TWELFTH KERALA LEGISLATIVE ASSEMBLY

# COMMITTEE
# ON
# PUBLIC ACCOUNTS
# (2006-2008)

## SEVENTY FIRST REPORT

(Presented on 17th December, 2008)

SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2008

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**SEVENTY FIRST REPORT**

**On**

**Paragraphs relating to Revenue Department contained in the Reports of the Comptroller and Auditor General of India for the year(s) ended 31 March 2005 (RR) and 31 March 2006 (RR)**

108/2009.

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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 Seventy First Report on paragraphs relating to Revenue Department contained in the Reports of the Comptroller and Auditor General of India for the years ended 31 March 2005 (RR) and 31 March 2006 (RR)

The Report of the Comptroller and Auditor General of India for the years ended 31 March 2005 (RR) and 31 March 2006 (RR) were laid on the Table of the House on 16th February, 2006 and 28th March, 2007 respectively.

The Committee considered and finalised this Report at the meeting held on 11th December, 2008.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General in the examination of the Audit Report.

ARYADAN MUHAMMED,
*Chairman,*
*Committee on Public Accounts.*

Thiruvananthapuram,
17th December, 2008.

# REPORT

## REVENUE DEPARTMENT

### AUDIT PARAGRAPH

***Results of Audit***

Test check of the records of the Offices of the Land Revenue Department conducted in the audit during 2004-05 revealed short/non levy of tax, etc., amounting to Rs. 4.84 crore in 95 cases which may broadly be categorised as under.

(In crore of rupees)

| *Sl. No.* | *Category* | *Number of cases* | *Amount* |
|---|---|---|---|
| 1 | Short levy under building tax | 68 | 0.97 |
| 2 | Short levy under other items | 27 | 3.87 |
| | Total | 95 | 4.84 |

During 2004-05, the department accepted underassessment of Rs. 1.05 crore involved in 30 cases of which 6 cases involving Rs. 5.02 lakh were pointed out in audit during 2004-05 and the rest in earlier years. During the year, the Department recovered an amount of Rs. 4.52 lakh in 26 cases.

A few illustrative cases involving Rs.2.22 crore are given in the following paragraphs.

***Non/short realisation of collection charges***

Under the Kerala Revenue Recovery (KRR) Rules, 1968, collection charges at the rate of five per cent of the arrears collected by the Government on behalf of any Government department/notified institution are to be recovered from the defaulters.

Test check of records in 21 Offices* between November 2003 and December 2004 revealed that, while recovering arrears of Rs.54.51 crore on behalf of various Government departments/notified institutions during the period from April 2001 to March 2004, the Tahsildars did not realise the collection charges or realised it short from the defaulters. This resulted in non/short realisation of collection charges of Rs. 2.07 crore.

* Taluk Offices: Adoor, Chengannur, Cherthala, Chirayinkeezh, Ernad, Hosdurg, Karthikappally, Kuttanad, Mukundapuram, Muvattupuzha, Thalappilly, Thaliparamba, Thiruvalla and Vythiri. Tahsildar (RR) : Aluva, Kanayanoor, Kollam, Kottayam, Thrissur, Udumbanchola and Vadakara.

After this was pointed out between November 2003 and December 2004, the Department stated that as per a Government clarification in September 1999, collection charges need not be realised on requisitions received from Government departments. Hence it was not collected. Reply is not tenable as the rules specifically provide for realisation of collection charges from defaulters of Government dues.

The matter was referred to the Government in April 2005. Government stated in November 2005 that direction to realise collection charge on all kinds of revenue recovery had been issued in August 2005.

***Non levy of luxury tax on residential buildings***

Under the Kerala Building Tax Act, 1975 luxury tax at the rate of Rs. 2,000 per annum along with building tax is recoverable on every residential building having a plinth area of 278.7 sq. metres or more and completed on or after 1 April 1999 in advance on or before 31 March every year.

In 12 taluk offices* assessing authorities who assessed building tax failed to assess and demand luxury tax on 313 residential buildings having a plinth area exceeding 278.7 sq.metres and completed in different years between April 1999 and March 2004. This resulted in non realisation of luxury tax of Rs. 12.52 lakh.

After this was pointed out between December 2003 and November 2004, the department stated in November and December 2004 that Rs. 0.40 lakh had been realised in 19 cases in Mannarkad Taluk and Rs. 0.22 lakh demanded in Kanayannur Taluk. Further reply has not been received (December 2005).

The matter was reported to Government in April 2005. Government stated in November 2005 that tax had been realised in 135 cases and that appeal or OP is pending in seven cases. Further report has not been received (December 2005).

***Underassessment of building tax***

Under the Kerala Building Tax Act, 1975, building tax based on plinth area, at the rate specified in the Act is leviable on every building, the construction of which is completed after 10 February 1992, having plinth area exceeding 100 sq. metres in the case of residential buildings and 50 sq. metres in the case of other buildings. Plinth area of appurtenant structures built for more convenient enjoyment of the main building shall be added to its plinth area for assessment of tax.

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* Taluk offices : Adoor, Cherthala, Ernad, Hosdurg, Kanayannur, Kasaragod, Kottarakkara, Kozhikode, Mannarkad, Palakkad, Thalappilly and Udumbanchola.

In taluk offices Aluva, Kottayam and Vythiri, while finalising between July 2001 and March 2004 building tax assessment of two tourist resorts, buildings appurtenant to the main buildings were assessed as separate units instead of reckoning the resorts as a single unit by the assessing authorities and tax on another two buildings were assessed for area lesser that the actual plinth area of the completed portion. These resulted in short levy of building tax of Rs. 2.48 lakh.

After this was pointed out between March and November 2004, the Department stated in December 2004 and January 2005 that action had been taken to revise the assessment at Vythiri and Aluva. Final reply has not been received (December 2005).

The matter was reported to Government in June 2005. Government stated in November 2005 that revised notice had been issued in three cases involving Rs.1.47 lakh out of which Rs. 0.50 lakh had been realised in two cases. Further report has not been received (December 2005).

[Paragraphs 4.1 to 4.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2005 (RR)].

Notes received from government on the above audit paragraphs are included as Appendix II.

The Committee enquired about the latest position of the amount (Rs. 4.84 crore) pending for collection in the 95 cases pointed out by Audit in paragraph 4.1.

2. The witness, Principal Secretary, Revenue Department deposed that the cases of short/non levy of tax pointed out in the audit paragraph could be classified into two categories viz. short levy under building tax and short levy under other items.

3. Out of the 68 cases in the first category, notices had been issued in almost all cases and due amount collected except Rs. 30,600. As the case was time barred, the owner of the building obtained stay order from the Court and hence it was not possible to recoup the money from him. Notices had been issued to the delinquent officers responsible for the delay in collection and action was in progress to recover the loss incurred to the Government from them.

4. Regarding the amount of Rs.3.87 crore which was to be collected under “short levy under other items”, the witness informed that it belonged to luxury tax and that all dues in this item except Rs.48,000 had been realised.

Eleven cases remained pending since the age certificate of the buildings had not been obtained from the concerned local authority. Necessary action had been taken to collect the certificates.

5. The Committee wanted to know why age certificates were made essential for collecting tax in those particular cases, rather than the plinth area of the buildings as specified in the Rules.

6. The witness, Principal Secretary, Revenue Department explained that for cases prior to 1-4-1999, tax was assessed on the basis of age certificate of the buildings and not on the basis of plinth area. Since this was a case pertaining to 3/99, age certificate of the building was essential for collecting building tax.

7. The Committee enquired whether the village officers were preparing monthly lists of buildings liable to assessment and submitting the same to the assessing authority as required under clause 3 of the Kerala Building Tax Rules, 1974 and whether there existed any mechanism in the department to review the details furnished by the village officers.

8. The Principal Secretary, Revenue Department revealed that the village officers submit the monthly returns to the Taluk Officers. The District Collectors review these returns in the revenue recovery conference held every month. But it was doubtful whether the village officers were collecting the details promptly as envisaged in the Rules.

9. The Committee, while stressing the need for maintaining a register containing all the details collected by the village officers, urged the department to take urgent steps to see that the returns submitted by the village officers were reviewed by the District Collectors. The Committee also suggested that the District Collectors should forward the review report to the Land Revenue Commissioner, who in turn, should examine it in detail.

