

## CHAPTER-III: MOTOR VEHICLES TAX

### EXECUTIVE SUMMARY

<b>Marginal increase in tax collection</b>	In 2012-13, the collection of taxes from motor vehicles was less by 12.21 <i>per cent</i> as compared to the Budget Estimate for the year and decreased by 5.30 <i>per cent</i> over the previous year which was attributed by the Department to decline in the trend of registration of new vehicles, recessive tendency in the economy which had a major impact on transport sector, number of vehicles taking No Objection Certificate to other States and vehicles remaining off road.
<b>Internal audit not conducted</b>	Internal Audit of units under Transport Department has not been conducted since 2007-08 due to shortage of staff in the Internal Audit Wing.
<b>Low recovery by the Department against the observations pointed out by audit in earlier years</b>	During the period 2007-08 to 2011-12, audit pointed out non /short-levy, non/short-realisation of tax, fee etc., with revenue implication of ₹ 375.83 crore in 8,53,077 cases. Of these, the Department/Government accepted audit observations in 79,225 cases involving ₹ 149.75 crore; but recovered only ₹ 7.48 crore in 3,525 cases. The average recovery position, being 4.99 <i>per cent</i> as compared to acceptance of objections, was low.
<b>Results of audit in 2012-13</b>	<p>In 2012-13, Records of 43 units relating to taxes on motor vehicles were test checked and audit noticed non / short-realisation / levy of tax, fees, penalty etc., involving ₹ 87.34 crore in 1,52,794 cases.</p> <p>The Department accepted non/short-realisation / levy of tax and other deficiencies involving ₹ 8.62 crore in 3,868 cases, of which one case involving ₹ 0.34 lakh was pointed out by audit during 2012-13 and rest in the earlier years. An amount of ₹ 0.53 crore was recovered in 432 cases during the year 2012-13.</p>

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**Highlights**

In this Chapter, Audit findings of illustrative cases involving ₹ 86.40 crore selected from the observations noticed during test check of records relating to assessment and collection of motor vehicles tax in the office of the Transport Commissioner-cum-Chairman, State Transport Authority and the Regional Transport Officers (RTOs), due to non-adherence to provisions of the Acts / Rules are presented.

It is a matter of concern that similar omissions have been pointed out by audit in the earlier Audit Reports also; but the Department has not taken adequate corrective action despite switching over to an IT-enabled system in all the RTOs. Though these omissions were apparent from the records/database made available to audit, the RTOs were unable to detect these mistakes.

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**Conclusions**

The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future.

It also needs to initiate immediate action to recover non-realisation, undercharge of tax, fees etc. pointed out, more so in those cases where audit contentions have been accepted.

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**3.1.1 Tax administration**

Levy and collection of taxes on motor vehicles is regulated under the Motor Vehicles (MV) Act, 1988 and the Odisha Motor Vehicles Taxation (OMVT) Act, 1975. The Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), under the overall supervision of the Principal Secretary, Commerce and Transport (Transport) Department, administers the above Acts and Rules made thereunder and is assisted by the Headquarters and field staff. RTOs are the Assessing Authorities (AAs) as well as the Tax Recovery Officers (TROs).

