

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2016-2019)**

FOURTEENTH REPORT
(Presented on 7th February, 2018)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2018**

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ON
PUBLIC ACCOUNTS
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FOURTEENTH REPORT

On

**Action taken by Government on the Recommendations
contained in the 86th Report of the Committee on
Public Accounts (2008-2011)**

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Fourteenth Report on Action taken by Government on the Recommendations contained in the 86th Report of the Committee on Public Accounts (2008-2011).

The Committee considered and finalised this Report at the meeting held on 30th January, 2018.

Thiruvananthapuram,
30th January, 2018.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the Action Taken by Government on the recommendations contained in the 86th Report of the committee on Public Accounts (2008-2011).

The 86th Report of the Committee on Public Accounts (2008-2011) was presented to the House on 29th June, 2009 and it contained 11 recommendations relating to Revenue, Taxes and Finance Departments. Government was addressed to furnish the Statements of Action Taken on the recommendations contained in the Report on 15th July, 2009 and final reply was received on 6th November, 2015.

The committee examined the statements of Action Taken at its meetings held on 10.04.2012, 15-5-2013, 18-2-2015, 6-1-2016. The committee was not satisfied with the reply furnished on recommendation No.5 (Para No.17) and decided to pursue it further. This recommendation is incorporated in the chapter I of this report.

The committee approved the statements of action taken on the remaining recommendations and decided not to pursue further in the light of the replies furnished by Government. Those recommendations and Government replies are included in Chapter II of this Report.

CHAPTER I

RECOMMENDATIONS IN RESPECT OF WHICH ACTION TAKEN BY GOVERNMENT ARE NOT SATISFACTORY AND WHICH REQUIRE REITERATION

REVENUE DEPARTMENT

Recommendation

(Sl.No.5, Para No.17)

1.1 Regarding the incorrect assessment of Building Tax in respect of 18 buildings in Nedumangad, the Committee desires to know the details of the explanation sought or disciplinary action taken against the concerned Tahsildar, as assured earlier. If no action has been taken in this regard, it should be explained and that strict disciplinary action be taken against the erring officials.

Action Taken

1.2 As per the report of District Collector, Thiruvananthapuram, even before the commencement of PAC meeting on 10-6-2009, the then 2 Tahsildars who were responsible for the erroneous assessment of building tax had retired from service. Hence disciplinary action could not be initiated against them as instructed in the PAC recommendation. In this connection the District Collector, Thiruvananthapuram has further reported that the buildings in question were reassessed and the entire building tax amount has been realized. No loss has occurred to the public exchequer and since the officials concerned had already retired from service, the disciplinary action proposed against the erring officers may be dropped.

Further Recommendation

1.3 The committee observed that the deliberate delay in taking action on the recommendation of the committee was intended only to let the delinquent officials to retire from service scot free. The Committee directed the department to take sincere effort not to repeat such practice in future.

CHAPTER II

RECOMMENDATION WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES FURNISHED BY GOVERNMENT REVENUE DEPARTMENT

Recommendation

(Sl.No.1, Para No. 7)

2.1 The committee is at odds with the department in respect of underassessment of building tax. Though the department argues that there is improvement in building tax collection, the committee does not agree with this. There may be large number of underassessment cases in other offices where test audit has not been conducted. Hence the committee wants to be furnished with the details of underassessment of tax found out by internal audit wing of the department during their inspections. Taking into account the pathetic situation prevailing there, the committee strongly suggests for starting an efficiently functioning Inspection Wing as well as Internal Audit wing to sort out all these cases.

Action taken

2.2 The internal audit wing of the Land Revenue Commissionerate had inspected 34 Taluk Offices of various districts for the period from 2006-2008. An item wise objection and short levy of tax found out during inspection is given below. The data clearly show that the functioning of internal audit wing is effective.

1. Wrong calculation of Plinth area	-	195961
2. Loss by erroneous assessments in various sales	-	1134872
3. Loss by non-realization of assessed amount	-	9867690
4. Incorrect exemption of assessable buildings	-	2945865
5. Loss under non-realization of luxury tax	-	2078000
6. Loss due to non-realization of interest on luxury tax	-	67313

Recommendation

(Sl.No.2, Para No.14)

2.3 The committee recommends to include necessary clarifications in the Kerala Building Tax Act for eluding ambiguities in the provision for building tax exemption allowed to commercial buildings and religious, charitable and educational institutions etc.