10. The Committee observed from paragraph 4.2 that by issuing an unlawful clarification in September 1999 as against the Kerala Revenue Recovery Rules, 1968, government had lost an amount of Rs. 2.07 crores on account of non realisation of collection charges from the defaulters. The Committee pointed out that in the absence of an amendment to the existing Rules, even the Cabinet had no power to issue such a clarification. The Committee wanted to know the authority responsible for issuing the incorrect clarification.

11. The witness gave an evasive reply to the Committee's query that a G.O. was issued later cancelling the incorrect clarification. The Committee was

dissatisfied with the reply and wanted to know as to why Finance Department had not objected to the incorrect government clarification issued in September, 1999. The Additional Secretary, Finance Department also could not offer a convincing reply in this regard.

12. The Committee suggested that collection charges should have been recovered from the defaulters in whose name the notices were issued and not from the government organisations.

13. The Principal Secretary, Revenue Department explained that collection charges were recovered from the organisations on behalf of which recovery was made till 1997. Later on, government by an order directed to recover collection charges from individual defaulters as well.

14. Intervening in the deliberation the Deputy Accountant General pointed out that the beneficiary of the clarification issued in 1999 was the defaulter and not the government institution.

15. The Principal Secretary further pointed out that in some cases where the defaulters had paid the entire amount to the institutions on a one time settlement basis, the institutions had failed to realise the collection charges eventhough it was their duty to collect the money and pay the same to the government.

16. The Committee, at this juncture, wanted to know the amount that had been collected out of Rs.2.07 crore as pointed out by Audit. The witness deposed that out of this amount, Rs.1.38 crore related to cases which were settled prior to 22.8.2005 and that it had been collected. The Committee directed the department to take urgent steps to realise the balance amount.

17. The Committee observed that eventhough there was no corrupt motive behind issuing the clarification in 1999, the department took almost six years to realise its mistake and to cancel the incorrect clarification. The Committee opined that the clarification issued in September 1999 was violative of the Rules in this regard and absence of a timely action to rectify the defect showed a clear lapse on the part of the department.

18. The Committee enquired about the latest position of collection of Rs. 12.52 lakh in terms of luxury tax involved in the 313 cases pointed out in paragraph 4.3. Answering to this, the witness, Principal Secretary, Revenue Department revealed that Rs. 9,34,500 had been collected in 236 cases. Fifty eight cases had been exempted from luxury tax after re-assessment, since the buildings were completed prior to 1-4-1999. Out of the remaining 19 cases, 8 cases involving an amount of Rs.50,000 was pending in a litigation in the High Court.

19. The Committee also wanted to know the latest position of the RR cases pertaining to Hosdurg, Kasargod and Palakkad taluks. The witness replied that as per the latest information available with the department, only 11 cases (9 in Kasargod and one each in Alappuzha and Kollam) were pending.

20. To the Committee's repeated query as to whether any action had been taken to recover the money in the above said 11 cases, the witness could not offer any reply and hence the Committee remarked that the witness should be prepared to answer to every possible query that would be put forth by the Committee during the evidence and the witness was liable to answer to the queries.

21. The witness explained that the collection process in the 11 cases were going on and revenue recovery steps had been initiated in all the cases. The Committee then sought clarification as to why 13 cases were exempted from luxury tax. The witness replied that those cases might have been exempted either because the buildings were completed before 1-4-1999 or the plinth area of the buildings was below 278 sq.m.

22. The Committee observed from paragraph 4.4 that the assessing authority had intentionally underassessed building tax in violation of the relevant rules in the cases relating to Aluva, Kottayam and Vythiri Taluk offices thereby causing a loss of Rs. 2.48 lakh to government.

23. The Committee directed the Principal Secretary, Revenue Department to fix responsibility on the delinquent officers and realise the loss from them and to initiate disciplinary action against them for their corrupt motive and wilful action. The witness agreed to do so.

**Conclusions/Recommendations**

24. **The Committee understands that in the category "Short levy under building tax", out of the pending 68 cases, collection had been effected in almost all cases except in one where the owner of the building had obtained stay order from the Court since the case was time barred. The Committee was informed that notice had been issued to the officers who were responsible for the delay in collection of tax and that action was in progress to recover the loss from them. The Committee desires to know whether the entire amount has been recouped from the guilty officers.**

25. **Regarding the balance amount of Rs. 48,000 which is yet to be collected under the category "Short levy under other items", the Committee desires to know whether age certificates of the concerned buildings have been collected from the concerned local self government authorities and whether the amount in full pending in the 11 cases has been recovered.**

26. **The Committee, from the evidence tendered before it by the Principal Secretary, Revenue Department, finds that the village officers who are bound to collect monthly list of buildings liable to assessment under clause 3 of the Kerala Building Tax Rules, 1974 are not exercising their duties diligently as expected from them. The Committee also finds that the department lack any mechanism to monitor and review the details kept by the village officers in this regard. Hence, the Committee recommends that the Department should take urgent steps to see that the village officers are maintaining registers containing all the details of the buildings liable to assessment and that they submit monthly returns to Taluk Officers. The District Collectors should review the returns submitted by the village officers and they in turn should forward the review report to the Land Revenue Commissioner for a thorough examination of the details submitted by the village officers.**

27. **The Committee, notes with dismay that by issuing an incorrect clarification in September 1999, government had forfeited Rs. 2.07 crore, on account of non realisation of collection charges from the defaulters during revenue recovery of arrears. When the Committee enquired about the officer who was responsible for issuing the erroneous clarification, the witness had given an evasive reply that a government order was issued later cancelling the incorrect clarification. Moreover, Finance Department had also derelicted from its duty by not objecting to the unlawful clarification. Eventhough the Committee does not find any vicious motive behind issuing the clarification, the Committee opines that an unjustifiable delay of almost six years has occurred on the part of the department to sense its mistake and to take action to revoke the incorrect clarification. The Committee also opines that the act of the department is violative of the Rules in this regard. Dearth of an appropriate action to nullify the defect is a clear indication of the careless attitude meted out by the department in matters requiring utmost care and caution.**

28. **The Committee observes that out of Rs. 2.07 crore, only Rs. 1.38 crore has been realised from the defaulters. The Committee calls for an urgent action to realise the balance amount and the action taken in this regard should be intimated to the Committee without fail.**

29. **The Committee perceives from the reply furnished by the witness that only 11 cases (ie. 9 in Kasaragod district and one each in Alappuzha and Kollam district) of collection of luxury tax on residential buildings remain unsettled and that revenue recovery measures has been initiated in all the cases. The Committee desires to be informed of the present stage of the revenue recovery proceedings.**

30. **The Committee on a careful examination of the audit paragraph relating to under assessment of building tax suspects that the assessing authorities had wilfully underassessed building tax in the cases pertaining to Aluva, Kottayam and Vythiri taluks, without taking into account the essence of the relevant Rules in this regard. Such malicious act of the assessing authorities has led to a loss of Rs. 2.48 lakh to the Government. The Committee strongly condemns the wilful action of the assessing authorities in these cases and urges the Department to fix responsibility against the erring officials and to take urgent action to recover the loss sustained to the Government from them. Disciplinary action should also be taken against them for their dishonest behaviour and corrupt practice.**

AUDIT PARAGRAPH

***Results of audit***

Test check of records of the offices of the Land Revenue Department conducted during 2005-06 revealed underassessment of tax and loss of revenue amounting to Rs. 16.81 crore in 63 cases which may broadly be categorised as under:

(In crore of rupees)

| *Sl. No.* | *Category* | *Number of cases* | *Amount* |
|---|---|---|---|
| 1 | Underassessment and loss under building tax | 40 | 0.34 |
| 2 | Underassessment and loss under other items | 22 | 1.11 |
| 3 | Review on Lease of land by Land Revenue Department | 1 | 15.36 |
| | Total | 63 | 16.81 |

During 2005-06, the department accepted underassessment of Rs. 69.97 lakh involved in 39 cases pointed out in audit prior to 2005-06. At the instance of audit, the department recovered an amount of Rs. 9.41 lakh in 16 cases pointed out prior to 2005-06.

A few illustrative cases including a review on 'Lease of land by Land Revenue Department' involving Rs. 1.40 crore are given in the following paragraphs:

***Review : Lease of land by Land Revenue Department***

**Highlights**

- In 803 cases, leases under Rules for Assignment of Land in Municipal and Corporation Area, 1995 (RALMCA) effective from 1995 have not been revised. Consequently, the periodical revisions had also become due.
- Department failed to resume land in 288 cases where lessees did not apply for fresh leases from 1995-96 to 2001-02.
- Additional fine of Rs. 15.36 crore for continued unauthorised occupation of Government land was not imposed in 526 cases.

