

AUDIT OF MUNICIPAL CORPORATIONS

CASE STUDY

ON

SHORT LEVY OF PROPERTY TAX

REGIONAL TRAINING INSTITUTE, MUMBAI

(INDIAN AUDIT & ACCOUNTS DEPARTMENT)

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P R E F A C E

Regional Training Institute, Mumbai was declared as knowledge centre for Corporate Governance, Finance and Audit of Municipal Corporations in August, 2012. In pursuit of excellence in our assigned areas of knowledge centre, we attempt to bring out series of interesting cases in Corporate Governance, Corporate Finance and Audit of Municipal Corporations. In preparing the case study, the models adopted by some business schools have been followed.

The Case Study "Short levy of Property Tax" has been prepared based on Para 6.4 of C & A G's Audit Report No.5 (Local Bodies)– Government of Maharashtra for the year ended 31st March 2011 .

I hope that the readers would benefit from the learning points indicated in the case study. Suggestions, if any, are welcome and would help us in improving the content and presentation of the case studies in future.

RTI, Mumbai.

March, 2014


Abdul Rauf
28/3/2014
Principal Director

Short levy of property Tax

1. Introduction

Property tax is one of the principal components of tax revenue for every Municipal Corporation that is used to provide basic services and amenities to the populace in the corporation area. Property tax is normally levied in accordance with the provisions of Provincial Municipal Act governing the respective Municipal Corporation. The norms for levy of property tax are normally contained in the enactments governing the Municipal Corporations and it is imperative that the norms are scrupulously followed to avoid any leakages in revenue.

Municipal Corporations in Maharashtra are governed by the Bombay Provincial Municipal Corporations Act, 1949 (Act). Rules for levy and collection of taxes are contained in Chapter VIII of the aforesaid enactment. Rule 9(b) of Chapter VIII requires the Commissioner of every Municipal Corporation to maintain 'Assessment Book' and enter the rateable value of each building or land or as the case may be, premises determined in accordance with the provisions of the Act. Rule 7 of the aforesaid Taxation Rules provides for determination of rateable value. Sub Rule 3 of Rule 7 specifically provides for a deduction of 10 percent from the amount of annual rent for which such land or building might reasonably be expected to let from year to year for arriving at the rateable value. It goes on to add that the said deduction shall be in lieu of all allowances for repairs or on any other account whatever. As this Rule is a part of the enactment any change in the rate prescribed in the Rule can have effect only through a proper amendment in the Act after due consideration, concurrence and approval of the Government of Maharashtra.

2. Audit Analysis

During the examination of the property tax assessment records of Sholapur Municipal Corporation for the period from 2005-06 to 2009-10, Audit found that while arriving at the annual rateable value, the Corporation with the approval of Standing Committee/General Body deducted 15 *per cent* allowance for repairs instead of 10 *per cent* as per the provisions

of BMC Act. This fact came to light during scrutiny of assessment of files (July 2010) of Assessor and Collector (City Area) and Special Executive Area (City Extension Area). The action of the Corporation does not have the sanction of the codal provisions of the Act. This resulted in short levy of property tax of Rs. 13.36 crore (Rs.9.02 crore in respect of city area and Rs.4.34 crore in respect of city extension area).

The Sholapur Municipal Corporation stated (October 2010) that the rate of 15 per cent allowance for repairs was approved in General Body and the Standing Committee meeting held on 17 December, 1996. The appropriate procedure to give effect to the decision of the Standing Committee was to move an amendment to the provisions of the Taxation Rule that provides for determination of rateable value by following due process. The change in the rate could be effected only after appropriate amendment in the Act requiring concurrence and approval of Government of Maharashtra. The municipal corporation has no power to change the rate of abatement. The Pune, Nagpur and Mumbai Corporations continue to follow the rates prescribed in the Taxation Rules. Thus the violation of the provisions of the Act by the corporation resulted in short levy of tax to the extent of Rs. 13.36 crore. The amount of short levy of property tax will be increased if calculated from the decision of the corporation i.e. December 1996.