Action Taken

2.4 Steps have been taken to include necessary clarification in the Building Tax Act for eluding ambiguities in the provision for building tax exemption allowed to commercial buildings and religious, charitable and education institutions etc., The revision of Kerala Building Tax Act, is under the active consideration of Government. All the ambiguities relating to provision 3 (1) (b) of the Act for exemption from Building Tax will be clarified in the revision of the Act.

Recommendation

(Sl.No.3, Para No.15)

2.5 The Committee notes that the Audit is doing only test check which figure merely 10 per cent and therefore there is definite possibility for occurring

such underassessment cases in the remaining 90 per cent offices also. The committee opines that checking of assessment of building tax has to be included as an item in the agenda of quarterly meetings with Tahsildars at the Additional Land Revenue Commissioner and Land Revenue Commissioner Levels.

Action Taken

2.6 Directions had been given to District Collectors to include the 'checking of assessment of building tax' as an item in the agenda of quarterly meetings of Tahsildars which will be monitored by Assistant Land Revenue Commissioner in the State level.

Recommendation

(Sl.No. 4, Para No.16)

2.7 The Committee is of the view that the Internal Audit Wing of the Department is not working effectively. If it is upto the mark, so many irregularities in the assessment and collection of the building tax can be avoided to a great extent. Therefore, the Committee recommends for the introduction of an eminently working super checking system to oil the performance of the Internal Audit Wing of the Revenue Department for finding out the irregularities and manipulations in the assessment and collection of building tax.

Action Taken

2.8 Commissioner of Land Revenue reported that as pointed out by PAC, the internal audit wing of the land revenue department is now functioning due to which so many irregularities in the assessment and collection of building tax are been detected.

TAXES DEPARTMENT

Recommendation

(Sl.No. 6, Para No.23)

2.9 The Committee sees this incident as a classic example which clearly picturise how inefficiency can spoil the interests of the State. The Committee remarks that the Excise Department pathetically failed to collect import fee

amounting to Rs.126 crore on 2496.36 lakh proof litres of spirit imported by nine distilleries and six Foreign Liquor Compounding Blending and Bottling units during the years 2001-02 to 2005-2006. The Committee can't approve the departments stand that import fee could not be levied in the light of the Hon'ble Supreme Court's verdict in 1989. The Committee observes that the Excise Department could undoubtedly have collected the import fee in the light of the Hon'ble Supreme Court's judgement in the Bihar case in 1997 instead of relying blindly on an old court verdict. The real lapse happened in collecting subsequent Court Order in favour of Government. But the department acted very negligently and showed no regards to the interests of the State.

Action Taken

2.10 The word "Foreign Liquor" as defined in the Foreign Liquor Rules, means and includes all wines, spirits, beer, cider (fenny) and other fermented liquors and plain rectified spirit including absolute alcohol intended to be used for the manufacture of liquors meant for human consumption. Accordingly, as per definition IMFL, Beer, Cider, Wine, FMFL, Plain Rectified Spirit intended to be used for the manufacture of liquors etc., will come under the purview of Foreign Liquor.

As per SRO No. 330/96, Government have notified the rate of import fee for IMFL as Rs.5/BL, for Beer, Rs.2/BL and for wine as Rs.2/-BL. It may be noted that no import fee had been notified by the Government specifically for rectified spirit intended to be used for the manufacture of liquor, and the demands were contested in a series of writ petitions before the Hon'ble High Court. The Honourable High Court stayed the operation of SRO 330/96 and eventually the implementation of the SRO was kept in abeyance.

Government have now amended the Abkari Act by enacting the Abkari (Amendment) Act (Act 3 of 2010) by inserting the following proviso in section 6 of the Principal Act, after sub-section (1), as:- "Provided that notwithstanding anything contained in this Act, no import fee shall be levied on rectified spirit of ENA including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption". The amendment have been given effect and deemed to have come into force on the 30th March, 1996.

In view of the new amendment, no import fee can be levied on rectified spirit of ENA including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption, on the basis of SRO 330/96. In the light of the above, the Hon'ble High Court have quashed all the demand notices issued on the basis of the SRO on the ground being not sustainable and the Writ petitions are allowed.

