

Non-Tax Resources in Municipalities of Telangana – A Study on Levy and Collection

1. Finances of Municipalities

Art. 243 X of the Constitution (inserted through the 74th Amendment) provides that the State Legislature has to make law and

- (i) Authorise the municipality to levy, collect and appropriate such taxes, duties, tolls and fees (taxes and non taxes)
- (ii) Assign to the municipality such taxes, duties, tolls and fees levied and collected by the State Government (assigned revenues)
- (iii) Provide such grants-in-aid to the municipalities (State Government grants)

In the State of Telangana, the municipalities have access to the following resources and the authority is conferred by Telangana Municipalities Act, 1965. (hereinafter referred as Act).

- (i) Taxes: Property tax (House tax and Vacant land tax), tax on carriages and carts, tax on animals and Advertisement tax¹
- (ii) Non taxes in the form of Fees, User charges, Rents from municipal properties etc.
- (iii) Assigned revenues
- (iv) Grants from Central and State Governments
- (v) Loans (with Government guarantee)²

While taxes and non-taxes constitute internal revenue; assigned revenues, grants and loans are considered as external revenue.

The details of receipts (not income) from various sources in the municipalities (including all municipal corporations and excluding GHMC) in the State of Telangana³ during 2014-15, 2015-16 and 2016-17 are shown in the following Table:

¹ Sec. 81 and 114 of the Act

² Sec.131 of the Act

³ Source from CGG, Hyderabad

#	Source of revenue	2014-15 (Rs. in crores)	%	2015-16 (Rs. in crores)	%	2016-17 (Rs. in crores)	%
1.	Taxes	218.68	20.98	236.45	18.65	271.57	23.65
2.	Non-taxes	239.31	22.96	290.53	22.92	328.45	28.60
3.	Assigned revenues	101.45	9.73	118.84	9.37	115.17	10.03
4.	Grants	462.77	44.39	578.62	45.64	402.51	35.05
5.	Loans	1.02	0.10	0.19	0.02	0.06	0.01
6.	Other receipts	5.80	0.56	17.19	1.36	3.87	0.34
7.	Deposits (received)	13.47	1.28	25.90	2.04	26.80	2.32
	Total	1042.50	100.00	1267.72	100.00	1148.43	100.00

The receipts from non-taxes constitute about 22.96 to 28.60 percent of total revenues of all municipalities in the State and about 52.25 to 55.13 percent of internal revenues.

Various items of non tax resources in the municipality with reference to the authority, the rationale, the levy and collection are discussed in this paper. Municipal Corporations are also authorized to levy and collect similar non-tax revenues and the authority for levy and collection of the resources are governed by Greater Hyderabad Municipal Corporation Act, 1955, and Telangana Municipal Corporations Act, 1994.

2. Tax and Non-tax

Municipalities levy various non taxes in the form of fees, user charges, rents from municipal properties etc. In this connection, it is necessary to understand the difference between tax and fee. Government has several means of raising revenue in order to allow it to function. Among the two most popular methods of raising revenue are to impose taxes and fees on various activities. A tax is a compulsory exaction of money by public authority for public purpose enforceable by law and is not payment for services rendered. A fee, on the other hand, is a charge for special services rendered to individuals by the government agency or public authority.

Between a tax and fee there is no generic difference and both are compulsory exactions of money by public authorities. While a tax is imposed for public purpose and is not and need not be supported by any consideration of service rendered in return, a fee is levied essentially for services rendered in return, and as such there is an element of quid pro quo between the person who pays the fee and the public authority which imposes it.

3. Major items of non-taxes

The major items of non-taxes levied by the municipality are:

- (i) Water charges
- (ii) Fees from markets and slaughter houses
- (iii) Rents from municipal building like shop rooms, office complexes etc.
- (iv) Building permission fees and other town planning related fees/charges
- (v) Trade licence fees
- (vi) Encroachment fees
- (vii) Parking fees
- (viii) Miscellaneous items
- (ix) Service charges on central government properties

Now, let us consider each of the above in terms of the authority, rationale for levy, how to levy and the collection mechanism.

4. Water charges

Art. 243 W read with Twelfth Schedule of the Constitution (item 5) specifies that the Municipality has to perform the function of 'Water supply for domestic, industrial and commercial purposes'. The Act provides that the Council has to supply water fit for use of the residents, subject to availability of funds.⁴

While considering the provision of water supply, levy charges therefor and collection of charges, the municipality has to consider the following factors enunciated by Govt. of India.

