs to take strict action against the defaulters for reduction of arrears.

4.4 Cost of collection

The gross collection in respect of receipts of taxes on vehicles and taxes on goods and passengers, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2009-10 to 2011-12 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the preceding years are mentioned in the following table:

(₹ in crore)

Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of cost of collection for the preceding year
Taxes on vehicles and taxes on goods and passengers	2009-10	1,542.64	54.79	3.55	2.93
	2010-11	2,003.68	76.17	3.80	3.07
	2011-12	2,251.03	66.07	2.93	3.71

Source: Finance Accounts

Thus the cost of collection during 2009-10 and 2010-11 remained above the respective preceding years' all India average percentage, but during 2011-12, it was below all India average percentage.

4.5 Impact of Audit Reports - Revenue impact

During the last five years, we had pointed out audit observations with revenue implication of ₹ 369.60 crore in 22 paragraphs through the Audit Reports. Of these, the Department/Government had accepted audit observations in 20 paragraphs involving ₹ 96.75 crore and had since recovered ₹ 12.65 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit report	Paragraphs included		Paragraph accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	2	9.10	2	8.95	2	1.33
2007-08	1	83.08	1	36.56	1	7.37
2008-09	4	6.29	4	6.29	4	1.39
2009-10	8	221.36	7	19.29	4	1.51
2010-11	7	49.77	6	25.66	4	1.05
Total	22	369.60	20	96.75	15	12.65

The above table indicates that recovery in accepted cases was very low (13.07 per cent of the accepted money value).

4.6 Results of audit

We test checked the records of offices of Commissioner of Transport, Regional Transport and Assistant Regional Transport Offices in the State during the year 2011-12 and noticed under assessment of tax and other irregularities involving ₹ 15.88 crore in 123 cases, which fall under the following categories:

(₹ in crore)

Sr. No.	Category	No. of cases	Amount
1.	Non/short levy of motor vehicle tax	64	13.31
2.	Other irregularities	56	1.90
3.	Expenditure Audit	3	0.67
	Total	123	15.88

During the course of the year, the Department accepted underassessment and other irregularities of ₹ 17.18 crore in 81 cases, of which seven cases involving ₹ 9.59 lakh were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 1.10 crore was realised in 41 cases during the year 2011-12 by the Department.

A few illustrative audit observations involving ₹ 17.67 crore are mentioned in the succeeding paragraphs.

4.7 Non-realisation of motor vehicle tax on transport vehicles

The Bombay Motor Vehicle Tax (BMVT) Act, 1958 prescribes that contract carriage and goods carriage vehicles are required to pay assessed tax on monthly/half yearly/ yearly basis respectively except for the period where the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month and if the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable. Section 12 of the Act *ibid* authorises the Department to recover unpaid tax as arrears of land revenue. Section 12 B empowers the Department to detain and keep in custody of the vehicles of those owners who defaulted in payment of Government dues.

During test check of Demand and Collection Registers of 18 taxation authorities⁹⁵ between September 2009 and March 2012, we noticed that operators of 1,697 omnibuses/maxi cabs, who kept their vehicles for use exclusively as contract carriage and 1,436 vehicles used for transport of goods, had neither paid tax nor filed non-use declarations for various periods between 2008-09 and 2010-11. There was no proper monitoring system to trace such vehicles in default. The Departmental officials failed to issue

demand notices and take recovery action prescribed in the Act which is indicative of the existence of weak internal control system in the Department. The Department neither invoked provisions of Section 12 nor took action under Section 12B. This resulted in non-realisation of motor vehicles tax of ₹ 16.34 crore including interest of ₹ 1.30 crore and penalty of ₹ 1.71 crore.

After this was pointed out to the Department between March 2010 and May 2012, the Department accepted (July 2012) audit observations in 2,890 cases amounting to ₹ 15.64 crore. In 326 cases, the Department recovered an amount of ₹ 79.21 lakh. In other cases, particulars of recovery and replies had not been received (September 2012).