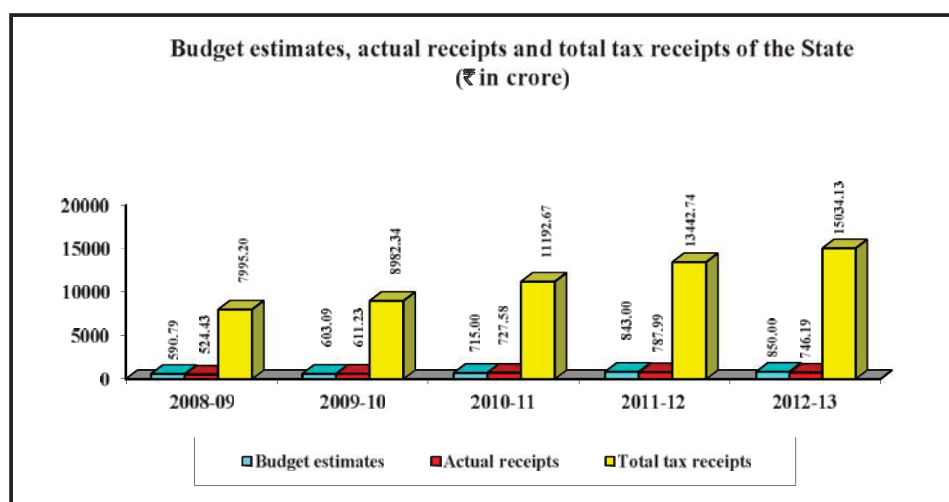
**3.1.2 Trend of Receipts**

Actual Receipts from taxes on motor vehicles during the years 2008-09 to 2012-13 along with the Total Tax Receipts of the State 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 Receipts of the State	Percentage of Actual Receipts vis-à-vis Total Receipts
2008-09	590.79	524.43	(-)66.36	(-)11.23	7,995.20	6.56
2009-10	603.09	611.23	(+)8.14	(+)1.35	8,982.34	6.80
2010-11	715.00	727.58	(+)12.58	(+)1.76	11,192.67	6.50
2011-12	843.00	787.99	(-)55.01	(-)6.52	13,442.74	5.86
2012-13	850.00	746.19	(-)103.81	(-)12.21	15,034.13	4.96

Source: Finance Accounts



Increase of revenue during 2011-12 was due to increase in registration of vehicles and increase in enforcement activities, amendment of OMVT Act and arrear collection. Wide fluctuations in Budget Estimates and Actuals during 2012-13 was stated to be due to decline in trend of registration of new vehicles, recessive tendency in the economy which had a major impact on transport sector, number of vehicles taking NOC to other States and remaining off road.

### 3.1.3 Analysis of Arrears of Revenue

As per the information furnished by the Department arrear of revenue as on 31 March 2013 amounted to ₹ 137.75 crore, which included ₹ 63.78 crore outstanding for more than five years. Arrears of ₹ 41.81 crore was covered by certificate cases; ₹ 15.07 crore was stayed by Judicial/Departmental authorities and ₹ 80.87 crore was at other stages. The Department stated that reconciliation of payment of taxes by the vehicle owner in the region other than home region was being done to account for the tax paid in other regions. Besides demand notices/ Tax Recovery (TR) cases have been initiated for realisation/reconciliation of arrears. All present vehicle owners are instructed to pay tax in any one region through computers instead of manual mode, so that arrear tax would be minimised. However, the fact remained that there was arrears of ₹ 137.75 crore, which needs early realisation.

### **3.1.4 Cost of collection**

The gross collection under taxes on motor vehicles, expenditure incurred for their collection and the percentage of such expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection in the respective previous years are mentioned in the following table:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
2010-11	727.58	30.73	4.22	3.07
2011-12	787.99	25.96	3.29	3.71
2012-13	746.19	23.08	3.09	2.96

Source: Information furnished by STA

In 2010-11 and 2012-13 the cost of collection was more than the all India average.

### **3.1.5 Working of internal audit wing**

Although the Internal Audit Wing (IAW) of the Department exists, audit was not conducted since 2007-08 due to absence of staff and non-filling up of the retirement vacancies.

**The Government may take suitable steps to strengthen the IAW so as to ensure effective implementation of the Acts / Rules and for prompt and correct realisation of revenue.**

### **3.1.6 Impact of audit**

#### **Revenue impact**

During the last five years (2007-08 to 2011-12) Audit pointed out non/short levy, non/short realisation of tax, fee etc., with revenue implication of ₹ 375.83 crore in 8,53,077 cases. Of these, the Department/Government accepted audit observations in 79,225 cases involving ₹ 149.75 crore; but recovered ₹ 7.48 crore only in 3,525 cases. The recovery position as compared to acceptance of objections was low and ranged between 1.32 and 6.14 *per cent*. The Government may take appropriate steps to improve the recovery position.

### 3.1.7 Results of audit

#### Audit of Revenue Receipts

During 2012-13, Audit test checked records of 43 units involved in assessment and collection of taxes and fees on motor vehicles and found non/short realisation of tax, fees etc. of ₹ 87.34 crore in 1,52,794 cases.