⁴ Section 138 of the Act

4.1 Service level benchmarking (SLB)

Recognising the importance of improving service delivery, the Ministry of Urban Development (MoUD), Government of India (GoI), prepared and released a Handbook of Service Level Benchmarks (SLB), among other services, for Water Supply.⁵ The Handbook facilitated the urban local bodies (ULBs) of a shift from infrastructure creation to delivery of service outcomes, and made ULBs to consider integrating benchmarking into their budgetary exercise and decision-making process. The indicators and the benchmarks therefor for the Water Supply are:

#	Indicators	Benchmark
1.	Coverage of connections	100%
2.	Per capita supply	135 lpcd
3.	Metering of connections	100%
4.	Non-revenue water	20%
5.	Continuity of supply	24 hrs
6.	Water quality	100%
7.	Complaint redressal	80%
8.	Cost recovery	100%
9.	Efficiency in collection of charges	90%

4.2 Fourteenth Finance Commission and Performance Grant

The Fourteenth Finance Commission (14 FC) endorsed the SLBs published by the MoUD and insisted that the Municipalities have to notify the SLBs every year and the notification is one of the eligibility conditions for accessing the general performance grant.⁶

4.3 AMRUT and water supply

Government of India has recently (2015) launched an ambitious mission “Atal Mission for Rejuvenation and Urban Transformation (AMRUT)” and the Mission aims to achieve among

⁵ SLB Handbook 2008, Ministry of Urban Development, Govt. of India

⁶ Report of 14 Finance Commission (2015)

others, that every household should have access to a tap with assured supply of water and sewerage connection.⁷

4.4 Levy of water charges

The Council has to make bye-laws for water supply under Section 141 of the Act. (The making of bye-laws by the Council are discussed in the following paragraph). The bye-laws, among others, have to provide for

- (i) Classification of supply of water under different categories, and
- (ii) Levy of different rates of charges⁸ in respect of water supplied to different categories.

The different categories for supply of water⁹ are:

- (i) Supply to residential buildings
- (ii) Supply to residential hotels
- (iii) Supply to shops, commercial establishments (other than industrial undertakings), restaurants, eating houses, theatres and places of public amusement or entertainment
- (iv) Supply to industrial undertakings
- (v) Supply to non-residential buildings not falling within the scope of category (ii), (iii), or (iv).

Making of bye-laws are governed under Section 330, 332 and 333 of the Act. The Council before making bye-laws, has to publish a draft of the bye-laws in the notice board of the office and one or two news papers; and call for objections or suggestions in the matter. A reasonable time of four weeks may be given for receiving objections or suggestions. On receipt of objections or suggestions, Council has to consider them and make the bye-laws.¹⁰

After making the bye-laws, the Council has to get confirmation of bye-laws from Government.¹¹ In respect of water supply bye-laws, the power of approval/confirmation has been delegated by the Government to the Engineer-in-Chief (Public Health). The Council therefore has to submit

⁷ Mission Statement & Guidelines, MoUD, Gol

⁸ Section 141 (2) (b) of the Act

⁹ Section 141 (2) (a) of the Act

¹⁰ Section 332 of the Act

¹¹ Section 333 (1) of the Act

the byelaws to the Engineer-in- Chief (Public Health) for approval. After getting the approval, the final bye-laws have to be notified in the manner prescribed by Government.¹² Government have issued rules¹³ for publication of bye-laws. Under these rules, every byelaw, after it has been approved by Government has to be published in the District Gazette in English and main language of the district. Further, copy of the bye-laws have to be affixed on the notice board of the municipal office and such other places as determined by council, by beat of drum and by announcement through municipal wire broadcasting system wherever it is in operation.

Therefore, water charges have to be levied and collected as per the rates and the conditions stipulated in the water supply bye-laws made by the Council. Secondly, as per the SLBs under water supply, the cost recovery has to be maintained at 100%, that means, the user charges should be designed so that they are equivalent to the cost of operation and maintenance (O&M) of the service.

4.5 Rates of Water Charges

The Act specifies various categories of buildings for charging the supply of water in the municipalities and they are:

- (i) Residential buildings
- (ii) Residential hotels
- (iii) Shops, commercial establishments, restaurants, eating houses, theatres, places of public amusements and entertainments
- (iv) Industrial undertakings
- (v) Other non-residential buildings.

The objective of classifying buildings to various categories is to charge differentially (not uniformly) on the basis of usage and affordability. Secondly, equity is another factor in charging water charges. This can be achieved by providing meters and measuring the quantity of water used. On these considerations, the municipalities are fixing the rates of water charges.