**Recommendations**

Government may ensure that:

- leases on Government land are revised in time and lease rent is demanded and realised promptly;
- stringent penal provisions including resumption of land are invoked on lessees violating terms and conditions of lease;
- market value of the land may be fixed by the competent authority which should be revised periodically; and
- rates of lease rent are revised periodically.

**Introduction**

Government lands not required for immediate use are let out on lease to various individuals/institutions in order to augment revenue of the State. Kerala Land Assignment Act, 1960 (KLA Act) and Rules framed thereunder such as Kerala Land Assignment Rules, 1964 (KLA Rules) and RALMCA are to regulate grant of leases of land in Kerala. RALMCA is to regulate the lease of land situated within municipal and corporation areas which are not covered under the KLA Rules.

**Organisational set up**

The KLA Act is administered by the Department of Land Revenue headed by the Commissioner of Land Revenue. He is assisted by District Collectors (DCs) in 14 revenue districts and Revenue Divisional Officers (RDOs) in 21 revenue divisions. Tahsildars in 63 taluks are in charge of land revenue administration exercising supervision and control on village officers at the lowest level.

***Scope of audit***

Records relating to assessment, levy and collection of lease rent maintained in office of Commissioner of Land Revenue, four* out of 14 DCs, two** out of 21 RDOs and 22† out of 63 taluk offices for the period from 2001-02 to 2004-05 were test checked during the period from November 2005 to March 2006.

***Audit objectives***

Review was conducted to ascertain whether:

- the system for demand and collection of lease rent on Government land was effective;
- provisions of Act/Rules relating to lease of land were complied with; and
- the internal control mechanism was effective.

**Internal control**

In the administration of lease of Government lands, taluk offices and village offices play a crucial role in furnishing prevailing market value of land for fixation and revision of lease rent.

Test check of the records at village and taluk offices revealed that in the absence of any guidelines from Government/Commissioner of Land Revenue to the village officers on market value of land, the proposals for renewal of lease/ revision of lease rent were defective. The DCs returned these proposals to village officers on the ground that market value of land proposed by them were inconsistent with prevailing rates in the locality and documents relied upon were not relevant to the period, revision proposals were not supported by requisite forms etc. This resulted in protracted and avoidable correspondence and consequent delay in revision of lease rent.

KLA Rules and RALMCA provide for assigning authority to maintain a register showing details of land assigned with particulars of assignee, survey number, village, taluk etc. They are also to conduct periodical inspection to ensure that no violation of any condition of assignment is made.

Test check of records of DCs and tahsildars revealed that these registers were not maintained in complete and proper form. Periodical inspections were also not conducted by the tahsildars.

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* Ernakulam, Kollam, Thiruvananthapuram and Thrissur

** Chengannur and Fort Kochi

† Aluva, Chengannur, Chittur, Kanayannoor, Kanjirappilly, Kannur, Karthikappally, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, Neyyattinkara, North Paravoor, Ranni, Talappally, Thiruvalla, Thiruvananthapuram, Thrissur and Vatakara

***Non revision of lease rent***

Under KLA Rules, rent on lease and licence shall be charged at rates specified by Government from time to time. Rule does not specify any time frame for revision of such rates. Government of Kerala revised the rates of rent for lease/licence in December 1985.

Test check of records of six* taluks revealed that lease rent in 20 cases relating to period from 2001-02 to 2003-04 has not been revised so far in terms of rates as revised by Government in December 1985.

RALMCA (which came into effect from 13 November 1995) provide that the lessee who is holding the lease or whose lease has already expired shall apply for fresh lease within three months from the commencement of Rules and lease shall not be granted for a period exceeding three years and be renewed on application from lessee for every three years.

Test check of lease registers maintained in 19 taluk offices** revealed that in 803 cases though the lessees had applied for revision of leases during the period between 1995-96 and 2004-05, the leases have not been revised as on 31 March 2005 as per details shown under:

| *Sl. No.* | *Year in which renewal of leases applied for* | *No. of cases* | *Remarks* |
|---|---|---|---|
| 1 | 1995-96 | 555† | The revision of leases have also become due in 1998-99, 2001-02 and 2004-05 |
| 2 | 1998-99 | 1$ | The revision of lease became due in 2001-02 and 2004-05 |
| 3 | 2001-02 | 80† | The revision of leases became due in 2004-05 |
| 4 | 2004-05 | 167† | |
| | Total | 803 | |

* Aluva, Kanjirappilly, Kozhikode, North Paravoor, Thalappally and Thiruvalla

** Aluva, Chengannur, Chittur, Kanayannur, Kannur, Karthikappally, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, North Paravoor, Talappally, Thiruvalla, Thiruvananthapuram, Thrissur and Vatakara.

† Taluk Offices Aluva, Chengannur, Chittur, Kanayannur, Kannur, Karthikappally, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, North Paravoor, Talappally, Thiruvalla, Thiruvananthapuram and Thrissur.

$ Taluk Office, Vatakara

After it was pointed out, the department stated that the cases would be revised at the earliest

Under RALMCA, leases are to be renewed every three years by the assigning authority on the basis of applications filed by the lessees. In such cases, lease rent is to be fixed at the rate of 10 per cent of the market value of the land if it is used for non commercial purpose and 20 per cent if it is used for commercial purposes.

Test check of records of Chengannur, Kollam and Thiruvananthapuram taluks revealed that DCs had revised leases during the period between November 2002 and November 2004. The leases pertain to the period between 13 November 1995 and March 2004. It was observed that the DCs have fixed lease rent for the entire period instead of revising the lease rent at an interval of three years on the basis of prevailing market value of land.

***Non renewal of time expired leases***

KLA Rules provide for granting Government land to individuals, institutions etc.; for a certain period. After the expiry of the lease period it should be renewed.

Scrutiny of records of seven taluks* revealed that in 291 cases where leases expired during the period between 1980-81 and 2003-04, no action has been taken to revise the leases.

***Non resumption of land for contravention of terms and conditions***

Under RALMCA, any assignment of land on lease shall be cancelled on contravention of any condition of lease. On failure of the lessee to apply for renewal of lease on its expiry, the land shall be resumed by Government.

Test check of records of seven taluks** revealed that in 288 cases where leases of land expired during the period between 1995-96 and 2001-02, the lessees had not applied for renewal of leases. No action was taken by the department to resume the land.

Government stated in August 2006 that tahsildars had been given strict instructions to resume the land; further progress was awaited.

***Non levy of additional fine***

The Kerala Land Conservancy Act, 1957 (KLC Act) was enacted to prevent unauthorised occupation of Government lands. The KLC Act empowers the DC to impose a fine not exceeding Rs. 200 for occupation of Government land by any person without permission and additional fine up to Rs. 200 per day during the period of continued unauthorised occupation.

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* Kochi, Thiruvananthapuram, Mukundapuram, Talappally, North Paravoor, Thrissur, Kozhikode.

** Kannur, Kochi, Kollam, Mukundapuram, Muvattupuzha, North Paravoor and Thiruvananthapuram.

Test check of records of taluk offices Kollam and Thiruvalla revealed that in 526 cases where Government land was unauthorisedly occupied by individuals during the period between 2001-02 to 2004-05, though the fine for unauthorised occupation at the rate of Rs. 200 was levied by the competent authority additional fine at the rate of Rs. 200 per day for continued unauthorised occupation was not levied. This resulted in non levy of additional fine of Rs. 15.36 crores as shown under :

| *Sl. No.* | *Name of taluk* | *Number of cases* | *Additional fine leviable (Rs. in crore)* |
|---|---|---|---|
| 1 | Kollam | 397 | 11.59 |
| 2 | Thiruvalla | 129 | 3.77 |
| | Total | 526 | 15.36 |

Government stated in August 2006 that concerned DCs have been directed to strictly follow imposition of additional fine in future.

***Non revision of rate of lease rent under KLA Rules***

As per the KLA Rules, rent shall be charged for lease at such rates as Government may by order specify. Government revised the rates of annual lease rent of different types of land i.e., dry land/wet land, for single and double crops and of various types of fruit bearing trees vide orders on 19 December 1985. Thereafter, the rates of lease rent had not been revised so far, though 20 years have elapsed. The Commissioner of Land Revenue had sent a proposal for revision of rates of lease rent in September 1997 but the same was pending with Government for the last eight years.