The Department accepted non/short realisation/levy of tax and other deficiencies involving ₹ 8.62 crore in 3,868 cases, of which one case involving ₹ 0.34 lakh related to the year 2012-13 and the rest to earlier years. An amount of ₹ 0.53 crore was recovered in 432 cases during the year 2012-13.

### 3.2 Audit observations

Audit scrutinised records relating to assessment and collection of Motor Vehicles Tax (MVT) in the offices of the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA) and Regional Transport Officers (RTOs) and found several cases of non-observance of some of the provisions of the Acts/Rules and other cases as mentioned in the succeeding paragraphs in this chapter. The cases are illustrative and are based on a test check carried out by Audit. Such omissions remain undetected till an Audit is conducted. The Government may direct the Department to improve the internal control system including strengthening of Internal Audit so that such omissions can be detected, corrected and avoided in future.

### 3.3 Non-compliance of the provisions of the Acts/Rules

*The provisions of the Motor Vehicles (MV) Act 1988, Odisha Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder require levy and payment of:*

- (i) *motor vehicles tax/additional tax by the vehicle owner at the prescribed rate in advance and within the grace period so provided;*
- (ii) *compounding fee from the goods vehicles carrying excess load;*
- (iii) *penalty up to double the tax for belated payment of tax, if the tax is not paid on time within two months after the expiry of the grace period of 15 days;*
- (iv) *One Time Tax (OTT) from goods vehicles of Gross Vehicle Weight (GVW) not exceeding 3000 Kg;*
- (v) *differential tax when a Stage carriage is used as a Contract carriage;*
- (vi) *additional tax at specified rates from the Stage carriages plying on inter State routes;*
- (vii) *tax/additional tax at the highest rate of the slab of the Stage carriages if the Stage carriage was found plying without permit and*
- (viii) *fitness/renewal fee and penalty for late application for renewal of goods vehicles.*

*Non-compliance of the provisions of the Act/Rules in some cases as follows are mentioned in the following paragraphs:*

### 3.3.1 Non/short realisation of motor vehicle tax and additional tax

#### 3.3.1.1 Non-realisation of tax in respect of Goods carriages, Contract carriages, Tractor-trailer combinations and Stage carriages

Under Section 3, 3A and 4 (1) of the OMVT Act, 1975, motor vehicle tax and additional tax due on a motor vehicle should be paid in advance at the rates prescribed in the Act, unless exemption from payment of such tax is allowed for the period covered by off road undertaking. The rates of tax/additional tax for different classes of vehicles were prescribed in the Taxation Schedule-I appended to the Act and dependent on the seating capacity of vehicles in respect of stage carriages and contract carriages and on the laden weight of vehicles in respect of goods carriages and tractor-trailer combinations. If such tax is not paid within two months after expiry of the grace period of 15 days, penalty is to be levied at double the rate of tax due. As per the executive instruction (February 1966) of the TC, the RTOs are required to issue demand notices within 30 days from the expiry of the grace period for payment of tax.

During test check of the database of *Vahan*<sup>1</sup> and cross check of records like General Registration Register<sup>2</sup> (GRR), Permit Register<sup>3</sup> (PR) and Off Road Register<sup>4</sup> (ORR) of 26 RTOs mentioned in the table below, Audit noticed, between May 2012 and March 2013, that motor vehicle tax and additional tax<sup>5</sup> from 37,023 vehicles, for different periods between April 2011 and March 2012, was not realised even though the vehicles were not covered by off road declarations. This resulted in non realisation of motor vehicle tax and additional tax of ₹ 27.60 crore and penalty of ₹ 55.21 crore as detailed in the table:

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<sup>1</sup> *Vahan* is an application software for registration of vehicles and collection of taxes. The information such as laden weight of vehicles relevant to goods carriages and tractor trailer combinations, seating capacity of vehicles relevant to stage carriages and contract carriages are available in the *Vahan* database required for determination of tax.

<sup>2</sup> GRR is a register containing details of the owner and technical details of the vehicles etc.

<sup>3</sup> Permit Register is register containing the permit particulars like distance covered in a day, nature of permit (Express/Ordinary) etc.