¹² Section 333 (2) of the Act

¹³ GO Ms. No. 531 MA dated 1-7-1969

In addition to the water charges (Section 141 (2) (b) of the Act), municipalities are also levying pipeline service charges (Section 142 of the Act) to defray the capital cost of pipeline service works and O&M of pipeline system. It is a one-time payment and is in the form of donation to the municipality.

To address the equity factor, municipalities provide water meters to a set of water users to find out the quantity used by them. Currently, the rates in operation for water supply in municipalities and municipal corporations are in the following order:

4.5.1 Municipalities

Sl. No.	Nature of charges	Classification	Charges (Tariff)
1.	Water charges	Residential	Rs.30/ to Rs.100/- per tap per month
		Non-residential (General like small hotels, eating houses, petty traders etc.)	Rs.250/- to Rs.700/- per tap per month
		Non-residential (Industrial and bulk supplies like gated communities, apartments etc.)	On meter connections – Rs.8/- to Rs.25/- per kilo litre
2.	Capital cost of pipeline service works (donation)	Regular connection	Rs.2,000/- to Rs.10,000/- per connection (one-time)
		OYT connection	Rs.5,000/- to Rs.30,000/- per connection (one-time)

4.5.2 Municipal Corporations

Sl. No.	Nature of charges	Classification	Charges (Tariff)
1.	Water charges	Residential / Unmetered	Rs.60/ to Rs.90/- per tap per month
		Non-residential/ Industrial/ bulk supplies like gated communities, apartments etc	On meter connections – Rs.12.50 to Rs.25.00 per kilo litre
2.	Capital cost of pipeline service works (donation)	Regular connection	Rs.6,000/- per connection (one-time)
		OYT connection	Rs.10,500/- per connection (one-time)

Government have been issuing instructions to the municipalities to revise water charges and donations to ensure that the operation and maintenance costs are recovered from the water charges.

4.6 Factors to fix water charges

The following factors should be kept in mind while fixing the water charges:

- (i) Per capita supply: As per Service Level Benchmark (SLB) suggested by GoI, the per capita supply should be 135 lpcd
- (ii) Tap for every household: As per AMRUT guidelines, all households should be provided with tap connection
- (iii) Cost recovery: As per SLB, there should be 100% cost recovery. This means, the cost of operation and maintenance should be fully recovered from water charges
- (iv) Maintenance: As per SLB, it should be 24 hours supply, non revenue water should be limited to 20% and the quality should be 100%
- (v) Recovery: There should be 100% metered connections and 90% recovery. As per 14 FC recommendations, there should be increase in internal revenue every year to access general performance grant.

4.7 Rationale for user charges

The primary rationale for levy of user charges is to provide financial stability and effective recovery of all costs associated with the service. Such financially viable user charges may even generate resources for expanding or upgrading the service and discourage wastage of services.

User charge can also be used as a redistributive mechanism in order to address some of the social or economic issues like concerns of the poor. It is in the form of reduced tariff or exemption for the old and the poor implicitly using cross-subsidisation principles. User charge enables allocative efficiency. By fully recovering the operational costs of the service, the municipality does not consume resources meant for other services or sectors. In essence, the rationale for the levy of user charges is not only to generate revenues but also to promote economic efficiency and exhibit the organisational, technical and manpower capacity of the municipality to provide these services.

Since the municipalities are not realizing the total operation & maintenance costs from water charges, there is a marked deficiency in the maintenance of water supply system, the filtration plants and pump sets are not repaired periodically, the pipelines are not being replaced in several places though they outlived their utility and many municipalities are in default of payment of power charges to the electricity department. Further, the deficiency under operation and maintenance charges are made good through the general funds of the municipality.

4.8 Costs estimation - Principles of inclusion

The basis of user charge levy is recovery of cost, particularly that component involving the operation and maintenance of the service. The capital costs of service have to be funded through general revenues or capital grants or from loans. However, the interest payment of the loan has to be included in the costs of a service, unless it is deliberately subsidised. So the total O&M cost of water supply should include the following:

- (i) Salaries of water works staff
- (ii) Electricity consumption charges
- (iii) Cost of consumables like bleaching power, alum, chlorine etc.
- (iv) Cost of replacement of pipelines and other material

- (v) Repair to pump sets, motors and other water supply and electrical installations
- (vi) Loan annuity on loans taken for water supply schemes

4.9 Other items of collection under supply of water

In addition to water charges, water supply contribution (donation) is collected for all categories of water supply before connection is given to meet the capital cost of providing water supply. Further, connection charges in the form of road cutting charges, and supervisory charges are also collected before sanction of water supply house service connection.

4.10 Collection of water charges

The following registers have to be maintained in the revenue section to monitor collections under water supply.