⁹⁵ Ahmedabad, Amreli, Anand, Bardoli, Bhavnagar, Bharuch, Bhuj, Gandhinagar, Godhra, Himmatnagar, Jamnagar, Junagadh, Mehsana, Palanpur, Rajkot, Surat, Vadodara &Valsad.

4.8 Non-recovery of motor vehicle tax on non-transport vehicles

Section 3 and 4 of the BMVT Act, require owners of non-transport vehicles (cranes, compressors, rigs, excavators and loaders etc) to pay tax six monthly/annually in advance except for the period during which the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month and if the delay exceeds one month, penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable.

During test check of registration and recovery register of 11 taxation authorities⁹⁶ between February 2010 and February 2012 we noticed that owners of 617 non-transport vehicles who used or kept for use their vehicles in the State had neither paid tax nor filed non-use declarations for the various periods between 2008-09 and 2010-11. The Departmental officials did not issue demand notices and

initiate recovery action as contemplated in the Act. The Department also failed to invoke provisions of Section 12 and 12B of the Act. This resulted in non-realisation of motor vehicles tax of ₹ 56.39 lakh including interest of ₹ 7 lakh and penalty of ₹ 8.98 lakh.

After this was pointed out to the Department between September 2010 and May 2012, the Department accepted (July 2012) audit observations in 605 cases of ₹ 54.86 lakh and recovered an amount of ₹ 7.10 lakh in 60 cases. In other cases, particulars of recovery and replies had not been received (September 2012).

⁹⁶ Amreli, Anand, Bhuj, Godhra, Himatnagar, Jamnagar, Mehsana, Nadiad, Palanpur, Rajkot & Surat.

4.9 Short levy of motor vehicle tax on imported vehicles

As per the Circular of April 2007 issued by Commissioner of Transport under Section 3 and 4 of the BMVT Act, 1958, six *per cent* of sales value is payable as tax on registration of indigenous four wheeled vehicles by individuals, local authorities, universities, educational and social institutions and for others the rate is double. In case of non-transport vehicles (Construction Equipment Vehicles *viz.*, cranes, compressors, rigs, loaders, etc.), tax is payable at the prescribed rate based on the weight of the vehicle either half yearly or yearly. In case of imported vehicles, tax is payable at twice the above rates.

During the test check of registration records of the two taxation authorities⁹⁷, between March and September 2011, for the period 2009-10 to 2010-11, we noticed in six cases of imported vehicles, the tax was not levied at applicable rates. Of the six cases mentioned, in five cases, (i.e. four non-transport vehicles and one transport registered in the name of company/firm) taxes were leviable four times at rate applicable to

indigenous vehicle and in the remaining one (i.e. non-transport vehicle registered in the name of an individual) tax was leviable twice the rate applicable to indigenous vehicle. However, the Department levied tax at the rate 6 *per cent* resulting in short levy of MVT of ₹ 5.76 lakh including interest of ₹ 0.76 lakh and penalty of ₹ 0.99 lakh.

After this was pointed out to the Department in March and May 2012, the Department accepted (July 2012) audit observations of all the six cases and recovered ₹ 3.39 lakh in one case. In other cases, particulars of recovery had not been received (September 2012).

⁹⁷ Bhuj and Godhra

4.10 Short levy of lumpsum tax

As per the Circular of April 2007 issued by Commissioner of Transport under Section 3 and 4 of the BMVT Act, 1958, six *per cent* of sales value is payable as tax on registration of indigenous four wheeled vehicles by individuals, local authorities, universities, educational and social institutions and for others the rate is double. Further, the Circular stipulated for inclusion of other taxes but exclusion of VAT while arriving at sales price for levying lumpsum tax. In case of tractors used solely for agricultural purpose, rate of tax is 3.5 *per cent* of cost of vehicle.