<sup>4</sup> Off Road Register is a register containing declaration of the registered owner for making the vehicle off road for a particular period and acceptance thereof by the concerned RTOs.

<sup>5</sup> Additional tax is leviable in respect of Public Service Vehicles in addition to motor vehicle tax whereas motor vehicle tax is leviable on two wheelers, personal vehicles, tractor-trailers etc.



(₹ in crore)					
Sl. No.	No. of regions Type of vehicles	No. of vehicles	Non-realisation of tax/additional tax	Penalty leviable	Total
1.	<sup>26</sup> Goods carriages	17,156	19.37	38.75	58.12
2.	<sup>27</sup> Contract carriages	8,057	4.92	9.85	14.77
3.	<sup>28</sup> Tractor-trailer combinations	11,769	3.18 <sup>9</sup>	6.35	9.53
4.	<sup>17</sup> <sup>10</sup> Stage carriages	41	0.13	0.26	0.39
<b>Total</b>		<b>37,023</b>	<b>27.60</b>	<b>55.21</b>	<b>82.81</b>

Source: Audit observation

This occurred due to lack of monitoring by the Tax Authorities and non-issuance of demand notices by the RTOs by generating the list of tax unpaid vehicles available in *Vahan* MIS reports.

After Audit pointed this out, all RTOs assured between May 2012 and December 2012 to issue demand notices for realisation of the dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha and Government in April and May 2013 respectively. Further replies are awaited (April 2014).

### 3.3.1.2 Short-realisation of tax due to non adoption of the prescribed rates of tax

The motor vehicle tax and additional tax in respect of Stage carriages are determined on the basis of permit particulars/parameters such as distance covered by the vehicle in a day, nature of permit (Express/Ordinary) and seating capacity of the vehicles. Rates of tax for Stage carriages was prescribed in item 4 A of the Taxation Schedule-I appended to the OMVT Act, 1975.

During test check of General Registration Register (GRR), Permit Register (PR), Off Road Register (ORR), permit case records and *Vahan* database of 21 RTOs<sup>11</sup>, Audit noticed (between May 2012 and March 2013) that motor vehicles tax/additional tax of ₹ 6.74 lakh pertaining to 75 stage carriages, for the period between December 2008 and March 2012, was short realised due to change in permit particulars like distance covered in a day, nature of permit etc and non adoption of prescribed rates of tax. Besides, penalty of ₹ 13.48 lakh was also leviable. Though the *Vahan* database captures the owners' details and technical details of the vehicles during registration, permits were not issued through *Vahan* and permit details of stage carriages were not captured in *Vahan*. The above lapses occurred due to non mapping and non integrating taxations particulars with their permit particulars in the computerised system for Stage

6 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nawarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

7 As at footnote 6.

8 As at footnote 6.

9 Motor vehicle tax only.

10 As at footnote 6 except Balasore, Bargarh, Bhadrak, Dhenkanal, Jharsuguda, Koraput, Nuapada, Phulbani and Sambalpur.

11 All region as footnote 6 except Bolangir, Balasore, Koraput, Nuapada and Phulbani.

carriages, since the permit module of *Vahan* was not made operational.

After Audit pointed this out, all RTOs assured between May 2012 and December 2012 to issue demand notices for realisation of the dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha and Government in April and May 2013 respectively. Further replies are awaited (April 2014).

### **3.3.2 Non/Short levy/realisation of motor vehicle tax from Private Service Vehicles due to non-adoption of new rates**

Under Section 3, 3A and 4 (1) of the OMVT Act, 1975, motor vehicle tax shall be levied and realised on the basis of the seating capacity of a Private Service Vehicle (PSV) excluding the driver's seat at the rates specified in item 5-A of the Taxation Schedule-I appended to the Act, unless exemption from payment of such tax is allowed for the period covered by off road undertaking. The tax rate in respect of PSV was raised by the Government to ₹ 800 from ₹ 270 per seat per annum with effect from 14 May 2010. In the event of non-payment of tax within the specified period, the vehicle owner/possessor shall be liable to pay penalty ranging from 25 to 200 *per cent* of the tax due, depending upon the period of delay.