- (i) Water Charges Demand Register
- (ii) Meter Ledger (MF No.21D)
- (iii) Water Charges Arrear Demand Register

The Engineering section maintains

- (i) Water Service Connections Register (M.F.No.21A)
- (ii) Meter Register (M.F.No.21B)
- (iii) Meter Reading Cards (M.F.No.21C)

Whenever an application is received for water connection, it is entered in the Water Service Connections Register. After due inspection, the engineering section sanctions the water connection. If it is for domestic use, water charges are collected on tap rate basis and if the supply is for non domestic use, water charges are collected on meter rate basis. The engineering section maintains Meter Register for supply of meters to the taps and Meter Reading Cards for reading the meters (by Meter Reader). Government have issued rules relating to house service connections in GO Ms. No.487 MA dated 14-8-1977. The Chairperson is competent to sanction water connection ¹⁴. However, he has to sanction water connection in consultation with Municipal Engineer. In case there is difference of opinion between Chairperson and Municipal

¹⁴ Section 140 (1) of Act

Engineer, the matter shall be referred to Superintending Engineer and his decision is final¹⁵. The rates of water charges are fixed by the Council and form part of bye-laws.

4.10.1 Water charges Demand Register

Whenever water connection is sanctioned, the Engineering section sends a report to Revenue section along with the date of connection and as to whether it is for domestic use (tap rate) or non-domestic use (meter rate). If it is for domestic use, it has to be entered in Water Charges Demand Register. This register provides, among others, information relating to name of house owner, door number, date of connection, monthly / half yearly water charges payable on tap rate, date of collection, and balance at the end of the year. The register finally gives the Demand, Collection and Balance (DCB) of water charges on tap rate basis.

4.10.2 Meter Ledger

The Meter Reader (engineering section) maintains two (2) meter reading cards, one is given to the house owner and the other sent to revenue section every month. The revenue section will prepare bill/demand notice and make collection of water charges. Tap connections given on meter rate basis are entered in the Meter Ledger. The charges are calculated on the basis of meter reading and the rate fixed by the Council and notified in the byelaws. The water charges are made every month and demand notice issued on monthly basis. The Meter Ledger is maintained in MF No.21D and it records the tap connections on meter basis. Besides details like owner's name and house number etc. the ledger contains water consumed, amount billed, collected and balance. Based on meter reading card and rate fixed by Council, the demand is fixed and amount billed. Collections will be entered month-wise as in the case of property tax and balance struck at the end of the year.

4.10.3 Water charges Arrear Demand Register

The balance of water charges outstanding at the end of the year has to be transferred to Arrear Demand Register. Balances of water charges on tap rate basis as well as meter basis are entered in this register. The balances are entered year-wise beginning from the earliest year. Collections

¹⁵ Rule 10 (2)(b) of Municipal Works Rules, 1967

will be entered month-wise as in the case of property tax and balance struck at the end of the year. This register should be prepared by the end of April of every year.

4.10.4 Issue of bills

The water supply bye-laws in general provide for collection of water charges on monthly basis. But in practice water charges on tap rate basis are collected once in a half-year along with property tax, and once in a month in respect of metered connections. After preparation of bills for collection of water charges, they have to be stamped with the facsimile signature of the Commissioner and entered in the Register of Miscellaneous Bills (MF No.60).

Bills have to be issued to the Bill Collectors before end of April for first half-year and before end of October for the second half-year in respect of connections on tap rate basis. Regarding connections on meter-based taps, bills have to be prepared every month by 10th of succeeding month and issued to Bill Collectors. Bills have to be served on the house owners within 15 days from date of receipt of the bills by the Bill Collectors. The procedure prescribed under the Act for service of documents has to be followed¹⁶ and the procedure is:

- (i) By handing over the notice to the tax payer duly obtaining his signature with date
- (ii) If the taxpayer is not found, by handing over the same to some adult member or servant of his family, by obtaining the signature with date from such person. The name of the person who has received the notice and his relationship to the taxpayer has to be written underneath his signature. (Serving the demand notice to the servant of the family may be avoided)
- (iii) If the tax payer does not reside in the municipality and his address elsewhere is known, by sending the same to him by registered post acknowledgement due
- (iv) If the above methods are not available, by fixing the same to some conspicuous part of such place of abode or business (with proper panchanama/proof).

4.10.5 Disconnection of water charges

Water charges have to be paid within 15 days from the date of service of the bill. The Commissioner is competent to order for disconnection of water supply if water charges are not

¹⁶ Sec.353 of the Act

paid within the stipulated time¹⁷. Further, arrears of water charges can be collected as arrears of property tax. All efforts have to be made to collect water charges without any arrears, since the Commissioner is empowered to disconnect water supply and to collect water charges as arrears of property tax. Whenever there is a request from revenue section for disconnection of water supply, the engineering section has to comply with the request and take action to disconnect water supply.