Government stated in August 2006 that steps were being taken to revise the rate of lease rent under KLA Rules.

***Exercise of powers beyond jurisdiction***

Under RALMCA, assigning authority is competent for renewal of current/ time expired lease and revision of lease rent. Government is the assigning authority for assignment of lands to institutions.

Test check of records of Taluk Office, Thiruvananthapuram revealed that in the case of seven* institutions, the lease rent was irregularly revised by the DC, Thiruvananthapuram in October 2004 without approval of Government which is the assigning authority in these cases.

* M/s. All India Radio, Chamber of Municipal Chairmen, M/s. Indian Airlines, M/s. Lions Club, M/s. Mannam Memorial National Club, M/s. Ex-Servicemen Co-operative Wood Industries and Women's Club.

Government stated in August 2006 that DC, Thiruvananthapuram had been directed to rectify the mistake at the earliest.

***Lacuna in KLC Act***

KLC Act provides fine for the offence of unauthorised occupation of Government land upto Rs. 200. If the offence is continued maximum additional fine at the rate of Rs. 200 per day ie., Rs. 73,000 per annum is leviable.

In municipal and corporation areas, demand of lease rent on time expired leases would not be legally valid if the lessees had not applied for renewal of lease. As per KLC Act, Government is to resume the land and levy fine and additional fine for the period of unauthorised occupation. This provision was not seen invoked in these cases. As such unauthorised occupants have unduly benefited as the fine leviable is less than the lease rent due. If the leasehold is large and is situated in prime locality lease rent may exceed several times the maximum fine. As resumption of land is seldom carried out promptly, the offenders were invariably in favour of being levied fine and additional fine.

Government stated in August 2006 that necessary steps were being taken to amend the KLC Act to enhance the rates of fine.

**Conclusion**

The provisions of KLA Act and Rules made thereunder and KLC Act are not scrupulously followed by the department. The department has failed to resume land where lessees have not applied for renewal of expired lease and continued to occupy land unauthorisedly. The rates of lease rent under KLA Act have not been revised even after a lapse of more than 20 years. Additional fine though meagre has not been invoked in cases of unauthorised occupants.

***Acknowledgement***

Audit findings as a result of review were reported to department/ Government in March 2006 with a specific request to attend the meeting of Audit Review Committee on the topic so that the views of the department/ Government were taken into account before finalising the review. The meeting was held on 4 August 2006 and attended by the Additional Secretary, Revenue Department, Government of Kerala and Senior Finance Officer, Commissionerate of Land Revenue. The views expressed by the members have been taken into account while finalising the review.

[Paragraph 3.1 and 3.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006(RR)]

Note received from Government on the above audit paragraph is included as Appendix II.

31. In the light of the audit observation in paragraph 3.1 and the Government's reply to it, the Committee wanted to know the details regarding the amount already collected and the action taken to recover the balance amount of Rs. 0.82 crore in the 43 cases pointed out by Audit. The Committee also enquired about the cases of underassessment of tax detected by the internal audit wing of the department in the offices other than those test checked by Audit.

32. The witness, Principal Secretary, Revenue Department explained that the audit wing of the Land Revenue Commissioner's Office used to conduct annual inspections in all districts and they were directed to make special emphasis for revenue collection during those inspections.

33. When enquired about the details of the irregularities noticed during the annual inspection, the witness could not offer a satisfactory reply. The Committee suggested the witness to furnish a detailed report regarding the number of cases of underassessment detected during the inspections, the amount involved in each case etc. It was also recommended that the department should evolve an effective system to conduct periodical inspections in various offices of the land revenue department to monitor the assessment of tax and to take immediate follow up action in cases where irregularities were noticed.

34. The Committee noted that in 803 cases pointed out in paragraph 3.2, leases under Rules for Assignment of Land in Municipal and Corporation Area effective from 1995 had not been revised, and enquired about the reasons for this. The witness admitted that the things were not in the right way and said that the department was trying to make it upto date by putting them under various categories. Not satisfied with the reply, the Committee recommended to revise the leases on Government land in time and to realise the lease rent promptly, and that action should be taken against the officers who derelicted from their duty in this regard.

35. Regarding paragraph 3.2.5.1, the Committee suggested that the market value of land should be revised urgently and that the revised value should be reckoned for fixation and revision of lease rent. The Committee also suggested that a percentage increase should be fixed thereafter for the periodical increase in the market value rather than assessing it each time.

36. While examining audit paragraph 3.2.5.2, the Committee enquired as to whether the assigning authority used to keep the specified Register meant for entering data such as the survey number, village, taluk etc. at the time of the

assignment of land. To this, the witness answered that directions had already been given from the Commissionerate of Land Revenue for keeping such a Register.

37. At this juncture, the Committee wanted to know whether any action had been taken against the officers in the department who had failed to comply with their duties in this respect. To this, the witness answered in the negative. The Committee strongly criticised the department for not taking any action against the officers who had failed to conduct periodical inspections and observed that this was a classical example of the lethargic attitude of the department towards matters involving urgent action. The Committee remarked that action should be initiated against the officers who had failed to discharge their duties.

38. During the discussion on paragraph 3.2.6.1 regarding non-revision of lease rent, the witness admitted the mistake on the part of the department in not revising the lease rent in the 20 cases pointed out in audit and the failure in collecting even the rate fixed by government in 1985. The Committee opined that the rates fixed by government in 1985 was also meagre and urged the department to take necessary action to revise the rates without any further delay.

39. Regarding paragraph 3.2.6.2, the witness informed that in all individual cases, action had been taken to revise the lease.

40. The Committee, while considering paragraph 3.2.6.3, remarked that the District Collectors of Alappuzha, Kollam and Thiruvananthapuram had committed a grave mistake by fixing the lease rent for the entire period instead of revising the rent at an interval of three years on the basis of the prevailing market value of land. This incorrect decision by the District Collectors had brought about huge loss to government. Hence the Committee directed the department to take disciplinary action against the respective officers of the three districts who had explicitly violated the relevant rules in this regard.

41. On the enquiry about the latest position of the 291 cases pointed out in paragraph 3.2.7 regarding non-renewal of time expired leases, the Principal Secretary, Revenue Department clarified that 33 cases had been renewed on application received from the concerned institutions and individuals. 200 cases were under various stages of action and in the rest of the cases action was being taken to locate the land. The Committee urged the department to take timely action on the cases pending with the District Collectors depending upon the merit of each case.

42. While discussing paragraph 3.2.8, the Committee observed that no mechanism existed in the department at present to verify whether the land leased out was used as per the lease conditions. The Committee wanted to know whether the department had taken any action to resume the Government lands in cases where lease period had expired.

43. The witness explained that in the case of the land given to Tata in Ernakulam, 1.2 acres in Corporation area had been taken over. Another 10 to 12 cases still existed to be taken over and action was in progress to resume such lands. Almost 70 acres of land had been taken over from various institutions for violation of the lease conditions. The Committee opined that a perfect system was needed for examining violation of lease rules.

44. When asked about the total land which was leased out in the State, the witness could not furnish the reply at that time. Hence, the Committee directed the witness to furnish the details regarding the total land leased out in each district in the State. The Committee also directed the department to take immediate action to dispose off the 288 cases pointed out by Audit in paragraph 3.2.8 according to the merit of each case.

45. The Committee opined that if the lessees continue to occupy the land after the expiry of lease period, then it should be treated as unauthorised occupation and immediate steps be taken by government to resume the land.

46. While examining paragraph 3.2.9, the Committee wanted to know the action taken in the 526 cases where government lost Rs. 15.36 crore due to non levy of additional fine which should have been collected from those who had unauthorisedly occupied government land during 2001-02 to 2004-05.

47. The witness explained that out of the above cases, 382 cases were excluded from remitting fine because as per the Kerala Land Conservancy Act, 1957 if the persons concerned apply for assignment and if they fulfil the prescribed requirements, then they were not liable to pay fine. According to the concerned District Collectors and Tahsildars all the 382 cases were prima facie eligible for assignment. The Committee called for urgent action to assign the land involved in the 526 cases pointed out in paragraph 3.2.9, to the poor people who had applied for assignment of land.

48. The Committee, while considering paragraph 3.2.13 opined that in future, lease rent should be fixed by taking into consideration the purpose for which the land was leased out. At the same time the rent should not be uniform for large institutions and small institutions. The Committee stressed the need for bringing necessary amendments to the Kerala Land Assignment Act, 1960 and

Rules framed thereunder in tune with the change of time. The witness agreed to amend the respective Acts and Rules within one month to incorporate the suggestions of the Committee.