During test check of taxation records such as GRRs, Registration case records and database of *Vahan* of 22 RTOs<sup>12</sup>, Audit noticed, between May and December 2012, that the revised rate of ₹ 800 per seat per annum effective from 14 May 2010 was not adopted by the RTOs for levy/realisation of tax from Private Service Vehicles (PSVs). It was noticed that RTOs did not collect tax of ₹ 9.97 lakh from 85 PSVs though these vehicles were not covered by off road undertakings. RTOs also in respect of 133 PSVs continued to collect tax at the pre-revised rate of ₹ 270 per seat per annum.

This led to short-realisation of tax of ₹ 18.52 lakh for the periods between May 2010 and March 2012. Besides, penalty of ₹ 56.99 lakh was also leviable.

After Audit pointed out these cases, all the RTOs concerned stated between May 2012 and December 2012 that action would be taken to realise the amount.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha and Government in April 2013 and May 2013 respectively. Further replies are awaited (April 2014).

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<sup>12</sup> Angul, Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanla, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanja, Nabarangpur, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.



### 3.3.3 Non-realisation of fines for offences in respect of goods carriages

Under Section 194 (1) of the MV Act, 1988 read with the Government notification of 29 September 1995, whoever drives a motor vehicle exceeding the permissible weight shall be punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per ton of excess load for such offences. Further the TC, Odisha in July 2005 instructed the RTOs for expeditious disposal of Vehicle Check Reports (VCRs) by issue of notices to the owners or persons having possession or control over the vehicles for compounding the offence, failing which the Certificate of Registration (RC) of the vehicle shall be suspended/cancelled.

During test check of Miscellaneous Proceeding Registers<sup>13</sup> (MPRs), VCRs along with the database of *Vahan*, MIS reports of seven RTOs<sup>14</sup>, database of *Disha*<sup>15</sup> in STA, Odisha, Audit noticed, between May 2012 and December 2012, that the VCRs issued from July 2002 to March 2012 by the Enforcement Wing (EW) of the RTOs and STA against 866 goods vehicles for carrying excess loads beyond the permissible weight ranging from 177 kgs to 34,280 kgs were lying undisposed. No action was taken for early disposal of such VCRs through issue of notices and

realising fines for the offences or suspension/cancellation of the RCs. This resulted in non-realisation of fines of ₹ 62.22 lakh and Department failed to enforce the penal provision of the Act to minimise the offences.

After Audit pointed out these cases, RTOs and STA, Odisha, stated between May and December 2012 that steps would be taken to dispose the pending VCRs by issuing demand notices for realisation of the Government dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha and Government during April and May 2013 respectively. Further replies are awaited (April 2014).

<sup>13</sup> MPR is a register containing details of VCRs issued by the Enforcement Wing (EW) of RTOs and STA and watching its disposal through realisation of fines.

<sup>14</sup> Angul, Baleswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.

<sup>15</sup> *Disha* is a database containing Vehicle Check Reports (VCRs) issued by STA's EW and not related to *Vahan* database of RTOs.

### 3.3.4 Non/short levy of penalty on belated payment of motor vehicles tax and additional tax

Under Section 9 (1) of the OMVT Rules, 1976, due date of payment of tax and additional tax of a vehicle shall be the date of expiry of the period for which tax had been last paid. In the event of non-payment of tax within a grace period of 15 days from the due date, the vehicle owner/possessor shall be liable to pay penalty ranging from 25 to 200 *per cent* of the tax due depending upon the period of delay under Section 13(1) of OMVT Act, 1975 read with Rule 9(2) of the OMVT Rules, 1976.

During test check of the records of 18 RTOs<sup>16</sup>, Audit noticed, between May and December 2012 that for 65 vehicles, tax / additional tax for different periods between April 2002 and March 2012 were paid, between April 2011 and March 2012, belatedly beyond the grace period of 15 days from the due date of payment. The delays ranged from 10 days to more than 9 years. However, in 10 cases penalty of ₹ 3.83 lakh was not collected and in 55 cases penalty of ₹ 14.14 lakh was short realised. Also, the MIS reports available in the system

regarding unpaid instalments of penalty were not utilised by RTOs in issuing notices to the defaulters timely for realisation of the dues.