3. Learning points from the audit paragraph.

- i. Since the Property Tax is the main source of tax revenue of any Municipal Corporation and adequate care is to be exercised in the assessment of property tax,
- ii. Determination of Annual Rateable Value of a property is an important step in the calculation of property tax and if not done properly will result in incorrect levy of property tax which can at times have a perennial effect.
- iii. Standard deduction towards repairs etc. is to be considered at the rates prescribed in the enactment while determining annual rateable value.
- iv. Property tax is normally calculated by a rateable value system based upon the maximum rent a property could fetch in a year after making allowance for repairs
- v. However, MCGM has recently changed the system to the capital value method whereby the property tax is based on the capital value of the property determined

taking into consideration various factors such as age of the property, construction type, number of floors, user type etc.

- vi. The manner of computation of property tax and annual rateable value would differ across municipal corporations and it is suggested that the manner or computation, the calculation of rateable value and the rate of property tax is compiled year wise so that audit of property tax assessments is facilitated.

4 . Enclosure for reference

- i) Audit Para 6.4 appeared in Audit Report No.5 of 2010-11 of Comptroller and Auditor General of India- Government of Maharashtra (Local Bodies.
- ii) Extracts of Rule 7(1) of Chapter VIII (Taxation Rules) under Schedule 'D' and Rule 9 (b) of Bombay Provincial Municipal Corporation (BPMC) Act, 1949.
- iii) Reply of Sholapur Municipal Corporation received in October 2010,
- iv) Reply of the State Government received.

Para 6.4 of CAG's Audit Report No.5 of 2010-11 (Government of Maharashtra)

SOLAPUR MUNICIPAL CORPORATION

6.4 Short levy of property tax

Non-observation of the provision of the Bombay Provincial Municipal Corporation Act resulted in short levy of property tax of ₹ 13.36 crore due to excess deduction of allowances for repairs.

Rule 7 (1) of Chapter VIII (Taxation Rule) under Schedule 'D' of Bombay Provincial Municipal Corporation (BPMC) Act, 1949 states that in order to fix ratable value of any building or land assessable to a property tax, there shall be deducted from the amount of the annual rent for which such land or building might reasonably be expected to let from year to year a sum equal to 10 *per cent* of the said annual rent, and the said deduction shall be in lieu of all allowances for repairs or on any other account whatever. Further, Rule 9(b) of the said schedule of BPMC Act states that the ratable value of each building and land is determined in accordance with the provisions of the Act.

Scrutiny of assessment files (July 2010) of the Assessor and Collector (City Area) and Special Executive Area(City Extension Area) of Solapur Municipal Corporation(SMC) for the period from 2005-06 to 2009-10 revealed that while arriving at the annual ratable value, the Corporation with the consent of the Standing Committee/General Body deducted 15 *per cent* allowances for repairs instead of 10 *per cent* as per the BPMC Act resulting in short levy of property tax of ₹ 13.36 crore.

SMC stated (October 2010) that the rate of 15 *per cent* allowances for repairs was approved in the General Body and the Standing Committee meeting held on 17 December 1996.

The reply is not tenable as the rate of 10 *per cent* of the abatement was provided for in the BPMC Act and any *suo moto* revision was thus be possible only after appropriate amendment in the Act requiring concurrence and approval of Government of Maharashtra. Other Municipal Corporations such as Pune, Nagpur and Mumbai continued to provide for 10 *per cent* abatement in lines with provisions mentioned earlier. Thus non-observation of the provision of the BPMC Act resulted in short levy of tax to the extent of ₹ 13.36 crore⁴³.

The matter was referred to Government in November 2011. Reply has not been received (May 2012).

Solapur Municipal Corporation Reply of October 2010

Reference :- Your office letter No. LAP IV/

Subject :- Shortfall in income due to excess repair expenditure

Submitted Pl.

Chapter 8, Section 7 (Rules regarding taxation) of Mumbai Provincial Municipal Corporation Act 1949 provides for charging the tax on annual rent after deducting 10% repair expenditure. But present practice is to charge tax on the rateable value after deducting 15% repair expenditure.

City Extension Area office exists with effect from 5/5/1992 & taxation is started with effect from 1993-94. Action in this regard is taken on approval of the rules by Standing Committee, General Body Meeting and Government. Action is taken with reference to the approval of the government. Solapur Municipal Corporation is established in 1964 and taxation is done on the basis of rules framed in accordance with Mumbai Provincial Municipal Corporations Act 1949. Hence, there is no short levy of tax and the related objection may please be dropped.