**Conclusions/Recommendations**

49. **The Committee notes from the evidence tendered by the witness, the Principal Secretary, Revenue Department that the audit wing of the Land Revenue Commissioner's Office is conducting periodical inspections in all the districts and that they have been given explicit instructions to give preference to cases involving revenue collection, during their inspections. But the Committee is doubtful whether the performance of the audit wing is upto the mark. When the Committee enquired about the details of the irregularities noticed during the annual inspections, the witness was incapable of submitting a satisfactory reply. Hence, the Committee desires that a detailed report should be forwarded, regarding the cases of underassessment detected during the inspections from 2005-06 to till date, the amount involved in each case and the present position of those cases. The Committee also recommends that an effective system should be evolved to ensure that periodical inspections are conducted in all the offices coming under the purview of the Land Revenue Department. The cases of underassessment of tax detected during these inspections should be pursued effectively and prompt action be taken in cases where any sort of irregularities are noticed.**

50. **The Committee perceives that since the market value of land proposed by the village officers are considerably below the existing rates in the locality, the District Collectors are returning the proposals for renewal of lease/revision of lease rent submitted by the Village Officers. This in turn leads to delay in revision of lease rent. In these circumstances, the Committee implores the department to take immediate action to revise the market value of land. The revised value should be taken into consideration for renewal of lease/revision of lease rent. The Committee also suggests that a percentage increase should be proposed thereafter for the periodical increase in the market value of land rather than evaluating it each time. The Committee further recommends that Government should ensure timely revision of lease rent on Government lands and prompt realisation of it from the lessees. Strict action should be initiated against those who are responsible for not doing this duty in time.**

51. **Eventhough the Kerala Land Assignment Rules, 1964, Rules for Assignment of Land in Municipal and Corporation Area, 1995 and specific**

**directions from the Commissionerate of Land Revenue insist upon the maintenance of a register showing the details of Government land assigned by the assigning authorities, the District Collectors and Tahsildars have failed miserably in the exercise of their duties, which the Committee thinks as highly deplorable. The Committee desires to cite this as a typical example of the indifferent attitude expressed by the Department in matters warranting appropriate action. Apart from this, absence of any action against the officers who had failed to conduct periodical inspections inspite of the remarks by the Accountant General is a clear indication of the lapse on the part of the department which cannot be tolerated at any cost. Hence, the Committee requires the department to initiate action against the officers who had failed to discharge their statutory obligation and urges that strict measures should be adopted to prevent such instances in future.**

52. **The Committee is distressed to note that absence of timely revision of lease rent is playing havoc towards the revenue of the State and the meagre rates fixed in 1985 is still taken into account for claiming lease rent. Since it is causing heavy loss to Government, the Committee insists that all possible efforts should be taken to revise the lease rent in a time bound manner. It is rather disgusting to note that no effective action has been taken by the department to revise the rate of lease rent even after the lapse of more than 20 years.**

53. **The Committee discerns that the District Collectors of Alappuzha, Kollam and Thiruvananthapuram had derelicted from their duty by fixing the lease rent for the entire period between 13 November, 1995 and March 2004 (9 years) instead of revising the lease rent at an interval of three years based on the prevailing market value of land. Hence, the Committee desires that disciplinary action be initiated against the officers for their clear lapse and to make good the loss sustained to Government from them.**

54. **Regarding the non-renewal of time expired leases and the non resumption of land in contravention to the existing terms and conditions, the Committee requests the department to dispose off the cases under each category, within three months, based on the merit of each case. The Committee also stress the need for a perfect system to verify whether the Government land leased out is used as per the lease conditions.**

55. **The Committee understands that as per the Kerala Land Conservancy Act (KLC Act), 1957 the District Collectors are empowered to resume any Government land under unauthorised occupation and levy fine and additional fine as laid down in the Act. But the Committee notes that**

**this provision has not been invoked in many cases and the Government lost Rs. 15.36 crore. It is also apprised that in most of these cases unauthorised occupants have applied for assignment of land according to the requirements specified in the KLC Act and hence fine cannot be realised from them. Hence, the Committee thinks that it is high time to take immediate steps to amend the KLC Act, 1957 to avoid these difficulties and to enhance the rates of fine imposed for unauthorised occupation. The Committee also desires that necessary action should be taken in the above cases according to their merit and that immediate action be taken to assign the land involved in the pending cases to the poor people who had applied for assignment of land.**

56. **Though the Principal Secretary, Revenue Department agreed to furnish the district wise details of the total land which was leased out in the State during witness examination, the Committee is regretted to note that the required details have not been received yet. The Committee finds no justification for the omission on the part of the department in providing the details desired by it. Hence, the Committee requires that the desired details be furnished to it without any further delay.**

57. **The Committee opines that in future, lease rent should be fixed by taking into account the purpose for which the land is leased out. At the same time, the rates should not be uniform for large and small institutions. Rates should be varied according to the virtue of each case. The Committee recommends that necessary amendments should be made in the Kerala Land Conservancy Act, 1957 and the Kerala Land Assignment Act, 1960 and Rules framed thereunder to revise the lease rent in tune with the change of time and to provide that different rates should be applied for realising rent. In this connection it is to be noted that though the Principal Secretary agreed to make necessary amendment in the Act within one month, no details in this regard have been furnished to the Committee till now.**

AUDIT PARAGRAPH

***Non realisation of collection charges***

Under the Kerala Revenue Recovery Rules, 1968 (KRR Rules), collection charges at the rate of five per cent of the arrears collected on behalf of any Government departments/notified institutions are to be recovered from the defaulters. Government, however, issued a clarification in September 1999 that collection charges need not be realised in respect of requisition received from Government departments, which was not in conformity with the provisions of the rule. The clarification was subsequently cancelled by Government in August 2005.

Mention was made in paragraph 4.2.7 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2000 and in subsequent Audit Reports on non/short realisation of collection charges due to non compliance with provisions in Rules.

Test check of records in 26 Offices* between November 2004 and December 2005 revealed that while recovering arrears on behalf of various Government departments during the period from April 2002 to March 2005 tahsildars did not realise collection charge from the defaulters. This resulted in non realisation of collection charge of Rs. 1.27 crore.

After this was pointed out between November 2004 and December 2005, department stated in June 2006 that collection charges were not realised in respect of requisitions received from Government departments on the basis of clarification of September 1999 and that a proposal for exempting realisation of collection charge on requisitions of Government departments from 28 September 1999 to 22 August 2005 had been submitted to Government in April 2006.

The case was reported to Government in April 2006; their reply has not been received (December 2006).

[Paragraph 3.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006(RR)]

Note received from Government on the above audit paragraph is included as Appendix II.

58. The Committee remarked that the delay of about six years in cancelling the incorrect clarification regarding the collection charges in RR cases, despite being pointed out by the Accountant General from March 2000 onwards was highly deplorable and unpardonable. The Committee condemned the irresponsible attitude of the department towards the reality.

**Conclusion/Recommendation**

59. **The Committee finds that eventhough under the Kerala Revenue Recovery Rules, 1968 collection charges at the rate of five per cent of the arrears collected on behalf of any Government Department/Notified Institution are to be recovered from the defaulters, Government by a**

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* Taluk Offices: Alathur, Changanassery, Chavakkad, Devikulam, Karthikappally, Kodungalloor, Kunnathur, Mananthavady, Mavelikkara, Mukundapuram, Muvattupuzha, Nilambur, North Paravoor, Pathanapuram, Peerumedu, Perinthalmanna, Ponnani, Thirurangadi and Thodupuzha

Tahsildar(RR) : Chittoor, Fort Kochi, Kanayannur, Kasaragod, Kozhikode, Palakkad and Wayanad.

**notification issued in September 1999 clarified that collection charges need not be realised from Government departments. This notification was a naked violation of the relevant rules in this regard. Furthermore, the Committee finds that the department had taken almost six years for cancelling the incorrect clarification despite being pointed out by the Accountant General from March 2000 onwards. The Committee condemns the delay on the part of the department in the matter and opines that this is an act of high degree of irresponsibility and that there is no justification for the inordinate delay.**

AUDIT PARAGRAPH

**Non levy of luxury tax on residential buildings**

Under the Kerala Building Tax Act, 1975 (KBT Act), luxury tax at the rate of Rs. 2,000 per annum is leviable on all residential buildings having plinth area of 278.7 sq.m. or more and completed on or after 1 April 1999. The tax shall be paid in advance on or before 31 March every year.