5. Fees from markets and slaughter houses

Municipalities maintain markets and slaughter houses for the convenience of the public and levy fee for its use.¹⁸ Municipalities may place collection of such fee under the management of such persons on such terms and conditions.¹⁹ This means, that the municipality may lease out the right to collect fee (fee fixed by it) to a third party. The right to collect fee in the markets and slaughter houses shall be effected by public auction and auctioning the right and entrusting it to third party are detailed in rules relating to regulation of receipts and expenditure.²⁰ The detailed procedure for leasing out the right to collect fee in markets and slaughter houses is prescribed in Rules 7 and 12 of the rules. The rules have been amended recently²¹ and they are very exhaustive. The Commissioner shall prepare a sale notification wherein the right to collect fees for use of markets and slaughter houses (including other leasehold rights) is proposed to be leased out by the Council. The sale notification has to be approved by the Council.

5.1 Sale Notification

The sale notification shall set forth the following conditions for lease of markets and slaughter houses.

- (i) The rate of fee for use/occupation of space in the market
- (ii) The rate of fee for slaughtering of various animals in the slaughter house
- (iii) The selection of the lessee shall vest in the Council / Contract Committee /Commissioner depending on the value of the lease amount²²

¹⁷ Section 144 of the Act

¹⁸ Section 277 (2) and 271 (1) of the Act

¹⁹ Section 277 (2) and 271 (2)(a) of the Act

²⁰ GO Ms. No.686 MA dated 30-7-1968

²¹ GO Ms. No.56 MA dated 5-2-2011

²² Section 43 of the Act

- (iv) The participant has to pay security deposit as specified in the sale notification , and furnish a solvency certificate as specified in the sale notification issued by an officer of Revenue Department not below the rank of Tahsildar in case of landed property or by the Commissioner in case of house property in the town before participating in the auction
- (v) Where the period of lease is one year or below, the lessee shall deposit one fourth of the lease amount including the security deposit already paid within one week from the date of confirmation of the lease. The security deposit is adjusted towards the monthly installments of last three months of the lease period. The deposit amount shall not carry any interest
- (vi) The balance of the lease amount shall be paid in equal monthly installments within a period of nine months commencing on the 1st April. A due date has to be fixed for payment of monthly installments. If the monthly installment is not paid within the due date, it attracts penal interest as specified in the sale notification
- (vii) The lease deed shall be executed and registered within 15 days from the date of confirmation of the lease
- (viii) If any installment due is not paid within one month of the date on which it becomes payable, the Commissioner shall forthwith report the matter to the Council which thereupon shall terminate the lease and put the leasehold right for public auction at the risk of original lessee. The Council may also order its management departmentally till new lease is confirmed
- (ix) The lessee shall maintain correct accounts and registers of collections made by him and produce before the Commissioner by 15th of each month and get the same affixed with the Council seal.

The sale notification after approval of the Council shall be published in the District Gazette and on the notice board of the municipal office, collectorate, revenue division office and taluk office. It shall also be announced through microphone wherever possible. The date of auction shall be published in one or more newspapers having wide circulation in the district. The Commissioner or an officer duly authorised by him shall conduct the auction subject to the conditions stipulated in the sale notification. After completion of the auction, the Commissioner shall place before the

Council/Contract Committee a list of bids received at the auction together with a comparative statement of the income during the past three years with a recommendatory note. Normally, the Council/Contract Committee accepts the highest bid. Where the bid accepted is not the highest, the reasons for such rejection shall be recorded. In exceptional cases, where sales in public auction have proved unsuccessful on at least two occasions owing to want of bidders or strong combination among them, the Commissioner may invite sealed tenders for the lease and place such tenders before the Council/ Contract Committee for necessary action.

5.2 Registration of Lease Deed

After approval of the bid by the Council/Contract Committee, the Commissioner shall enter into a written contract with the successful bidder. A lease deed shall be executed and registered at the cost of the lessee incorporating all conditions of lease set forth in the sale notification.

The collection of amounts due from the lessee shall be watched through the Miscellaneous Demand Register (MF No.21).

5.3 Departmental Management of Markets

Whenever any market or slaughter house is managed departmentally, all fees levied in respect of the use thereof shall be collected by means of tickets printed and supplied by the Commissioner. The tickets shall be printed in foil and counterfoil for different rates of fees. Before issue of tickets to the collecting officers they shall be stamped with the common seal of the Council in the presence of the Commissioner or any officer authorised by him.