Office Supervisor

City Extension Area

**Extracts of Relevant Rules of Chapter VIII (Taxation Rules) of
Bombay Provincial Municipal Corporations Act, 1949**

Rule 7. Rateable value how to be determined

(1) In respect of industrial premises and in respect of any other premises, which the Commissioner may decide to treat as one property having regard to the nature of the premises and the use or uses to which they are put or are capable of being put the rateable value of the buildings and land comprised in such premises shall be determined premises-wise.

(2) For the purpose of fixing the rateable value, different parts of any premises may be valued according to their use.

(3) In order to fix rateable value of any building or land or premises assessable to a property tax there shall be deducted from the amount of the [annual letting value of such building, land or premises a sum equal to ten per cent. of such annual letting value] and the said deduction shall be in lieu of all allowances for repairs or on any other account whatever.]

Assessment--Book

Rule 9. Assessment book what to contain

The Commissioner shall keep a book, to be called "the assessment-book", in which shall be entered every official year--

(a) a list of all [buildings or lands or as the case may be, premises] in the City, distinguishing each either by name or number as he shall think fit and containing such particulars, regarding the location or nature of each as will, in his opinion be sufficient for identification;

(b) the rateable value of each such [building or land or as the case may be, premises] determined in accordance with the provisions of this Act and the rules;

(c) the name of the person primarily liable for the payment of the property taxes, if any, leviable on each such building or land [or as the case may be, premises];

(d) if any such building or land [or as the case may be, premises] is not liable to be assessed to the general tax, the reasons of such non-liability;

(e) when the rates of the property-taxes to be levied for the year have been duly fixed by the Corporation [and either the period] fixed by public notice, as hereinafter provided, or the receipt of complaints against the amount of rateable value entered in any portion of the assessment book has expired, [or the complaint if any, made against any entry has been disposed of in accordance with the provisions hereinafter contained], the amount which each building or land [or premises] entered in such portion of the assessment-book is assessed to each of the property-taxes, if any, leviable therein;

(f) if under section 134 or 135, a charge is made for water supplied to any building or land [or premises] by measurement, or the water-tax or charge for water by measurement is compounded for, or if, under section 137, the conservancy tax for any building or land [or premises] is fixed at a special rate the particulars and amount of such charge, composition or rate;

(g) such other details, if any, as the Commissioner from time to time thinks fit to direct.

Outward No. 9/ACT/9
O/o the Municipal Commissioner
Solapur. Dt. 17/12/96

Public Notice

Solapur Municipal Corporation
(Taxation & Tax Collection Office)

All the property owners in Solapur Municipal Jurisdiction are informed that the revised rates in respect of construction cost to fix the rateable amount in accordance with _____ has been finalized. Details thereof are as under :-

| Sr. No. | Construction type | Rate Fixed (Per Sq.ft.) |
|---------|-------------------------------|--------------------------|
| 1 | Flat Owners | 250 |
| 2 | RCC Press Structure | 200 |
| 3 | RCC Load Bearing | 160 |
| 4 | Tiles Roof, Dhaba, Badode | 110 |
| 5 | Tins on brick and cement wall | 90 |
| 6 | Full tin shed | 70 |

For determining rateable amount rates of construction cost has been fixed as above. Action should be taken as under in respect of other charges.

- 1) In case of division of a Joint Family and distribution of the property the taxation shall be increased by 5% of the earlier taxation value.
- 2) Tax shall be increased by 10% of the earlier value where Joint Family has been divided and property is distributed and some portion of the property has been sold but there is no change to the building.
- 3) Property where rent receipt is not available and there is change the earlier rateable amount will be determined by adding 10 % of the earlier rent.

In view of the above property owners are instructed as under :-

- 1) Construction rates as given above are to be considered and new construction/extra construction area of the property should be considered. In case of residential property 6% annual rent and 9% annual rent for non-residential property is to be fixed. From such annual rent after deducting 15% repair cost you will get rateable amount. Municipal Tax will be charged on rateable amount at the rates fixed by Municipal Corporation. Present rate for residential property is 29 to 48 % of the rateable amount.
- 2) Those property owners who have received special notice for new/extra construction tax should check the calculation as above and ensure the correctness of notice.
- 3) If the rateable amount shown in the special notice is more and not in accordance with above calculations a written complaint should be made immediately.
- 4) All property owners should note that there shall be no concession in the new construction rates fixed.
- 5) Property Owners should not bribe any municipal servant as well as they should not be lured by any municipal servant for such a bribe. If you have any complain in this regard, it can be made to Hon. Municipal Commissioner or Asstt. Municipal Commissioner (Revenue).
- 6) Despite this if property owners indulge into any corrupt practice Municipal Corporation will not be responsible. It will be at the sole responsibility of property owner.