In five Taluk Offices*, luxury tax was not demanded on 209 residential buildings of plinth area exceeding 278.7 sq.m. and completed between June 1999 and March 2005. This resulted in non realisation of luxury tax of Rs. 7.64 lakh.

After the cases were pointed out to the department between December 2004 and November 2005 and reported to Government in April 2006, they stated in June 2006 that luxury tax of Rs. 5.32 lakh had been realised on 179 buildings and that action had been taken to realise the tax in remaining cases. Further reply has not been received (December 2006).

[Paragraph 3.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (RR)]

Note received from Government on the above audit paragraph is included as Appendix II.

60. Regarding this matter the witness replied that only three cases involving Rs. 12,000 was pending under Revenue Recovery Proceedings. The Committee directed to furnish the action taken report on the three cases.

**Conclusion/Recommendation**

61. **The Committee notes that only three cases of realisation of luxury tax are pending recovery and urges the department to furnish the action taken on these cases at the earliest.**

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* Taluk Offices: Kodungalloor, Tirur, Karunagappally, Mananthavady, Pathanapuram

AUDIT PARAGRAPH

***Incorrect exemption of building tax***

Under the KBT Act, building tax at the rate specified in the Schedule to the Act is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeds 100 sq.m. in the case of residential buildings and 50 sq.m. in the case of other buildings. An assessee objecting to a building tax assessment can file either an appeal before the RDO or a revision application before DC. The Act does not empower the assessing authority to cancel an assessment already made. As per Government clarification in October 2003, a building in a campus of an educational institution should be assessed to tax if it is used for commercial purpose.

In Perinthalmanna Taluk, a hostel building appurtenant to a hospital complex was assessed in March 2003 to building tax of Rs. 2.66 lakh. The assessee instead of filing appeal to appropriate authority made a representation to the assessing authority in March 2003 and he cancelled the assessment on the plea that the building was used for educational purposes. Incorrect grant of exemption coupled with incorrect cancellation of assessment order resulted in non levy of building tax of Rs. 2.66 lakh.

After this was pointed out to the department in October 2005 and reported to Government in April 2006, the department in June 2006 and Government in July 2006 stated that the building had been reassessed in May 2006 for Rs. 2.66 lakh of which Rs. 0.99 lakh had been remitted in June 2006. Further report has not been received (December 2006)

[Paragraph 3.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (RR)]

Note received from Government on the above audit paragraph is included as Appendix II.

62. Regarding paragraph 3.5 the Committee was informed that the due amount of Rs. 2.66 lakh and its interest had been realised.

**Conclusion/Recommendation**

63. No comments.

AUDIT PARAGRAPH

***Non assessment of building tax***

Under the Kerala Building Tax Act and the Kerala Building Tax (Plinth Area) Rules, 1992 (KBTPA Rules) made thereunder, every village officer shall transmit to the assessing authority, within 5 days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from building application register of the local authority within whose area the buildings included in the list are situated.

Cross verification of records of Karthikappally taluk office with the records of Kayamkulam municipality revealed that 26 buildings completed between October 2001 and February 2005 and assessed to house tax by municipality, escaped building tax assessment as per the Act. This resulted in non assessment of building tax of Rs. 2.37 lakh calculated at prescribed rates on the basis of plinth area.

After this was pointed out to the department in December 2005 and reported to Government in April 2006, they stated in June and August 2006 that 19 buildings were assessed to tax at Rs. 1.24 lakh of which Rs. 0.45 lakh had been remitted, three cases were being referred to Government for exemption and assessment is pending in remaining four cases. Further reply has not been received (December 2006).

[Paragraph 3.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (RR)]

Note received from Government on the above audit paragraph is included as Appendix II.

**Conclusion/Recommendation**

64. No comments.

ARYADAN MUHAMMED,
*Chairman,*
*Committee on Public Accounts.*

Thiruvananthapuram,
17th December, 2008.

APPENDIX I

**Summary of Main Conclusions/Recommendations**

| *Sl.No.* | *Para No.* | *Department Concerned* | *Conclusions/Recommendations* |
|---|---|---|---|
| (1) | (2) | (3) | (4) |
| 1 | 24 | Revenue | The Committee understands that in the category "Short levy under building tax", out of the pending 68 cases collection had been effected in almost all cases except in one where the owner of the building had obtained stay order from the Court since the case was time barred. The Committee was informed that notice had been issued to the officers who were responsible for the delay in collection of tax and that action was in progress to recover the loss from them. The Committee desires to know whether the entire amount has been recouped from the guilty officers. |
| 2. | 25 | ,, | Regarding the balance amount of Rs. 48,000 which is yet to be collected under the category "Short levy under other items", the Committee desires to know whether age certificates of the concerned buildings have been collected from the concerned local self government authorities and whether the amount in full pending in the 11 cases has been recovered. |
| 3. | 26 | ,, | The Committee, from the evidence tendered before it by the Principal Secretary, Revenue Department, finds that the village officers who are bound to collect monthly list of buildings liable to assessment under clause 3 of the |

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| | | | Kerala Building Tax Rules, 1974 are not exercising their duties diligently as expected from them. The Committee also finds that the department lack any mechanism to monitor and review the details kept by the village officers in this regard. Hence, the Committee recommends that the Department should take urgent steps to see that the village officers are maintaining registers containing all the details of the buildings liable to assessment and that they submit monthly returns to Taluk Officers. The District Collectors should review the returns submitted by the Village Officers and they in turn should forward the review report to the Land Revenue Commissioner for a thorough examination of the details submitted by the Village Officers. |
| 4 | 27 | Revenue & Finance | The Committee, notes with dismay that by issuing an incorrect clarification in September 1999, government had forfeited Rs. 2.07 crore, on account of non realisation of collection charges from the defaulters during revenue recovery of arrears. When the Committee enquired about the officer who was responsible for issuing the erroneous clarification, the witness had given an evasive reply that a government order was issued later cancelling the incorrect clarification. Moreover, Finance Department had also derelicted from its duty by not objecting to the unlawful clarification. Eventhough the Committee does not find any vicious motive behind issuing the clarification, the Committee opines that an unjustifiable |

| (1) | (2) | (3) | (4) |
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| | | | delay of almost six years has occurred on the part of the department to sense its mistake and to take action to revoke the incorrect clarification. The Committee also opines that the act of the department is violative of the Rules in this regard. Dearth of an appropriate action to nullify the defect is a clear indication of the careless attitude meted out by the department in matters requiring utmost care and caution. |
| 5 | 28 | Revenue | The Committee observes that out of Rs. 2.07 crore, only Rs. 1.38 crore has been realised from the defaulters. The Committee calls for an urgent action to realise the balance amount and the action taken in this regard should be intimated to the Committee without fail. |
| 6 | 29 | ,, | The Committee perceives from the reply furnished by the witness that only 11 cases (ie. 9 in Kasaragod district and one each in Alappuzha and Kollam district) of collection of luxury tax on residential buildings remain unsettled and that revenue recovery measures has been initiated in all the cases. The Committee desires to be informed of the present stage of the revenue recovery proceedings. |
| 7 | 30 | ,, | The Committee on a careful examination of the audit paragraph relating to under-assessment of building tax suspects that the assessing authorities had wilfully underassessed building tax in the cases pertaining to Aluva, Kottayam and Vythiri taluks, without taking into account the essence of the relevant Rules |

| (1) | (2) | (3) | (4) |
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| | | | in this regard. Such malicious act of the assessing authorities has led to a loss of Rs. 2.48 lakh to the Government. The Committee strongly condemns the wilful action of the assessing authorities in these cases and urges the Department to fix responsibility against the erring officials and to take urgent action to recover the loss sustained to the Government from them. Disciplinary action should also be taken against them for their dishonest behaviour and corrupt practice. |
| 8 | 49 | Revenue | The Committee notes from the evidence tendered by the witness, the Principal Secretary, Revenue Department that the audit wing of the Land Revenue Commissioner's Office is conducting periodical inspections in all the districts and that they have been given explicit instructions to give preference to cases involving revenue collection, during their inspections. But the Committee is doubtful whether the performance of the audit wing is upto the mark. When the Committee enquired about the details of the irregularities noticed during the annual inspections, the witness was incapable of submitting a satisfactory reply. Hence, the Committee desires that a detailed report should be forwarded, regarding the cases of underassessment detected during the inspections from 2005-06 to till date, the amount involved in each case and the present position of those cases. The Committee also recommends that an effective system should be evolved to ensure that |

