

CHAPTER V

MOTOR VEHICLE TAX

5.1 Tax Administration

The receipts from Motor Vehicle Tax are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder. The Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), Odisha under the overall supervision of the Commissioner-cum-Secretary, Commerce and Transport (Transport) Department administers the above Acts and Rules made thereunder. The TC is assisted by Joint Commissioners and Deputy Commissioners at the headquarters level and Regional Transport Officers (RTOs) at unit level. RTOs are the Assessing Authorities (AAs) as well as the Tax Recovery Officers (TROs).

5.2 Internal Audit

The Internal Audit Wing of the STA has not conducted any audit after 2007-08. The reason was attributed to shortage of staff. However, the newly created Audit team of the Transport Department has been conducting internal audit of regional transport offices since 2011. During 2014-15, Internal Audit Wing had audited 13 out of 14 offices planned for audit.

5.3 Results of Audit

A. REVENUE RECEIPTS

In 2014-15, test check of the records of 22 units relating to Motor Vehicle Tax, additional tax, registration fee, permit fee and penalty showed underassessment of tax and other irregularities involving ₹ 62.14 crore in 1,65,498 cases, which fall under the categories as shown in the **Table 5.1** below.

Table 5.1

| (₹ in crore) | | | |
|--------------|--|-----------------|--------------|
| Sl. No. | Categories | No. of cases | Amount |
| 1. | Non-levy / non-realisation of motor vehicle tax / additional tax and penalty | 27,960 | 60.20 |
| 2. | Non-realisation / short realisation of compounding fee, permit fee, process fee and fitness fee etc. | 59,627 | 0.90 |
| 3. | Short levy / realisation of motor vehicle tax / additional tax and penalty | 184 | 0.18 |
| 4. | Non-realisation / short realisation of penalty on belated payment of tax | 41 | 0.15 |
| 5. | Non-realisation / short realisation of trade certificate tax / fee | 67 | 0.07 |
| 6. | Other irregularities | 77,619 | 0.64 |
| Total | | 1,65,498 | 62.14 |

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 61.59 crore in 1,09,775 cases, which were pointed out in 2014-15. An amount of ₹ 0.22 crore was realised in 118 cases during the

year 2014-15. A few illustrative cases involving ₹ 53.85 crore are discussed in paragraphs 5.5.1 to 5.5.5.

B. EXPENDITURE

In 2014-15, test check of records of 22 units showed irregularities in expenditure / cash management involving ₹ 51.68 crore in 78 cases, which fall under the categories as shown in the **Table 5.2** below.

Table 5.2

(₹ in crore)

| Sl. No. | Categories | No. of cases | Amount |
|--------------|--|--------------|--------------|
| 1. | Non-completion of project / non-levy of compensation / Double payment / Retention of fund / Loss of Interest | 63 | 51.66 |
| 2. | Cash book and management of cash / Appropriation of Government revenue | 15 | 0.02 |
| Total | | 78 | 51.68 |

During the course of the year, the Department accepted irregularities of ₹ 3.67 lakh in 23 cases which were pointed out in 2014-15.

5.4 Audit Observations

Audit scrutinised the records relating to assessment and collection of motor vehicle tax (MV Tax) in the offices of the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA) and the 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.

5.5 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 collection of:

- (i) motor vehicle tax / additional tax from the vehicle owner at the prescribed rate in advance and within the grace period provided;*
- (ii) 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;*
- (iii) compounding fee from the goods vehicles carrying excess load; and*
- (iv) fitness / renewal fee and penalty for late application for renewal of transport vehicles.*

Non-compliance of the provisions of the Acts / Rules in some cases are mentioned in paragraphs 5.5.1 to 5.5.5.

5.5.1 Non-realisation / short realisation of motor vehicle tax and additional tax

5.5.1.1 Non-realisation of tax in respect of goods carriages, contract carriages and stage carriages

Under Sections 3, 3A, 4(1) and 10 of OMVT Act, 1975, motor vehicle tax and additional tax due on every motor vehicle used or kept for use should be paid in advance at the rates prescribed for different classes of vehicles in Taxation Schedule I of the Act, unless exemption from payment of such tax is allowed for the period covered by off-road undertaking¹. As per Section 13(1) of the Act read with Rule 9(2) of OMVT Rules, 1976, if the tax is not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty at 200 per cent of the tax due.