Commissioner Solapur Municipal Corporation

Solapur Municipal Corporation

Outward No. ACT-9/1340

Taxation and Tax Collection Office

Solapur Dt. 25/1/2010

Submitted to

Hon. Municipal Commissioner.

Subject: - Fixation of Tax & Rates for the year 2010-11.

There are two major sources of income to Solapur Municipal Corporation viz. 1) Customs (Jakat) Department 2) Taxation Department. Government of Maharashtra has declared a policy decision to stop Customs duty (जकात) of the Municipal Corporations falling in "D" category. Due to this Municipal Corporation has to look forward to Department of Taxation and Tax Collection as a major source of income.

Whatever taxes and rates are being charged according to Mumbai Provincial Municipal Corporation Act 1949, Section B and section 127,129,129A, 130,134,142,148 mainly includes following taxes.

1. General Tax (सर्वसाधारण कर)
2. Cleanliness Tax (सफाई पट्टी)
3. Public Water Tax (सार्वजनिक पाणीपट्टी)
4. Other Taxes (जललाभ कर, जलनिस्सारण कर, पथकर, म न पा शिक्षण कर)
5. Entertainment Tax (करमणूक कर)
6. Dog Tax (कुत्रा पट्टी)

There has been no increase in the above taxes since 1994-95 except in 2003-04 General Tax 1% and Public Water Tax (सार्वजनिक पाणीपट्टी) 2% increase. In view of this increase in tax is suggested as under :-

1. General Tax (सर्वसाधारण कर)

As per Section 127(1), 129 the amount of General Tax (सर्वसाधारण कर) not less than 12% of the rateable value and if Municipal Corporation decides gradually increasing order can be fixed. General Tax is in 12 stages of rateable value slab from 17% TO 32%. This includes fire tax and cess each of 1/2 %. Residential and non-residential properties have same percentage. An increase in this tax is proposed as under :-

| Sr. No. | Rateable Value | Current rate | Proposed Rate |
|---------|----------------|--------------|---------------|
| 1 | 1 to 200 | 17 | 19 |
| 2 | 201 to 500 | 20 | 22 |
| 3 | 501 to 1000 | 22 | 24 |
| 4 | 1001 to 2000 | 22 | 24 |
| 5 | 2001 to 3000 | 24 | 26 |
| 6 | 3001 to 5000 | 24 | 26 |
| 7 | 5001 to 6000 | 25 | 27 |
| 8 | 6001 to 7000 | 25 | 27 |
| 9 | 7001 to 10000 | 26 | 28 |
| 10 | 10001 to 15000 | 28 | 30 |
| 11 | 15001 to 70000 | 30 | 30 |
| 12 | 70001 & above | 32 | 32 |

2. Cleanliness Tax (सफाई पट्टी)

Vide section 129 B of Mumbai Provincial Municipal Corporation Act 1949 Cleanliness Tax (सफाई पट्टी) is being charged. Industry, Wealth and Population of Solapur city has gone up from time to time. This has strained the economic resources due to maintenance of cleanliness. To handle it we have introduced new machines for cleanliness. This has resulted into increase in expenditure on daily maintenance of machines and men. We propose following increase in the Cleanliness Tax (सफाई पट्टी).

| Sr. No. | Rateable Value | Current rate | | Proposed Rate | |
|---------|----------------|--------------|-----------------|---------------|-----------------|
| | | residential | Non-residential | residential | Non-residential |
| 1 | 1 to 200 | 5 | 10 | 7 | 13 |
| 2 | 201 to 500 | 5 | 10 | 7 | 13 |
| 3 | 501 to 1000 | 5 | 10 | 7 | 14 |
| 4 | 1001 to 2000 | 5 | 10 | 7 | 14 |
| 5 | 2001 to 3000 | 5 | 10 | 9 | 15 |
| 6 | 3001 to 5000 | 5 | 10 | 9 | 15 |
| 7 | 5001 to 6000 | 6 | 11 | 10 | 14 |
| 8 | 6001 to 7000 | 6 | 11 | 10 | 14 |
| 9 | 7001 to 10000 | 6 | 11 | 10 | 14 |
| 10 | 10001 to 15000 | 6 | 11 | 10 | 14 |
| 11 | 15001 to 20000 | 6 | 11 | 10 | 14 |
| 12 | 20001 to 70000 | 7 | 12 | 12 | 12 |
| 13 | 70000 & above | 7 | 12 | 12 | 12 |