A register in two parts shall be maintained in the municipal office in respect of these tickets. The first part shall be a stock register. The second part shall be a personal ledger for each officer entrusted with the collection of fees by means of these tickets. The stock register shall be debited with the number and value of each kind of ticket issued to each collecting officer and shall be credited with the amount of collections remitted by him into the municipal office. Remittances shall be made by the collecting officer every day and shall be accompanied by details of the number and value of each kind of ticket issued by him.

Where any ticket book has been completely used, the counterfoils shall be returned to the municipal office for check with actual credits. The collecting officer shall also keep an account of the tickets given to him and the collections made by him in the personal ledger. The daily collections by each kind of ticket shall be entered in such account and the balances struck at the end of every day. This account and the stock of tickets shall be verified at regular intervals by the Commissioner or any officer authorised by him, who shall certify such verification.

5.4 Revision of fees

The Commissioner shall undertake a study of the rates of fees collected for various items sold in the market and various animals slaughtered in the slaughter house with reference to the rents or charges prevailing in the vicinity of the market or other places for similar purposes and place the proposals before Council once in every year for revision of fees.

6. Rents from municipal building like shop rooms, office complexes etc.

The municipality may lease any land, shop, godown, building or terrace of a building owned by it for any period not exceeding five years at a time and subject to such terms and conditions as the Council may deem fit.²³ The sale or lease of the buildings or the terraces of the buildings, shops or godowns and of land belonging to Council shall be effected by public auction²⁴. The Commissioner shall prepare a sale notification for sale or lease of shop rooms or buildings setting forth the conditions and terms (as done in the case of sale of right to collect fees in markets and slaughter houses) and place it before Council for approval. After approval of the said notification by the Council, the leasehold right of buildings or shop rooms shall be effected through public auction which shall be conducted by the Commissioner. The sale notification shall be published in the district gazette and on the notice board of the municipal office, collectorate, revenue division office and taluk office. It shall also be announced through microphone wherever possible. The date of auction should be published in one or more newspapers having wide circulation in the district. An upset price for lease of building has to be fixed by the Council. The bids at the auction shall be placed by the Commissioner before the

²³ Section 277 (4) of the Act

²⁴ Rule 12 (1) (e) of Regulation of Receipts and Expenditure Rules

competent authority²⁵, ie., Council or contract committee. The competent authority, normally accepts the highest bid for the leasehold right of the shop room. Where the bid accepted is not the highest, the reasons for rejecting the bid or bids higher than the one accepted shall be recorded in writing.

General conditions of auction in respect of security deposit and solvency certificate etc. shall be followed. As regards deposit, six months rent has to be insisted and the deposit would be adjusted towards rent of the last six months of the lease period. The regular monthly lease amount should be collected on a date fixed for the purpose and penal interest be also collected, if the monthly rent is not paid in time. Further, the lease should be in writing and registered.

6.1 Conditions of Lease

The sale of lease of the buildings and shop rooms, among others, is subject to the following conditions.

- (i) If the bid in the auction is found to be lower than that obtained in the previous lease and if the previous lessee desires continuance of the lease at the old rate, the competent authority may notwithstanding the public auction held, grant the lease to him.
- (ii) The Council may renew the lease for a period of three years at a time without conducting public auction, if the present lessee agrees to renew the lease in his favour at an amount which will be at 33 1/3 percent above the earlier rent or the prevailing market rental value of such shops situated in the vicinity, whichever is higher.
- (iii) The Council with the prior sanction of the Government or the Government may dispense with public auction and allot shop or shops to any institution on rent which shall not be less than that which the adjoining shops of the same or similar accommodation in similar circumstances usually fetch in public auction.
- (iv) 15% of the shops and stalls shall be reserved for allotment to the members of scheduled castes (SCs) without normal channel of public auction at 50% of the rent of adjacent shops or stalls leased out in public auction or Rs.2-50 per square foot whichever is less. Further, production of solvency certificate and six months advance rent need not be insisted upon such members of SCs.

²⁵ Section 43 of the Act

- (v) 6% of the shops and stalls shall also be reserved for allotment to the members of scheduled tribes (STs) without normal channel of public auction at 50% of the rent of adjacent shops or stalls leased out in public auction or Rs.2-50 per square foot whichever is less. Further, production of solvency certificate and six months advance rent need not be insisted upon such members of STs.
- (vi) The Council may lease out vacant sites belonging to it for a period not exceeding five years dispensing with public auction in special cases with the prior approval of the Government
- (vii) The Council may lease out the fishing rights in the tanks other than fresh water tanks belonging to it in favour of fisherman's cooperative societies or scheduled castes or scheduled tribes cooperative societies engaged in fishing operations as may be notified or approved by the Government without conducting auction for a period of three years. The lease amount shall be fixed basing on the average income realised for the past three years and also in consultation with Director of Fisheries.