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| | | | periodical inspections are conducted in all the offices coming under the purview of the Land Revenue Department. The cases of underassessment of tax detected during these inspections should be pursued effectively and prompt action be taken in cases where any sort of irregularities are noticed. |
| 9 | 50 | Revenue | The Committee perceives that since the market value of land proposed by the Village Officers are considerably below the existing rates in the locality, the District Collectors are returning the proposals for renewal of lease/revision of lease rent submitted by the Village Officers. This in turn leads to delay in revision of lease rent. In these circumstances, the Committee implores the department to take immediate action to revise the market value of land. The revised value should be taken into consideration for renewal of lease/ revision of lease rent. The Committee also suggests that a percentage increase should be proposed thereafter for the periodical increase in the market value of land rather than evaluating it each time. The Committee further recommends that Government should ensure timely revision of lease rent on Government lands and prompt realisation of it from the lessees. Strict action should be initiated against those who are responsible for not doing this duty in time. |
| 10 | 51 | ,, | Eventhough the Kerala Land Assignment Rules, 1964, Rules for Assignment of |

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| | | | Land in Municipal and Corporation Area, 1995 and specific directions from the Commissionerate of Land Revenue insist upon the maintenance of a register showing the details of Government land assigned by the assigning authorities, the District Collectors and Tahsildars have failed miserably in the exercise of their duties, which the Committee thinks as highly deplorable. The Committee desires to cite this as a typical example of the indifferent attitude expressed by the Department in matters warranting appropriate action. Apart from this, absence of any action against the officers who had failed to conduct periodical inspections inspite of the remarks by the Accountant General is a clear indication of the lapse on the part of the department which cannot be tolerated at any cost. Hence, the Committee requires the department to initiate action against the officers who had failed to discharge their statutory obligation and urges that strict measures should be adopted to prevent such instances in future. |
| 11 | 52 | Revenue | The Committee is distressed to note that absence of timely revision of lease rent is playing havoc towards the revenue of the State and the meagre rates fixed in 1985 is still taken into account for claiming lease rent. Since it is causing heavy loss to Government, the Committee insists that all possible efforts should be taken to revise the lease rent in a time bound manner. It is rather disgusting to note that no effective action |

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| | | | has been taken by the department to revise the rate of lease rent even after the lapse of more than 20 years. |
| 12 | 53 | Revenue | The Committee discerns that the District Collectors of Alappuzha, Kollam and Thiruvananthapuram had derelicted from their duty by fixing the lease rent for the entire period between 13 November, 1995 and March 2004 (9 years) instead of revising the lease rent at an interval of three years based on the prevailing market value of land. Hence, the Committee desires that disciplinary action be initiated against the officers for their clear lapse and to make good the loss sustained to Government from them. |
| 13 | 54 | ,, | Regarding the non-renewal of time expired leases and the non resumption of land in contravention to the existing terms and conditions, the Committee requests the department to dispose off the cases under each category, within three months, based on the merit of each case. The Committee also stress the need for a perfect system to verify whether the Government land leased out is used as per the lease conditions. |
| 14 | 55 | ,, | The Committee understands that as per the Kerala Land Conservancy Act (KLC Act), 1957 the District Collectors are empowered to resume any Government land under unauthorised occupation and levy fine and additional fine as laid down in the Act. But the Committee notes that this provision has not been invoked in many cases and the |

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| | | | Government lost Rs. 15.36 crore. It is also apprised that in most of these cases unauthorised occupants have applied for assignment of land according to the requirements specified in the KLC Act and hence fine cannot be realised from them. Hence, the Committee thinks that it is high time to take immediate steps to amend the KLC Act, 1957 to avoid these difficulties and to enhance the rates of fine imposed for unauthorised occupation. The Committee also desires that necessary action should be taken in the above cases according to their merit and that immediate action be taken to assign the land involved in the pending cases to the poor people who had applied for assignment of land. |
| 15 | 56 | Revenue | Though the Principal Secretary, Revenue Department agreed to furnish the district-wise details of the total land which was leased out in the State during witness examination, the Committee is regretted to note that the required details have not been received yet. The Committee finds no justification for the omission on the part of the department in providing the details desired by it. Hence, the Committee requires that the desired details be furnished to it without any further delay. |
| 16 | 57 | ,, | The Committee opines that in future, lease rent should be fixed by taking into account the purpose for which the land is leased out. At the same time, the rates should not be uniform for large and small institutions. Rates should be |

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| | | | varied according to the virtue of each case. The Committee recommends that necessary amendments should be made in the Kerala Land Conservancy Act, 1957 and the Kerala Land Assignment Act, 1960 and Rules framed thereunder to revise the lease rent in tune with the change of time and to provide that different rates should be applied for realising rent. In this connection it is to be noted that though the Principal Secretary agreed to make necessary amendment in the Act within one month, no details in this regard have been furnished to the Committee till now. |
| 17 | 59 | Revenue | The Committee finds that even though under the Kerala Revenue Recovery Rules, 1968 collection charges at the rate of five per cent of the arrears collected on behalf of any Government Department/Notified Institution are to be recovered from the defaulters, Government by a notification issued in September 1999 clarified that collection charges need not be realised from Government departments. This notification was a naked violation of the relevant rules in this regard. Furthermore, the Committee finds that the department had taken almost six years for cancelling the incorrect clarification despite being pointed out by the Accountant General from March 2000 onwards. The Committee condemns the delay on the part of the department in the matter and |

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| | | | opines that this is an act of high degree of irresponsibility and that there is no justification for the inordinate delay. |
| 18 | 61 | Revenue | The Committee notes that only three cases of realisation of luxury tax are pending recovery and urges the department to furnish the action taken on these cases at the earliest. |

APPENDIX II

## ACTION TAKEN STATEMENT ON THE REPORT OF C&AG FOR THE YEAR ENDED 31-3-2005 (REVENUE RECEIPTS) IN RESPECT OF AUDIT PARA 4.2

*(Non/Short realisation of Collection Charges)*

As per G.O.(P) 508/97/RD dated 7-7-1997 (SRO.No. 565/97) it is notified that collection charges at the rate of 5% of arrears collected under the provisions of the KRR Act on behalf of any institutions notified U/s.71 of KRR Act or collected on behalf of any institutions U/s.68 of KRR Act shall be realized from the defaulters and accounted as arrears to such institutions. Consequent to the above notification Government as per letter No. 41404/S5/99/RD dated 28-9-1999 clarified that the wordings in rule 5(1) [vide G.O. (P) 508/97/RD dated 7-7-1997] denote the recovery of arrears due to institutions notified under Section 71 of the Kerala Revenue Recovery Act and statutory bodies covered under Section 68 of the Revenue Recovery Act in the statute of which it has been recorded that the arrears due to those bodies are recoverable as arrears of public revenue due to land. Government then also clarified that collection charges need not be collected in respect of requisitions received from Government Departments. Based on the above clarification Government had already sent an Action Taken Report, which was based on the clarification, issued in Government letter No. 41404/S5/99/RD dated 28-9-1999.

Later, Government have re-examined the clarification issued in the above Government letter and found that the clarification is not in order. Hence as per G.O. (Rt.) 4941/05/RD dated 22-8-2005, Government cancelled the clarification issued in the above Government letter and ordered to recover the collection charges from the defaulters for all kinds of recoveries which include Government dues like Sales Tax, Agriculture Income Tax, Motor Vehicle Tax, Abkari etc. initiated under the KRR Act. Further as per Government letter No. 69438/H3/04/RD dated 22-8-2005 Government have issued directions to all District Collectors to recover collection charges from the defaulters for all kinds of revenue recoveries which includes Government dues also.

The Revenue Authorities started to recover the collection charges for Government dues also. The Commissioner of Land Revenue then reported that it was very difficult to re-open the already settled cases based on the new clarification issued as per G.O.(Rt.)4941/05/RD dated 22-8-2005, and hence

proposed to waive the collection charges, which were not collected in respect of settled cases due to the earlier clarification, issued in Government letter No. 41404/S5/99/RD dated 28-9-1999.