According to rule 150 of Mumbai Provincial Municipal Corporation Act 1949 – Supplementary Taxation Rules- and Solid Waste Management bye laws it is binding to carry the waste that is created to the Municipal Dumping Ground. However, it is not being done and the expenditure to do so is to be incurred by Corporation. Hence, it is proposed to charge 10% Special Cleanliness Tax (सफाई पट्टी) to Hotels, Wedding Halls, Vidi Manufacturers (विडी कारखानदार) .

3. Other Taxes (जललाभ कर, जलनिस्सारण कर, पथ कर, म न पा शिक्षण कर),

This tax is charged in view of provisions of section 129, 148 of Mumbai Provincial Municipal Corporation Act 1949. The details are as under :-

- 1) जललाभ कर (Water):- This tax is charged in accordance of provisions of Section 129(A)(A) of Mumbai Provincial Municipal Corporation Act 1949. Proposed increase to this tax is as under :-

| | Current Rate | Proposed Rate |
|---|---------------|---------------|
| Open Space-Residential & Non- Residential usage Properties Rateable Value | 1 % All Cases | 3% All Cases |

- 2) जलनिस्सारण कर Drainage Tax :- This tax is charged in accordance of provisions of Section 129(B)(B) of Mumbai Provincial Municipal Corporation Act 1949. Proposed increase to this tax is as under :-

| | Current Rate | Proposed Rate |
|--|---------------|---------------|
| Open Space-Residential & Non- Residential usage Properties Rateable Value | 1 % All Cases | 3% All Cases |

- 3) म न पा शिक्षण कर (Education) - This tax is charged in accordance of provisions of Section 148(A) of Mumbai Provincial Municipal Corporation Act 1949. Proposed increase to this tax is as under :-

| | Current Rate | Proposed Rate |
|--|---------------|---------------|
| Open Space-Residential & Non- Residential usage Properties Rateable Value | 1 % All Cases | 3% All Cases |

- 4) पथ कर (Toll) :- This tax is charged in accordance of provisions of Section 148(K) (B) of Mumbai Provincial Municipal Corporation Act 1949. Proposed increase to this tax is as under :-

| | Current Rate | Proposed Rate |
|--|---------------|---------------|
| Open Space-Residential & Non- Residential usage Properties Rateable Value | 2 % All Cases | 5% All Cases |

There is no increase proposed to Public Water Tax (सार्वजनिक पाणीपट्टी) , Entertainment Tax, Dog Tax.

But in case of charges relating to Public Water Tax (सार्वजनिक पाणीपट्टी) we propose following changes in accordance with Mumbai Provincial Municipal Corporation Act 1949.

To avoid misuse of water and encourage economy in use of water most of the tap holders should go for water meters. In apartments 10 to 12 flat owners have only one common tap. They get one bill for the common tap. This not fair for the other property owners. Maximum number of flat owners will have get water through individual meter. This will increase the meterisation. Hence, it propose to charge 12% Public Water Tax (सार्वजनिक पाणीपट्टी) per year to each flat owner/property owner. As there is large number of flats in Solapur City, this will increase Municipal Corporation's income to great extent.

Properties where educational institutes are being run for taxation it is treated as non-residential property. There is huge due against government aided and unaided institutes. Large number of institutes has demanded that these institutes should be treated as residential properties for calculation of tax. Hence, it proposed to charge these Primary and Secondary Schools like residential properties with effect from 1-4-2010. It will be appropriate to give such concessions to these institutes only on clearing their dues by 31-03-2010.

Hence, approval may please be given vide section 99 of Mumbai Provincial Municipal Corporation Act 1949 to put up this proposal of increased tax rates for 2010-11through Standing Committee to the General Body meeting.

Sd/-

Taxation & Tax Collection Chief

Solapur Municipal Corporation, Solapur

Sd/-

Special Executive Officer

City Extension Area Office

Sd/-

Asst. Commissioner

Sd/-

Commissioner