Recommendation

(Sl.No. 7, Para No.24)

2.11 The Committee opines that the department purposefully favoured the parties by not collecting the import fee. Thus the Government had lost remarkable revenue of Rs. 126 crore. It is interesting to note that the department was aware of the Supreme Court judgement of 1989, but did not see the judgement of 1997. Since the committee feels it as very conspicuous, it is suggested to fix responsibility and take stringent disciplinary action against the delinquent officers.

Action Taken

2.12 As per Act 3 of 2010, Import fee is not to be levied on rectified spirit or ENA including absolute alcohol with effect from 1-4-1996. Hence it is not advisable to fix responsibility against anyone, in the name of Rule not existed.

Recommendation

(Sl.No. 8, Para No.25)

2.13 It is further observed that the performance of the internal audit wing of the department is very poor and most of such omissions occur mainly due to this serious handicap. Hence it is suggested that the Internal Audit Wing of the department should be revamped.

Action Taken

2.14 The Internal Audit Wing has been revamped. The Internal Audit Wing is now functioning promptly under one Joint Excise Commissioner, who is directly controlled by the Excise Commissioner.

FINANCE DEPARTMENT

Recommendation

(Sl.No.9, Para No.26)

2.15 The Committee criticises the Finance Department for not watching and not rectifying these type of lapses. Actually, the Finance Department is vested

with the supervision of revenue receipts arising in various departments. But they do not act diligently in carrying out this responsibility. Hence, the Committee suggests that the Finance Department must show more caution in this matter since our State's sources of revenue are very limited when compared to other States.

Action Taken

2.16 The Finance Department regularly watches progress of revenue collection. This Department has issued Circular No. 99/2010/Fin. Dated 30-11-2010 containing specific directions to all revenue earning departments to submit the monthly DCB statements and revenue collection details to the Finance Department in a specifically prescribed proforma by the 10th of every month. Also the practice of conducting revenue collection review meeting has been resumed and a meeting of all Heads of Revenue earning Departments was conducted on 17-12-2010. The Secretary (Finance) reviewed the progress in collection of revenue and arrears of revenue. In order to implement an effective revenue monitoring mechanism in Finance Department, a Revenue Monitoring Cell has been formed, vide Office Order No. 1455/Admn.A1/11/Fin. Dated 24-1-2012. It should devise certain formats for collecting details of Tax and Non-tax revenue collected by various Departments so that a continuous monitoring of revenue takes place. Hence the action of this audit para may be dropped.

TAXES DEPARTMENT

Recommendation

(Sl.No.10, Para No.28)

2.17 The Committee observes that the wastage allowed to the parties without provision in the Act or Rules is illegal. Hence, the Committee recommends to conduct an enquiry into the matter and directs to fix responsibility on the officer's concerned and to take disciplinary action against them for this illegal action. The Committee also directs to recoup the amount from the parties.

Action Taken

2.18 It was in 1978, that the then Board of Revenue allowed 1% transit and 1% storage wastage of molasses used in the distilleries as per letter no.XA6-21390/77 dated 6-10-1978. In 2008, Excise Commissioner has withdrawn the wastage allowed on molasses. And also as per G.O.(P)No. 154/09/TD dated 24-8-2009 wastage of molasses is allowed @ 1/2% on storage and 1/2% on transit.

Recommendation

(Sl.No.11, Para No.35)

2.19 The Committee views that short levy of luxury tax in the Commercial Tax Office (WC<), Kottayam, during the assessment of a resort hotel as a grave mistake of the assessing authority. Besides this, it is against the provisions contained in the Kerala Tax on Luxuries Act, 1976. The Committee further views this lapse as a glaring one. Therefore, the Committee recommends to fix responsibility on the officer concerned for this apostasy.

Action Taken

2.20 Disciplinary action has been initiated against the delinquent officer, Sri E. G. Sasidharan, CTO (Rtd.) for the lapses.

Thiruvananthapuram,
30th January, 2018.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

APPENDIX

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

Sl. No.	Para No.	Department Concerned	Conclusion/Recommendations
1	1.3	Revenue Department	The committee observed that the deliberate delay in taking action on the recommendation of the committee was intended only to let the delinquent officials to retire from service scot free. The Committee directed the department to take sincere effort not to repeat such practice in future.

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