

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

61

EIGHTY FIRST REPORT
(Presented on 16th December, 2014)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2014**

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ON
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EIGHTY FIRST REPORT

On

**Action Taken by Government on the Recommendations contained in the
16th Report of the Committee on Public Accounts (2001-2004)**

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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 81st Report on Action Taken by Government on the Recommendations contained in the 16th Report of the Committee on Public Accounts (2001-2004).

The Committee considered and finalised this Report at the meeting held on 9th December, 2014.

Thiruvananthapuram,
16th December, 2014.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the Action Taken by Government on the recommendations contained in the 16th Report of Committee on Public Accounts (2001-2004).

The 16th Report of the Committee on Public Accounts (2001-04) was presented to the House on 14th March, 2002. It contained 15 recommendations relating to Taxes Department. Government were addressed to furnish the statement of Action Taken on the recommendations contained in the Report on 25-3-2002 and the final replies were received on 8th February, 2013.

The Committee examined the Statement of Action Taken at its meeting held on 12-4-2005, 15-2-2012 and 17-7-2013.

The Committee decided not to pursue further action on the recommendations in the light of the replies furnished by Government. These recommendations and Government replies are included in this Report.

TAXES DEPARTMENT

Recommendation

(Sl. No. 1, Para No. 6)

1.1 The Committee understands that cases of non-levy of enhanced duty on conveyance deeds occur due to the delayed receipt of Government Orders in the subordinate offices. The Committee opined that such orders should be communicated with utmost promptitude and any laxity in this regard would effect the revenue collection of the State, since a number of documents are being registered daily. Therefore, the committee recommended that the content of the orders/notifications which purported to enhance the revenue collection should be conveyed to the subordinate offices through telex, telephone or fax message as soon as the orders/notifications are issued.

Action Taken

1.2 Government examined the matter in detail. As facility of Telex, telephone or fax are not available in most of the Sub Registry Offices situated in the farflung locations of the State, only speed post/special messenger service can

be relied on till the said facilities are provided. Therefore Government have issued certain guidelines in the matter as per Circular No. 15282/E3/93/TD dated 10-11-2000. The directions in the circular are given below:

- (i) Whenever copies of such orders, circulars are received in the office of the Inspector General of Registration, he will record the time and date of receipt of the order.
- (ii) The Inspector General of Registration should inform the matter to the Deputy Inspectors General and District Registrars over phone and the District Registrars will inform the matter to the Sub Registrars.
- (iii) The Inspector General of Registration will immediately supply sufficient copies of such orders to the offices of the Deputy Inspectors General of Registration using the service of a special messenger/speed post.
- (iv) As soon as the orders reach the office of the Deputy Inspector General of Registration the District Registrars will immediately collect the same and will personally arrange to hand over the same to the Sub Registrars then and there. The time and date of receipt shall be recorded by both District Registrars and Sub Registrars.
- (v) The very next day onwards the new order should come into force.
- (vi) Not more than 48 hours should be taken for the whole process. Government feel that these are the practical ways to check revenue loss of this type in future.

Recommendation

(Sl. No. 2, Para No. 10)

1.3 Considering the inordinate delay in furnishing action taken statement on the audit paragraph to the committee for examination, the Committee opines that the Department had failed to respond promptly despite the specific provisions for its prompt submission.

The Committee notes that the Department had not even furnished an interim reply to the Committee. Therefore, the Committee expressed its strong dissatisfaction over the inaction of the Department in this regard.

Action Taken

1.4 Steps are taken to furnish the action taken Statement on audit paragraph promptly and to recover the revenue loss occurred if any to Government in various cases.

Audit Para No. 6.6(1)/31-3-1994 Revenue loss as per part IIA Para I of Local Audit Report of Sub Registry Office Vadakkancherry for the year 1992 has been fixed as personal liability of the officers concerned. ₹ 8650 has been remitted to Government by Sri K. Madhavankutty, U.D. Clerk and the remaining amount has been included in the liability certificate of Sri P. Raju, Retired Junior Superintendent and Sri A. Gopalakrishnan Nair, Retired Sub Registrar.

Audit Para No. 6.6(ii)/31-3-1994 short levy of Stamp duty of ₹ 20,080 as per part IIA Para I and ₹ 500 as per part IIB Para II of Local Audit Report of Sub Registry Office, Kunnathukal for the year 1992 has been included in the liability of Sri C. Appu, Retired Sub Registrar. The amount has been withheld as liability from the Death-cum-Retirement Gratuity.