6.2 Goodwill auction of shop rooms

Government accorded permission to Councils for construction of shopping complexes in vacant lands with good will amount raised through public auction and leasing them out on monthly rental basis. For this purpose, the Council may fix a reasonable lease period, normally five years, and monthly rent and put to public auction the amount of non-refundable deposit amount (goodwill). The bids at the public auction shall be placed before the Council for acceptance of the highest bid. Prior sanction of the Government shall be obtained for construction of shop rooms on goodwill auction. The goodwill amount has to be collected in four convenient installments and the municipality should complete the construction as envisaged in the notification. The other general conditions for lease of shop rooms shall apply in the case of the shop rooms constructed on goodwill basis.

In respect of shop rooms which have already been constructed, they can also be leased out on goodwill basis. The Council will fix a reasonable lease period (generally five years) and monthly rent and put to public auction the amount of non refundable deposit (goodwill). After due publicity, public auction will be conducted by the Commissioner or an officer authorised by him.

The bids at the public auction will be placed before the Council or Contract Committee with reference to the contract amount. Ordinarily, the Council or the Contract Committee will accept the highest bid.

6.3 Miscellaneous Demand Register

The leases of shop rooms shall be entered in Miscellaneous Demand Register and the collections should be monitored through the register.

7. Building permission fees and other town planning related fees/charges

For every licence or permission, a fee is charged on such unit and at such rate as may be fixed by the Council.²⁶ Thereafter, the Council shall issue a notification specifying levy of building permission fee for construction of various categories of buildings. The notification may contain the amount of fee of various kinds of town planning activities, few of them being:

- (i) Permission fee
- (ii) Betterment charges
- (iii) Security deposit in case of apartments
- (iv) Rainwater harvesting structure (RWHS) charges
- (v) Development charges (municipalities in UDA areas)

The building permission fee, betterment charges and other items are intended to ensure planned development of the municipality.

The Commissioner shall place proposals before the Council for revision of the above categories of fees and charges once in two years keeping in view the cost of regulating the construction of buildings and funds needed (in the form of betterment charges) for provision of civic amenities in the layout areas and unauthorized layouts etc.

Generally, building licence fee does not have any demand and the collections are considered as income. There would be no demand register to watch the collection of fee. The licence fees

²⁶ Section 344 (2) of the Act

collected under this category have to be entered in the Register of Miscellaneous Licences (MF No.51).

8. Trade licence fees

The Council shall issue a notification to the effect that no place within municipal limits shall be used for any or more of the purposes specified in schedule IV of the Act without the licence of the Commissioner and subject to the conditions specified therein²⁷. The notification shall be published in the district gazette and on the notice board of all important offices in the municipal limits. The purposes mentioned in schedule IV for usage of places are commonly known as dangerous and offensive trades (D&O trades). The Council is competent to fix the fees for every licence or permission on such units and at such rates²⁸. Trade licence fee is a major non-tax item in municipalities.

8.1 Basis for fixation of licence fee

A licence fee for carrying on a trade or purpose shall not be regarded as a tax. The following principles should therefore be kept in view while fixing the licence fee.

- (i) Cost of issuing the licence
- (ii) Cost of inspecting the premises to see whether they are suitable for the purpose proposed.
- (iii) Subsequent cost of inspecting the premises to see that they are being used properly and that the conditions and restrictions imposed are complied and followed.

8.2 Sanction of licence

The owner of every place covered by schedule IV of the Act, within 30 days of publication of the notification under section 263 shall apply to the Commissioner for a licence for the use of such place for such purpose. He has to pay the prescribed licence fee along with the application.²⁹ Application for renewal of such licence shall be made not less than thirty days before the end of every year. Application for licence for the purpose in the places to be newly opened shall be made not less than thirty days and not more than ninety days before they are

²⁷ Section 263 (1) of the Act

²⁸ Section 344 (2) of the Act

²⁹ Section 263 (2) of the Act

opened.³⁰ The Commissioner after inspection of the premises may either grant or refuse the permission³¹ and in case of refusal, he has to give reasons.³² Generally the licence fee for trades is for a financial year and the licence expires at the end of the year³³.