During analysis of Vahan² database pertaining to payment of tax and further cross check of records like Permit Registers (PRs) and Off-Road Registers (ORRs) of 14 RTOs, Audit noticed (between June 2014 and March 2015) that registered owners of 18,628 vehicles of different classes (Goods carriages: 13,432, Contract carriages: 5,166 and Stage carriages: 30) not covered under off-road undertakings, did not pay MV tax and additional tax for different periods between April 2013 and March 2014. The RTOs did neither issue demand notices nor take any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation of MV tax and additional tax of ₹ 17.70 crore and penalty of ₹ 35.40 crore. The details are given in the table below:

| (₹ in crore) | | | | | |
|--------------|-------------------------------------|--------------------|---|------------------|--------------|
| Sl. No. | Number of RTOs Type of vehicles | Number of vehicles | Amount of tax / additional tax not realised | Penalty leviable | Total |
| 1. | ¹⁴ Goods carriages | 13,432 | 14.48 | 28.96 | 43.44 |
| 2. | ¹⁴ Contract carriages | 5,166 | 3.10 | 6.20 | 9.30 |
| 3. | ¹⁰ Stage carriages | 30 | 0.12 | 0.24 | 0.36 |
| | Total | 18,628 | 17.70 | 35.40 | 53.10 |

Source: Vahan database

After Audit reported (June 2015) the matter, Government stated (July and August 2015) that out of 18,628 cases, tax and penalty of ₹ 41.72 lakh has been realised from 111 goods carriages, 51 contract carriages and one stage

¹ An undertaking given by the owner of the vehicle to the RTO and prior permission obtained from him for not plying the vehicle for a temporary period and for not to pay tax for the said period.

² VAHAN is an application software which caters to all the requirements for registration of vehicles and collection of taxes by the Transport Department.

³ Balasore, Bargarh, Bhadrak, Balangir, Chandikhol, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

⁴ Same as per list of all RTOs at Sl. No. 1 of the table.

⁵ List of all RTOs at Sl. No. 1 of the table except RTOs, Balasore, Bhadrak, Dhenkanal and Jharsuguda.

carriage. Government further stated that demand notices have also been issued in other cases.

5.5.1.2 Short realisation of tax due to non-adoption of prescribed rates of tax

Motor Vehicle Tax and additional tax in respect of stage carriages are prescribed in Sl. No. 4(A) of the Taxation Schedule I of the OMVT Act, 1975 and are levied on every motor vehicle at specific rates applicable to the description of motor vehicles and other particulars such as distance covered by the vehicle in a day and nature of permit (express / ordinary).

During analysis of *Vahan* database pertaining to payment of tax and further cross check of records such as PRs, ORRs, Permit case records etc. of 12 RTOs⁶, Audit noticed (between June 2014 and March 2015) that though permit parameters like distance covered in a day, nature of permit (express / ordinary) were changed in respect of 67 stage carriages during the period from April 2013 to March 2014, registered owners of vehicles did not pay MV tax and additional tax at the rates applicable to the changed permit particulars. Audit noticed that the above lapses occurred due to non-integration of taxation particulars of stage carriages with their permit particulars in the computerised system as the permit module of *Vahan* was not made operational and consequently permit details of stage carriages were not captured in *Vahan*. This resulted in short realisation of MV Tax and additional tax of ₹ 4.43 lakh. Besides, penalty of ₹ 8.86 lakh was also leviable.

After Audit pointed out the cases, concerned RTOs stated (between June 2014 and March 2015) that demand notices would be issued to realise the dues.

Audit brought the matter to the notice of the TC-cum-Chairman, STA, Odisha and the Government in June 2015. Their replies are awaited (December 2015).

5.5.2 Non-realisation / short realisation of motor vehicle tax from private service vehicles

Under Sections 3, 4(1) and 10 of OMVT Act, 1975, MV tax on every motor vehicle used or kept for use shall be levied and realised at the rates specified in the Taxation Schedule I of the Act unless the vehicle is covered under off-road undertaking. MV tax on Private Service Vehicle (PSV) is leviable at the rate of ₹ 800 per seat per annum with effect from 14 May 2010 under Sl. No. 5-A of the said Schedule on the basis of seating capacity excluding the driver's seat. Further, as per the provisions of Section 13 of the OMVT Act read with Rule 9 of OMVT Rules, 1976, if the tax is not paid within two months after the expiry of the grace period of 15 days, the owner / possessor of the vehicle shall be liable to pay penalty of 200 *per cent* of the tax due.

During analysis of *Vahan* database pertaining to payment of tax with cross check of taxation records, Audit noticed (between June 2014 and March 2015) that while 11 RTOs⁷ did not realise MV tax of ₹ 5.75 lakh for the year

⁶ Bargarh, Balangir, Chandikhol, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

⁷ Balasore, Bargarh, Balangir, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Rayagada, Rourkela, Sambalpur and Sundargarh.

2013-14 from 52 PSVs not covered under off-road undertakings, two RTOs⁸ among them short realised MV tax of ₹ 0.25 lakh from five such vehicles due to application of lower rate of tax than the prescribed. This led to non-realisation / short-realisation of tax of ₹ 6.00 lakh. Since the periods of delay involved in all these cases were more than two months, penalty of ₹ 12.00 lakh was also leviable.