Audit Para 7.3/31-3-1996 short levy of stamp duty and Registration fee in document No. 136/94 of Sub Registry Office, Thiruvananthapuram. As per judgment in CMA 53/97 of District Court, Thiruvananthapuram, the District Registrar (General), Thiruvananthapuram has issued Form IIA on 26-12-2002 and Form III on 3-2-2003 to the parties under section 45B of Kerala Stamp Act, 1959.

The parties did not remit the amount as per the order and submitted an application for including document No. 136/94 under the purview of compounding scheme. As such as per G.O. (P) No. 119/02/TD dated 13-8-2002 and G.O. (P) No. 120/02/TD dated 13-8-2002 the deficit has been revised and refixed at ₹ 49,125 towards Stamp Duty and ₹ 3,930 towards Registration Fee. The party has remitted the amount on 4-3-2003.

Audit Para 7.4/31-3-1996—Short levied amount of ₹ 1.57 lakh had been included in the liability of the officers concerned who retired from service.

Audit Para 7.4/31-3-1997 the deficit Stamp duty of ₹ 5,68,465 as per Part II a Para of the Local Audit Report of Sub Registry Office, Ernakulam for 1995 has been made good from Sri T. K. Soman, the Sub Registrar, concerned.

Recommendation

(Sl. No. 3, Para No. 17)

1.5 The Committee understands that the department had intended to realize the deficit amount involved in the short levy of stamp duty from the Death-cum-Retirement Gratuity of the officers concerned as the officers were

due to retire from service. The Committee recommends that the department should take steps to deduct the amount so fixed as liability from the salary of the erring officials in monthly installments instead of realizing the same from the DCRG on retirement.

Action Taken

1.6 The revenue loss of ₹ 64,175 has to be made good from the concerned official. The amount has been included in the liability of the three officers as follows. ₹ 3,725 has been included in the liability of Sri P. Raju, Junior Superintendent and ₹ 51,804 has been included in the liability of Sri Gopalakrishnan Nair, Sub Registrar. These two officers have retired from service and the liability certificates including the above said amounts of both of them is enclosed here with. The remaining amount of ₹ 8,650 included in the liability of Sri K. Madhavankutty has been remitted vide chalan No. 31/04 dated 21-1-2004 at District Treasury, Palakkad.

Recommendation

(Sl. No. 4, Para No. 18)

1.7 With regard to the realization of short levy of Stamp Duty amounting to ₹ 20,080 from the concerned Sub Registrar in respect of Para 6.6(ii) the committee desires that the details of recovery shall be intimated to the committee.

Action Taken

1.8 As per the Lr. No. E3.12388/92 dated 17-5-2001 of the District Registrar, Thiruvananthapuram, the amount has been included in the liability of the concerned Sub Registrar, Sri C. Appu, and the amount has been credited into the head of account '0030—Stamps Registration 3—Regn 800—other receipts 94—other items'.

Recommendation

(Sl. No. 5, Para No. 27)

1.9 The Committee feels that the land value as well as purchase price should not be allowed to be less than the fair value of land notified by Government in order to avoid evasion of stamp duty. The Committee recommended that the stamp Act should suitably be amended so as to incorporate this provision.

Action Taken

1.10 Necessary amendments to the Kerala Stamp Act to recover stamp duty on the basis of fair value of land have already been made, but was not implemented since fair value of land was not fixed by Government. Fair value fixation is in the final stage now. As and when the fair value of land is finally fixed by Government, the relevant provisions of the Kerala Stamp (Amendment) Act, 1994 will be brought into force.

Recommendation

(Sl. No. 6, Para No. 33)

1.11 The Committee understands that the Expert Committee constituted for the fixation of fair value of land had submitted its Report to Government. The Committee feels that amendment in the Stamp Act is essential to prevent the evasion of substantial amount of stamp duty. Therefore, the Committee recommends that the Kerala Stamp Act, 1959 should suitably be amended so as to effect the recommendation of the Expert Committee at the earliest.