Government re-examined the proposal in detail and found that it is not fair to re-open the already settled cases once again, and as per the G.O. (Ms.) 287/ 2006/RD dated 3-10-2006, Government issued orders permitting all District Collectors to exempt those, who had settled their Government dues earlier without remitting the collection charges on or before 22-8-2005 i.e. the date of issuance of G.O. (Rt.) No.4941/2005/RD from remitting the collection charges as per the KRR Rules.

GOVERNMENT OF KERALA

**REVENUE (SPECIAL CELL) DEPARTMENT**

**Action taken Report in Respect of para No. 4.4 of the Comptroller and Auditor General's Report (Revenue Receipts) for the year ended 31-3-2005**

| *Sl. No.* | *Para No.* | *Department* | *Report* | *Action Taken* |
|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |
| 1 | 4.4 | Revenue (Special Cell) Dept. | Under the Kerala Building Tax Act, 1975 building tax based on plinth area, at the rate specified in the Act is leviable on every building the construction of which is completed after 10th February 1992 having plinth area exceeding 100$M^2$ in the case of residential buildings and 50$M^2$ in the case of other buildings. Plinth area of appurtenant structures built for more convenient enjoyment of the main building shall be added to its plinth area for assessment of tax<br><br>In taluk offices, Aluva, Kottayam and Vythiri while finalizing between July 2001 and March 2004 building assessment of two tourist resort | There was under assessment of Rs. 82,800 as building tax for the buildings situated in Aluva taluk of Eranakulam district. The amount has been raised.<br><br>There was under assessment of building tax of the 'Kumarakom Lake Resort' in Kottayam taluk for Rs. 1,01,510. Total plinth area of 7060.69$M^2$ of the resort was reassessed including the newly constructed portion and after deducting Rs.1,49,550 of the amount earlier remitted, revised demand notice was issued to the balance amount of Rs. 4,72,350. Four instalment was allowed for remittance and the total amount was realised on 28-2-2007. |

| (1) | (2) | (3) | (4) | (5) |
|---|---|---|---|---|
| | | | buildings appurtenant to the main buildings were assessed as separate units instead of reckoning the resorts as a single unit by the assessing authorities and tax on another two buildings were assessed for area lesser than the actual plinth area of the completed portion. These resulted in short levy of building tax of Rs. 2.48 lakhs.<br><br>After this was pointed out between March and November 2004 the department stated in December 2004 and January 2005 that action had been taken to revise the assessment at Vythiri and Aluva. Final reply has not been received (December 2005)<br><br>The matter was reported to Government in June 2005. Government stated in November 2005 that revised notice had been issued in three cases involving Rs. 1.47 lakh out of which Rs. 0.50 lakh had been realised in two cases. Further report has not been received (December 2005) | There was under assessment of Rs. 33,750 as building tax of the Rail County Resort situated in Vythiri taluk of Waynad District. Reassessment was made for Rs. 45,000 and 50% of the amount i.e. Rs. 22,500 was remitted by the assessee and Revenue Recovery steps have been initiated to realise the balance amount. However the Hon. High Court quashed the above reassessment of the building tax of Shri. Abubacker on the ground that three years are over after the first assessment. The Advocate General has been requested to file review petition in this case. |

ACTION TAKEN STATEMENT ON THE REPORT OF C&AG FOR THE YEAR ENDED 31-3-2006 (REVENUE RECEIPTS) IN RESPECT OF AUDIT PARA 3.3

*(Non realisation of Collection Charges)*

As per G.O.(P) 508/97/RD dated 7-7-1997 (SRO. No. 565/97) it is notified that collection charges at the rate of 5% of arrears collected under the provisions of the KRR Act on behalf of any institutions notified U/s.71 of KRR Act or collected on behalf of any institutions U/s. 68 of KRR Act shall be realized from the defaulters and accounted as arrears to such institutions. Consequent to the above notification. Government as per letter No.41404/S5/99/ RD dated 28-9-1999 clarified that the wordings in rule 5(1) [vide-G.O.(P)508/97/ RD dated 7-7-1997] denote the recovery of arrears due to institutions notified under Section 71 of the Kerala Revenue Recovery Act and statutory bodies covered under Section 68 of the Revenue Recovery Act in the statute of which it has been recorded that the arrears due to those bodies are recoverable as arrears of public revenue due to land. Government then also clarified that collection charges need not be collected in respect of requisitions received from Government Departments. Based on the above clarification Government had already sent an Action Taken Report, which was based on the clarification, issued in Government letter No. 41404/S5/99/RD dated 28-9-1999.

Later, Government have re-examined the clarification issued in the above Government letter and found that the clarification is not in order. Hence as per G.O. (Rt.)4941/05/RD dated 22-8-2005, Government cancelled the clarification issued in the above Government letter and ordered to recover the collection charges from the defaulters for all kinds of recoveries which include Government dues like Sales Tax, Agriculture Income Tax, Motor Vehicle Tax, Abkari etc. initiated under the KRR Act. Further as per Government letter No. 69438/H3/04/RD dated 22-8-2005 Government have issued directions to all District Collectors to recover collection charges from the defaulters for all kinds of revenue recoveries which includes Government dues also.

The Revenue Authorities started to recover the collection charges for Government dues also. The Commissioner of Land Revenue then reported that it was very difficult to re-open the already settled cases based on the new clarification issued as per G.O.(Rt.)4941/05/RD dated 22-8-2005, and hence proposed to waive the collection charges, which were not collected in respect of settled cases due to the earlier clarification, issued in Government letter No. 41404/S5/99/RD dated 28-9-1999.

Government re-examined the proposal in detail and found that it is not fair to re-open the already settled cases once again, and as per the G.O.(Ms.)287/ 2006/RD dated 3-10-2006, Government issued orders permitting all District Collectors to exempt those, who had settled their Government dues earlier without remitting the collection charges on or before 22-8-2005 i.e. the date of issuance of G.O.(Rt.)No.4941/2005/RD from remitting the collection charges as per the KRR Rules.

**GOVERNMENT OF KERALA**

REVENUE (SPECIAL CELL) DEPARTMENT

**Action taken Report in Respect of Para No. 3.5 of the Comptroller and Auditor General's Report for the year ended 31-3-2006**



<table>
<tr><th>Sl. No.</th><th>Para No.</th><th>Department</th><th>Report</th><th>Action Taken</th></tr>
<tr><td>(1)</td><td>(2)</td><td>(3)</td><td>(4)</td><td>(5)</td></tr>
<tr><td>1</td><td>3.5</td><td>Revenue (Special Cell) Dept.</td><td>Incorrect exemption of building tax<br><br>Under the Kerala Building Tax Act, building tax at the rate specified in the Schedule to the Act is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeds 100 sq.m. in the case of residential buildings and 50 sq.m. in the case of other buildings. An assessee objecting to a building tax assessment can file either an appeal before the Revenue Divisional Officer or a revision application before District Collector. The Act does not empower the</td><td>The Land Revenue Commissioner has reported that the non-levy of building tax from M/s. Alshifa Hospital, Perinthalmanna, pointed out in para 3.5 of Comptroller & Auditor General Report 31-3-2006 (RR) has since been realised with interest from the assessee and remitted as per Chalan detailed below:
<table>
<tr><th>Amount (Rs.)</th><th>Chalan No.</th><th>Date</th></tr>
<tr><td>98,568</td><td>745</td><td>14-6-2006</td></tr>
<tr><td>2,95,704</td><td>1371</td><td>25-7-2007</td></tr>
<tr><td>3,94,272</td><td></td><td></td></tr>
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| (1) | (2) | (3) | (4) | (5) |
|---|---|---|---|---|
| | | | assessing authority to cancel an assessment already made. As per government clarification in October 2003, a building in a campus of an educational institution should be assessed to tax if it is used for commercial purpose.<br><br>In Perinthalmanna Taluk, a hostel building appurtenant to a hospital complex was assessed in March 2003 to building tax of Rs. 2.66 lakh. The assessee instead of filing appeal to appropriate authority made a representation to the assessing authority in March 2003 and he cancelled the assessment on the plea that the building was used for educational purposes. In correct grant of exemption coupled with incorrect cancellation of assessment order resulted in non-levy of building tax of Rs. 2.66 lakh. | |

After this was pointed out to the department in October 2005 and reported to Government in April 2006, the department in June 2006 and Government in July 2006 stated that the building had been reassessed in May 2006 for Rs. 2.66 lakh of which Rs. 0.99 lakh had been remitted in June 2006. Further report has not been received (December 2006).