After Audit pointed out the cases, all the RTOs stated, between May and December 2012 that demand notices would be issued to realise the dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in March 2013 and Government in April 2013. Further replies are awaited (April 2014).

### 3.3.5 Short realisation of one time tax due to non adoption of new rates

Under Section 4 B of the OMVT Act, 1975, as amended by the Government on 14 May 2010, every goods carriage, the Gross Vehicle Weight (GVW) of which does not exceed 3,000 Kg, is liable to pay One Time Tax (OTT) at the rate equal to ten times of the annual tax specified in the Taxation Schedule-I appended to the Act or five *per cent* of the cost of such vehicle, whichever is higher at the time of registration of the vehicle.

Prior to introduction of OTT, (May 2010) tax on goods carriage was realised annually as per the tax rate specified in the Schedule-I of the Act. During test check of taxation records such as Registration case records and *Vahan* database of 10 RTOs<sup>17</sup>, Audit noticed, between June 2012 and November 2012, that in respect of 38 vehicles with GVW not exceeding 3,000 Kg, the RTOs, at

the time of registration realised annual tax only instead of OTT. This resulted in short realisation of tax of ₹ 6.52 lakh.

<sup>16</sup> Angul, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nabarangpur, Puri, Rayagada, Rourkela and Sundargarh.

<sup>17</sup> Balasore, Chandikhole, Dhenkanal, Ganjam, Kalahandi, Koraput, Nawarangpur, Nayagarh, Puri and Sambalpur.

After Audit pointed out the cases, the RTOs concerned stated, between June 2012 and November 2012, that action would be taken to realise the amount by issuing demand notices.

Audit brought the matter to the notice of TC-cum-Chairman, STA Odisha in March 2013 and Government in April 2013. Further replies are awaited (April 2014).

### 3.3.6 Non-realisation of differential tax from stage carriages

Under Section 6 of the OMVT Act, 1975 and Rules made thereunder, when a vehicle, for which motor vehicle tax and additional tax for any period has been paid, is proposed to be used in a manner for which tax at higher rate is payable, the owner of the vehicle is liable to pay the differential tax on the date of alteration of use or within a period of 15 days from the due date. If such tax is not paid within two months after the expiry of the grace period of 15 days, penalty equal to twice the tax due shall be charged.

During test check of GRR, Special Permit Registers<sup>18</sup> (SPRs) and database of *Vahan* in respect of 18 RTOs<sup>19</sup>, Audit noticed, between May 2012 and December 2012, that 129 stage carriages were permitted to ply temporarily by altering the use as Special Contract carriages during different periods, between April and March 2012, on which higher rate of tax was leviable for such alteration. However,

differential tax of ₹ 3.90 lakh was not collected in advance in respect of all such vehicles by the RTOs. Besides, penalty of ₹ 7.80 lakh was also leviable.

After Audit pointed out the cases, the RTOs concerned stated, between May 2012 and December 2012 that demand notices would be issued to realise the Government dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha during March 2013 and Government in April 2013. Further replies are awaited (April 2014).

<sup>18</sup> Special Permit Register contains the details of Special Contract carriages permits issued to Stage carriages along with permit number and route/destination, period of permits etc.

<sup>19</sup> Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Mayurbhanj, Nayagarh, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

### **3.3.7 Non/short realisation of motor vehicle tax and additional tax from Stage carriages plying on inter State routes**

Under item 4 (v) and (vi) of the Taxation Schedule-I appended to the OMVT Act, 1975 where, a Stage carriage plies on a route partly within the State of Odisha and partly within other State in pursuance of any agreement between the Government of Odisha and Government of any other State, such stage carriage is liable to pay tax/additional tax calculated on the total distance covered by it on the approved route in the State of Odisha at the rates as specified in the above mentioned schedule appended to the Act. In case of delay in payment of such tax after the grace period of 15 days, penalty extending up to 200 *per cent* of tax/additional tax shall be levied.

stage carriages.