During the test check of registration records of the three taxation authorities⁹⁸, between May 2010 and November 2011, for the period 2009-10 to 2010-11, we noticed that in 75 cases, there was total short levy of lumpsum tax, interest and penalty of ₹ 9.14 lakh as detailed below:

(₹ in lakh)

Sl. No.	Location	Period	No. of cases	Amount of short levy	Remarks
1	Surat, Valsad	2010-11	69	6.67	VAT paid in other states was not included in cost of vehicle for levy of tax.
2	Surat	2009-10	2	1.74	CST paid was not included in cost of vehicle for levy of tax.
3	Palanpur	2009-10	4	0.73	In three cases, tractors were purchased in the name of Director of Research of Agriculture University, but tax was levied at a lower rate of 3.5 <i>per cent</i> instead of 6 <i>per cent</i> . In one case, vehicle was registered in the name of director of a company, but tax was not levied at double rates (i.e. 12 <i>per cent</i>).
Total			75	9.14	

This was pointed out to the Department in December 2010 and May 2012. The Department in their reply had accepted (August 2012) the audit observations amounting to ₹ 2.46 lakh in six cases. On the remaining 69 cases, the Department did not accept the audit observation on the plea that of the VAT was not to be included in the sale price of vehicle for levy of tax as per Government Notification of April 2007.

The reply of the Department is not acceptable. The intention of the Department is to exclude only Gujarat VAT and not the VAT/CST levied by other states while calculating the sales price. Thereafter, on the basis of audit observation, the Department issued a circular in July 2011 instructing the field offices to include CST while calculating the sales price.

⁹⁸ Palanpur, Surat and Valsad

4.11 Non/short realisation of lumpsum tax on goods vehicles

As per the Notification of March 2010 issued under Section 3 and 4 of the BMVT Act, 1958 by Ports and Transport Department, the goods vehicles the gross vehicle weight of which did not exceed 7,500 kg were liable to pay lumpsum tax. As per Circular issued in April 2010 by Commissioner of Transport, goods vehicles which were registered on or before 1st April 2010 and the gross vehicle weight of which were between 3,000 kg and 7,500 kg were required to pay lumpsum tax in two installments (i.e. on 20 April 2010 and 20 October 2010). Interest and penalty was also leviable for delay in payment of tax.

During the test check of registration records of the three taxation authorities⁹⁹, between August and November 2011, for the period 2010-11, we noticed that in case of 143 goods vehicles, whose gross vehicle weight was between 3000 kg and 7500 kg, either second installment or both the installments of lumpsum tax were not paid. This resulted in total non/short realisation of lumpsum tax of ₹ 37.43 lakh including

interest of ₹ 3.61 lakh and penalty of ₹ 5.20 lakh.

After this was pointed out in March and May 2012, the Department accepted (July 2012) the entire amount and reported recovery of ₹ 5.17 lakh in 14 cases. In remaining cases, particulars of recovery had not been received (September 2012).

4.12 Short recovery of entry tax

In terms of Notification dated 1st April 2008 issued under The Gujarat Tax on Entry of Specified Goods into Local Areas act, 2001, the Government of Gujarat fixed for levy of entry tax at the rate of 15 *per cent* on the purchase value of motor vehicles brought from other States in Gujarat within 15 months from the date of its registration. The Commissioner of Commercial Tax had requested (September 2003) the Commissioner of Transport not to release registration documents till payment of proper entry tax. The Departmental instructions (October 2003) provided that RTOs should verify payment of entry tax by demanding prescribed documents from the vehicles owners.

During test check of the registration records and other records of three taxation authorities¹⁰⁰ in November and December 2011, we noticed that in case of 86 registered vehicles brought from other states in 2010-11, the departmental officials levied entry tax at the lesser rates i.e. less than 15 *per cent* on the purchase value of vehicles. This resulted in short recovery entry tax of ₹ 24.06 lakh.

⁹⁹ Gandhinagar, Himatnagar and Palanpur
¹⁰⁰ Bhavnagar, Surat and Valsad

After this was pointed out to the Department in May 2012, the Department accepted (September 2012) audit observations in 82 cases amounting to ₹ 18.86 lakh. Particulars of recovery and replies in remaining cases had not been received (September 2012).