After Audit reported (May 2015) the matter, Government stated (November 2015) that in case of two vehicles there was no short realisation of tax as category / sitting capacity of vehicles was not entered correctly in VAHAN. However, no supporting documents could be furnished to audit. In respect of the remaining 55 vehicles, Government stated that demand notices have been issued against the vehicle owners.

5.5.3 Non-disposal of Vehicle Check Reports

Under Section 194 (1) of MV Act, 1988 read with Government Notification of 29 September 1995, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with load exceeding the permissible limit shall be punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load for such offences. 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 offences, failing which the Certificate of Registration (RC) of the vehicle shall be suspended / cancelled.

During scrutiny of records such as Miscellaneous Proceeding Registers⁹ (MPRs), VCRs and Management Information System (MIS) Reports of Vahan database of eight RTOs¹⁰, Audit noticed (between September 2014 and March 2015) that the Enforcement Wing (EW) of the RTOs issued VCRs suggesting imposition of fines amounting to ₹ 13.64 lakh against 176 goods vehicles carrying excess loads ranging from 470 to 25,530 kg beyond the permissible limit during the period between April 2012 and March 2014. However, the said VCRs have not been disposed of even after lapse of one to three years from the dates of issue.

After Audit reported (June 2015) the matter, Government stated (July 2015) that out of 176 cases, two cases have been disposed of by realising ₹ 8,067 and in other cases demand notices have been issued.

5.5.4 Non-levy / short levy of penalty for belated payment of tax and additional tax

As per Rule 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. As per Section 13(1) of the OMVT Act, 1975 read with Rule 9(2) of the OMVT Rules, if the tax is not paid within the grace period of 15 days from the due date, the vehicle owner / possessor shall be liable to pay

⁸ Jharsuguda and Sundargarh.

⁹ Miscellaneous Proceedings Register is a register containing details of VCRs issued by the Enforcement Wing (EW) of RTOs and State Transport Authority and watching their disposal through realisation of fines.

¹⁰ Bargarh, Chandikhol, Ganjam, Kalahandi, Rayagada, Rourkela, Sambalpur and Sundargarh.

penalty ranging from 25 to 200 *per cent* of the tax due depending upon the period of delay.

During analysis of *Vahan* database pertaining to payment of tax and test check of the records of eight RTOs¹¹, Audit noticed (between June 2014 and March 2015) that MV tax and additional tax of ₹ 13.36 lakh in respect of 60 vehicles for different periods between January 2002 and March 2014 were paid by the owners of the vehicles between April 2013 and March 2014 with delays ranging between two days and 135 months (excluding the grace period of 15 days) from the due date of payment. However, in 47 cases, the RTOs levied penalty of ₹ 6.88 lakh as against ₹ 18.54 lakh leviable as per applicable rates thereby resulting in short levy of penalty of ₹ 11.66 lakh. In the remaining 13 cases, the RTOs did not levy penalty of ₹ 6.97 lakh.

After Audit reported (June 2015) the matter, Government stated (July 2015) that out of 60 cases, penalty of ₹ 23,625 has been recovered in three cases and in the remaining cases demand notices have been issued.

5.5.5 Plying of Goods Vehicles with expired fitness certificate

As per Section 56 of 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. 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 fee for inspection and testing of the vehicles and grant or renewal of FC as specified under CMV Rules. The fee prescribed under Rule 81 of CMV Rules for conducting test of fitness ranged from ₹ 200 to ₹ 400 per motor vehicle and in addition a fee of ₹ 100 is payable towards grant or renewal FC. Further, Rule 22(7) of Odisha Motor Vehicles (OMV) Rules, 1993 prescribes a penalty of ₹ 100 for non-filing of application for renewal of FC within the prescribed period of not less than 30 days before the expiry of FC.

During analysis of MIS reports in the database of *Vahan* and further test check of taxation records of eight RTOs¹², Audit noticed (between November 2014 and March 2015) that FCs of 2,527 goods vehicles expired between November 1965 and March 2014. Although taxes were realised from these vehicles, the RTOs neither asked the vehicle owners to apply for renewal of FCs on payment of prescribed fees nor initiated any action against them. In one case, FC had not been renewed even after 50 years from the date of its expiry. As a result, besides the road safety having been compromised due to plying of these vehicles on road with expired fitness, there was a loss of Government revenue of ₹ 11.80 lakh towards fitness fee (₹ 9.27 lakh) and penalty (₹ 2.53 lakh).

After Audit reported (June 2015) the matter, Government stated (July 2015) that demand notices have been issued to all the vehicle owners.

¹¹ Chandikhol, Dhenkanal, Jharsuguda, Kalahandi, Puri, Rayagada, Rourkela and Sundargarh.

¹² Bargarh, Chandikhol, Ganjam, Jharsuguda, Puri, Rourkela, Sambalpur and Sundargarh.