During test check of taxation records of STA, Odisha and three RTOs<sup>20</sup> along with permit particulars, Audit noticed (between May and August 2012) that due to non adoption of prescribed tax rates, tax/additional tax of ₹ 1.81 lakh was not realised from four Stage carriages and ₹ 0.20 lakh was short realised from two stage carriages though these were authorised to ply on inter-state routes with valid permits for different periods between April 2011 to March 2012. Besides, penalty of ₹ four lakh was also leviable on the above six

After Audit pointed out (April 2013) the cases, the Government replied (October 2013) that motor vehicles tax/additional tax in respect of two vehicles amounting to ₹ 0.68 lakh was realised in time and so penalty of ₹ 1.36 lakh was also not leviable. However, tax/additional tax of ₹ 1.32 lakh and penalty of ₹ 2.65 lakh remained unrealised (April 2014).

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<sup>20</sup> RTOs Cuttack, Kalahandi and Nawarangpur.

### 3.3.8 Non/short realisation of tax on VCRs of stage carriages

Under Section 3 and 3A of the Odisha Motor Vehicles Taxation (OMVT) Act, 1975, motor vehicles tax and additional tax should be levied in respect of a Stage carriage on the basis of the number of passengers (including standees), which the vehicle is permitted to carry, and total distance to be covered in a day as per the permit. When any such vehicle is detected plying without a permit and caught by the Enforcement Wing (EW) during checking of vehicles, a VCR is issued under Section 192(A) of MV Act, 1988. In such cases, tax/additional tax is leviable at a rate considering the distance exceeding 320 km of express service for the period for which the vehicle has no permits as prescribed in explanation ii (b) of item 4 of the Taxation Schedule-I appended to the Act. In case of default in payment of tax, penalty up to double the tax due is also leviable depending upon the period of delay.

During test check of records of 10 RTOs<sup>21</sup>, Audit noticed, between May and November 2012, that 24 Stage carriages were plying without permits as detected by the EW during different periods between April 2011 and March 2012. Though the EW issued VCR in each case, the RTOs concerned did not finalise the VCRs promptly by issuing notices to the owners for collection of tax at the rate applicable to Express service slab for the period of plying of the vehicle without permit. This resulted in non-realisation of tax and additional tax of ₹ 0.16 lakh in one case and short realisation of ₹ 2.18 lakh in 23 cases. Besides, penalty of ₹ 4.68 lakh was also leviable.

After Audit pointed out the cases, the RTOs concerned stated, between May and November 2012, that demand notices would be issued to realise the dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in March 2013 and Government in April 2013. Replies are yet to be received (April 2014).

<sup>21</sup> Angul, Bhubaneswar, Chandikhole, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, and Puri.

### 3.3.9 Loss of Revenue due to issue of Improper Permits

As per Rule 2(d) of OMV Rules, 1993, Express Stage Carriage means a Stage carriage with a permit authorising the same to stop, pick up and set down passengers once in an average distance of 25 kms covered by its route with the exception of District, Sub-division, Tehsil, Block Headquarters en-route and the place of its starting and terminus point whereas the average distance of such stoppage is 5 kms for Ordinary Service. Besides, the Service shall be Express, if it covers more than 160 km one way of the route and 75 per cent or more portions thereof is covered under the National Highway (NH), State Highway (SH), Express State Highway (ESH) taken together as per the decision taken in the 231<sup>st</sup> Board meeting of the STA. The rates of tax/additional tax for Ordinary and Express services is prescribed in item 4 A of the Taxation Schedule-I appended to the OMVT Act, 1975.

During test check of inter district permits issued by STA along with the permit case records and *Vahan* database showing tax payments and registration particulars, Audit noticed during August 2012, that 12 stage carriages were issued with ordinary class service permits instead of express class service permits, though the distance covered was more than 160 kms each way of the route, more than 75 per cent of the route was covered under NH or SH and the average distance of pick up of passengers was more than 25 kms in each case. Hence misclassification of service/nature of permit issued contravened the norms

prescribed in the OMV Rules 1993 read with the decision of Board of STA referred to above; and resulted in loss of tax/additional tax of ₹ 7.11 lakh for the period from August 2008 to March 2012.