Action Taken

1.12 The Kerala Stamp Act was amended in 1994 (Act 19 of 1994) so as to implement the recommendations of the Expert Committee and to recover Stamp duty on the basis of Fair Value of land. But the relevant provisions of the Kerala Stamp Act as amended in 1994 could not be brought into force since the Fair Value of land was not fixed by Government. The matter of Fair Value fixation is under consideration of Government.

Recommendation

(Sl. No. 7, Para No. 39)

1.13 The Committee notices that the Sub Registrar, Thiruvananthapuram could not initiate any action for the determination of the consideration of the property despite the income tax clearance certificate which was produced by the Vendor. Hence, the Committee is of the view that in such cases where clarification is required, the Department should employ some sort of effective feed back system with the intention to avoid the heavy loss to the exchequer.

Action Taken

1.14 Department level Audit/Inspection will be conducted in a time bound manner so as to prevent such revenue loss.

Recommendation

(Sl. No. 8, Para No. 40)

1.15 The Committee desires to know whether the appeal has been decided and what action was taken by the Government on the appeal.

Action Taken

1.16 As per the judgment dated 12-4-2002 in CMA 53/97 filed by the parties of document No. 136/94 of Sub Registry Office, Thiruvananthapuram the order of the District Registrar directing to pay additional stamp duty and Registration Fee was set aside. It was held that in a proceeding under section 45 K.S. Act the District Registrar had no power to fix the market value of the property.

The enquiry by the District Registrar has to be directed to the question whether the amount shown as consideration to the document represents the real consideration paid for the conveyance or a lesser amount is shown as consideration to defraud revenue. The case was remanded back to the District Registrar for fresh disposal in accordance with law after giving the appellant an opportunity to adduce evidence.

Recommendation

(Sl. No. 9, Para No. 43)

1.17 The Committee do not approve the action of the Department in letting off the officer, who had committed grave mistakes, without initiating any disciplinary action. The Committee desires that the result of recovery of deficit amount should be intimated to the Committee.

Action Taken

1.18 Out of the short levied 1.57 lakh an amount of ₹ 1,36,834 had been included in the liability of the concerned officers, Sri A. Gopalakrishnan, Smt. Santhambikadevi, Sri G. Balan and Sri Neelambaran. An amount of ₹ 20,629 relating to Sub Registry Office, Koduvally has not been included in the liability of the concerned Sub Registrar, Sri Y. Edward as the Liability Certificate of the officer had already been issued as per the instructions prevailed at that time. On 4-7-1996 final liability certificate for ₹ 33,560.15 was issued to Sri Edward after excluding the settled items and including the amount of ₹ 20,629 as per the Local Audit Report. As such there is an increase of 10,283 in the liability of Sri Edward. The increased amount has been included as the liability of the District Registrar who issued the liability certificate without the amount as per the Local Audit Report.

Recommendation

(Sl. No. 10, Para No. 45)

1.19 Details of the progress of recovery of the balance amount of duty included in the liability of the officers and action taken against the officers responsible for the lapses should be informed to the committee.

Action Taken

1.20 Total deficit amount comes to ₹ 1,48,825 instead of ₹ 1.47 lakh. Out of this an amount of ₹ 19,715 has been recovered from the officers concerned. The balance amount of ₹ 1,29,110 has been included in the liability of the officers who are responsible for the short levy.

Recommendation

(Sl. No. 11, Para No. 49)

1.21 Though cases under short collection/loss of revenue under stamp duty and registration fee assume increasing proportions, the Registration Department does not seem to have much bothered about the great revenue loss of the State in this regard. Deterrent action against the delinquent officers is not being taken as a result of which the same errors are repeated time and again. From evidence, the Committee could gather that many cases amounting to lakh of rupees are still remaining without disposal. Therefore, the Committee recommends that earnest efforts should be made for the speedy disposal of cases and to recover the money due to Government. The Committee also recommends that stringent action should be taken against the erring officials as a deterrent action to avoid such instances in future.

Action Taken

1.22 Department level audit/inspections are to be conducted in a time bound manner so as to prevent the revenue loss. Instructions are given by the Inspector General of Registration to the subordinate officers to check the arrears in audit/inspection. Steps are taken to recover the revenue loss occurred to Government, from officers who are still in service. In the case of those who have retired from service the deficit amount has been included in their liability and the amount of liability had been deducted from the Death-cum-Retirement Gratuity and the balance amount released.