4.13 Non-ascertaining of mailing address

As per Rule 47 of Central Motor Vehicles Rule, 1989, an application for registration shall be accompanied by proof of address by way of any one of the documents referred to in Rule 4. As per Rule 75, each State Government shall maintain a State Register of motor vehicles in respect of motor vehicles registered in the State in Form 41 which inter *alia*, includes name and full address of the registered owner of the vehicle. The BMVT Act requires RTOs to issue Revenue Recovery Certificate (RRC) against defaulters after one month of non-payment of MVT. Several instances were noticed in which RRCs were issued after the prescribed time limit and often with improper mailing address. Before issuance of certificate of registration, RTO has to verify evidence of address from one of the documents specified in CMV Rules, 1989.

During test check of the records of four taxation authorities¹⁰¹ between November 2010 and November 2011 for the period 2009-10 to 2010-11, we noticed that in 26 cases, the demand notices issued to vehicle owners for recovery of outstanding dues were returned due to incorrect address of vehicle owners. Failure on the part of the Department in ascertaining the correct address of the vehicle owner at the time of registration resulted in non-recovery of tax and

penalty to the tune of ₹ 42.28 lakh.

After this being pointed out to the Department in March and May 2012, the Department accepted (August 2012) audit observations in 23 cases amounting to ₹ 18.80 lakh and recovered ₹ 0.34 lakh in one case. In three cases pertaining to RTO, Vadodara, the Department stated to have referred the cases to Police for necessary action. Particulars of recovery and replies in remaining cases had not been received (September 2012).

¹⁰¹ Amreli, Bhuj, Nadiad and Vadodara

4.14 Non-realisation of motor vehicle tax due to improper issue of revenue recovery certificate (RRC)

Section 12 of the BMV Tax Act, 1958 and rules made thereunder provide that any tax due and not paid shall be recoverable in the same manner as arrears of land revenue. The Act also provides for levy of interest and penalty at prescribed rates on delayed payment of tax. The Act also empowers the taxation authority to detain and keep in custody the vehicles of owners who defaulted in payment of Government dues. In case the vehicle owner does not intend to use or keep for use the vehicle in the State, he may file a declaration in advance regarding its non-use subject to the approval by the taxation authority.

During test check of records of the office of the RTO, Vadodara, for the year 2010-11 we noticed that in one case, a vehicle was registered in the name of an individual and hypothecated to a finance company. The vehicle owner defaulted in payment of tax and the taxation authority issued RRC (September 2009) for recovery of tax and penalty for the period from December 2001 to September 2009. The vehicle owner stated that due to default in repayment of

loan, possession of the vehicle was taken over by the finance company. The taxation authority again issued a RRC (August 2010) in the name of finance company for payment of tax of ₹ 19.38 lakh and penalty of ₹ 4.84 lakh for the period from December 2001 to October 2010. The finance company stated (September 2010) that the company was not liable to pay tax as the vehicle was registered in the name of loanee (vehicle owner) and the vehicle was released to the loanee as he had already paid the instalments of loan.

Neither the vehicle owner nor the finance company had filed the declaration in form-NT for non-use; hence tax and penalty were recoverable. The RRC was issued after a lapse of eight years. The fact whether the vehicle was in the custody of vehicle owner or the finance company was also not known. The RTO failed to initiate timely action for recovery of dues in non-realisation of tax and penalty of ₹ 24.22 lakh.

This was pointed out to the Department in November 2011. The Department in their reply stated (August 2012) that both owner of the vehicle and financier were covered under the definition of owner and therefore, RRC had been issued in the names of both owner and finance company.

However, the fact remains that the RRCs were issued to the owner and the finance company with a delay of more than eight years. Further financier is covered under the definition of owner only if the possession of the vehicle is with them. Thus, the possession of the vehicle during the period from December 2001 to September 2009 need to be ascertained. Further, the details of recovery had not been received (September 2012).