After Audit pointed out the above cases, STA, Odisha, stated in August 2012 that the poor would be deprived of the benefit of going to distant places in Ordinary Service, if there was a limit of 160 km. However, in view of the decision of the STAs 231 Board meeting read with Rule 2(d) of OMV Rules 1993 as amended on 13 April 2007, which clearly indicated the criteria for express stage carriages, tax was leviable at the appropriate rate.

Audit brought the above matters to the notice of TC-cum-Chairman, STA, Odisha and Government in May 2013. Replies are awaited (April 2014).



### 3.3.10 Plying of Goods vehicles with expired fitness

Under Section 56 of the Motor Vehicles (MV) Act, 1988 read with Rule 62 of the Central Motor Vehicles (CMV) Rules, 1989, a transport vehicle shall not be deemed to be validly registered, unless it carries a Certificate of Fitness (FC) issued by the prescribed authority in the prescribed form. The FC in respect of a new transport vehicle shall be valid for two years; otherwise it shall be renewed every year against receipt of prescribed fees for inspection and testing of the vehicles and grant or renewal of FC under Rule 81 of the CMV Rules, 1989. The fee for conducting test of fitness of the vehicles was fixed at ₹ 400 per motor vehicle in addition to a fee of ₹ 100 towards grant or renewal of FC. Further, Rule 22(7) of the Odisha Motor Vehicles (OMV) Rules, 1993 prescribes a penalty of ₹ 100 for non-filing of the renewal of FC application within the prescribed date.

During test check of taxation records together with database of *Vahan* and MIS reports of 14 RTOs<sup>22</sup>, Audit noticed, during June and November 2012 that FCs of 4,775 goods vehicles expired between April 2011 and March 2012. The RTOs realised up to date taxes without renewing their FCs. As registration of these vehicles were validated on realisation of taxes, the vehicle owners did not obtain the FCs on payment of the requisite fees and penalty. The RTOs did not make use of *Vahan* MIS reports in which the date of expiry of FCs was available. This resulted in loss of Government revenue of ₹ 23.85 lakh towards fitness fee and penalty of ₹ 4.77 lakh.

After Audit pointed out the cases, the concerned RTOs stated, between July and November 2012, that action would be taken to realise the amounts by issuing demand notices. Since FCs for the current period only can be insisted upon and no FC can be issued for earlier periods, the possibility of recovery of the amounts is unlikely.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2013 and the Government in May 2013. Replies are yet to be received (April 2014).

<sup>22</sup> Angul, Balasore, Bargarh, Chandikhole, Dhenkanal, Ganjam, Jharsuguda, Keonjhar, Koraput, Nuapada, Puri, Rourkela, Sambalpur and Sundergarh.

### **3.4 Non-compliance of Government notification/decision**

*Government of India (GoI) notified in February 2004 the enhanced Pollution Under Control (PUC) norms for strict enforcement of the same by regular tests of the vehicles using the Pollution Testing Equipments (PTEs) at prescribed intervals against receipt of prescribed fees. Further, the decision of Government of Odisha was notified on 24 January 2003 for payment of process fee at the prescribed rate. Non-compliance of the above norms/instructions and decisions in some cases as mentioned in paragraphs 3.4.1, resulted in blockage of funds.*

#### **3.4.1 Non-realisation of process fees**

Under Section 96 of the MV Act, 1988 read with the Government notification of 24 January 2003, process fee of ₹ 100 on every application/objection filed was introduced with effect from 28 January 2003. The Department, by an order of March 2003, however, postponed the collection of the fees at the rate prescribed in the notification.

During test check of the PR and other connected records in the office of the STA, Odisha and 22 RTOs<sup>23</sup>, Audit noticed, between May and November 2012, that the process fees of ₹ 1.08 crore were not realised against 1,08,007 cases of application/objection filed between April 2011 and March 2012.

After Audit pointed this out, STA, Odisha, and all the RTOs stated, between May and December 2012 that the collection of fees was postponed in view of the Government letter dated 7 March 2003. However, executive orders cannot overrule the statutory provisions in the Law.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2013 and Government in May 2013. Their replies are yet to be received (April 2014).

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<sup>23</sup> Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nawarangpur, Nayagarh, Phulbani, Puri, Sambalpur, Sundergarh and STA, Odisha, Cuttack.