Recommendation

(Sl. No. 12, Para No. 54)

1.23 The Committee understands that the business rules of Government provided that proposals involving financial implications have to be referred to the Finance Department for obtaining its concurrence. The Committee feels that it is highly irregular on the part of IGR to have written off UV cases without obtaining concurrence of Finance Department. The Committee recommends that the HOD should take special care to see that such instances will not occur in future.

Action Taken

1.24 The Inspector General of Registration in his Circular MVC.2-2881/1993 dated 22-9-1993 had directed all the District Registrars to scrutinise and close redundant/low return undervaluation cases pending in their offices. The Accountant General in the Draft has pointed out that on the basis of the above circular, 2146 UV cases were written off in 10 SROs, namely: Attingal, Nemom, Cheppad, Kadambazhippuram, Nooranad, Kareelakkulangara, Mundur, Kavilampara, Kunnamkulam and Pulinkunnu. In this context, it may be pointed out that in the cases relating to the above 10 SROs, Accountant General had dropped the items as "Not pursued further" in 1995-1996 itself in 6 SROs, namely: Attingal, Cheppad, Kadambazhippuram, Nooranad, Kunnamkulam, Nemom.

Reply to this issue was submitted to the Accountant General on 5-8-1997 vide Letter Number ARA 1-19665/97 of the Inspector General of Registration and further reply on 29-7-1998 detailing the above issue.

Moreover it is also submitted that the IG of Registration who issued the circular has already retired from service on 30-4-1994, and since all the cases were already written off, there is no scope for reopening the closed files.

Notwithstanding the real fact regarding the case as stated above, ever since the Accountant General pointed out the matter, considering the importance of the remark, the Department has not written off any case without the concurrence of the Finance Department. The Department has taken utmost care that the lapse has not been repeated.

Since the Committee recommended that the HOD should take special care to see that such instances will not occur in future, the department has assured that they will act according to the recommendation offered by the Committee and should take special care to avoid any kind of lapse in this regard in future.

Government also accepts the views and remarks rendered by the Committee, in good spirit.

Taking into consideration all the above facts, and also those submitted based on the recommendation, the item may kindly be dropped.

Recommendation

(Sl. No. 13, Para No. 56)

1.25 The Committee takes strong exception to the reply furnished by the witnesses that action could not be taken since the officer had retired from service. The Committee wants proper explanation from the department as to why action to realize the personal liability against the officer was delayed and urges that the department should examine whether action can legally be initiated against the retired officer responsible for short levy due to unauthorized exemption from stamp duty.

Action Taken

1.26 The amount has been included in the liability of the concerned Sub Registrar Sri T. K. Soman and the amount was made good from him.

Recommendation

(Sl.No. 14, Para No. 58)

1.27 The Committee takes strong exception to the reply furnished by the witnesses that action could not be taken since the officer had retired from service. The Committee wants proper explanation from the department as to why action to realize the personal liability against the officer was delayed and urges that the department should examine whether action can legally be initiated against the retired officer responsible for short levy due to unauthorized exemption from stamp duty.

Action Taken

1.28 The deficit amount had been included in the liability of the Sub Registrar Sri E. C. Aboobacker who registered the documents. The concerned Sub Registrar filed appeal petition against this in Government. Government allowed the appeal and the deficit amount of ₹ 1,85,629 in question was exempted from the liability of the Sub Registrar as per G.O. (Rt.)163/02/TD dated 16-4-2002.

Recommendation

(Sl. No. 15, Para No. 62)

1.29 The Committee recommends to fix responsibility and take disciplinary action against the Sub Registrar concerned who had allowed short collection of stamp duty and registration fee.

Action Taken

- 1.30 (i) District Registrar (GI), Thiruvananthapuram in his letter dated 9-7-2001 has reported that document No.1801/95 of Sub Registry Office, Pattom has been reported to the District Officer, Thiruvananthapuram in order to take steps under Revenue Recovery Act. Vide Letter No. UV. 3040/99 dated, 22-3-2000 of District Registrar (Audit), Thiruvananthapuram. The matter has been reported to Accountant General as per letter ARA 1-1746/97 dated 3-8-2001.
- (ii) Document No. 3688/95 Sub Registry Office, Sasthamangalam was included under the compounding scheme and the party has remitted ₹ 1,215 which is 30% stamp duty borne on the document. Hence no further action is pending in this regard.

Thiruvananthapuram,
16th December, 2014.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

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