8.3 Yearly / Monthly lists of trades

Licence fee under trade licences is demanded and to be watched through a Demand Register. The Sanitary Inspectors are required to submit yearly lists of trades and premises liable for licence after commencement of every year by 30th April for scrutiny and approval by the Commissioner. Further, they should also submit monthly lists showing names of all persons who carry on trades or using premises newly and liable to take out licence during the month. If any trade or premises is found unlicensed (without paying licence fee), the Sanitary Inspector should ensure that the trade is stopped. Else, the person carrying on the trade or business should be prosecuted with the approval of the Commissioner. Persons shown in the monthly lists who have not taken out the licences should also be similarly prosecuted.

8.4 Prosecution of unlicensed trades

A notice has to be issued to the person before prosecution calling him to take out the requisite licence and warning him that if he does not do so within a reasonable time, he would become liable to be prosecuted. The prosecution should be launched as early as possible after the commencement of the year or commission of the offence if it is commissioned in the course of the year but in any case within three months of the commission of the offence. Further, failure to take out a licence shall be deemed as a continuing offence until the expiration of the period i.e. end of financial year³⁴. In view thereof, prosecution can be launched within three months from the closure of the financial year in respect of trades run in the previous financial year.

Ordinarily, there should be no arrears under trade licence fee, if the Sanitary Inspectors follow the above procedure. The Commissioner should review this work once in a month.

³⁰ Section 263 (3) of the Act

³¹ Section 263 (4) of the Act

³² Section 263 (5) of the Act

³³ Section 263 (6) of the Act.

³⁴ Section 366 of the Act

Wherever there is a post of Municipal Health Officer, the Commissioner may delegate these powers to him

8.5 D&O Trades Demand Register

This register provides a record of D&O trades liable for licence, demand, collection and balance of licence fees.

As explained above, the Sanitary Supervisors/Inspectors in-charge of various wards have to submit yearly lists of D & O trades which require licence from the municipality. They will also submit monthly lists showing new trades, which require licence. All these trades will be brought into the D & O Trades Demand Register. Based on the yearly lists and monthly lists, the demand will be fixed as per the licence fee notification made by the Council.

The collections under D&O trades, which are generally made through challans will be entered in the Register of Miscellaneous Licences (MF No.51). Thereafter, they will be entered in the D&O Trades Demand Register . At the end of the year, the demand, collection and balance statement has to be brought out as in the case of other revenues.

8.6 D&O Trades Arrear Demand Register

This register provides a record of balances of licence fee under D&O trades outstanding at the end of the year. The amounts (licence fees) remained uncollected at the end of an year in the D&O Trades Demand Register will be brought into D&O Trades Arrear Demand Register. They will be entered year-wise beginning from the earliest year. The collections have to be posted and balances struck at the end of the year.

9. Encroachment fees

The Commissioner may grant licence for temporary erection of pendals and other structures in a street or in any public place, subject to such conditions and restrictions as he thinks fit.³⁵

As such, the Council may fix fee for licencing the erection of temporary structures (encroachments) in a public street ³⁶and the licence should specify the period, limitations and

³⁵ Section 193 (2) of the Act

conditions and be signed by Commissioner.³⁷ The Town Surveyor and town planning subordinates shall submit list of encroachments by 30th April of every year. The Commissioner shall inspect all encroachments and classify them as objectionable or unobjectionable from public health, safety and traffic point of view. Action shall be taken to remove objectionable encroachments after issue of a show cause notice to the party.

9.1 Register of Encroachment Fees (M.F.No.197)

This register provides a record of all unobjectionable encroachments identified, and demand, collection and balance of licence fees from such encroachments. The licence fee will be levied as per the rates fixed by the Council. The details of unobjectionable encroachments, like name of the encroacher, the location, nature and extent of encroachment and the licence fee payable per year (with reference to the rates fixed by the council) will be entered in the Demand Register.

The collections under encroachment fees, which are normally made through challans will be entered initially in the Register of Miscellaneous Licences (MF No.51) and thereafter in this register. At the end of the year, the demand, collection and balance statement will be brought out as in the case of other revenues.

9.2 Encroachment Fees Arrear Demand Register

This register provides a record of all balances of encroachment fees outstanding at the end of the year. The amounts (licence fees) remained uncollected at the end of an year in the Register of Encroachment Fees will be brought into the Encroachment Fees Arrear Demand Register. They will be entered year-wise beginning from the earliest year. The collections will be posted and balances struck at the end of the year.

9.3 Collection of fee/Regularisation of encroachments

Demand notices have to be issued to all encroachers by the end of June of every year asking them to get licence for the encroachment by paying the prescribed fee within 15 days from the date of service of the notice. The Town Planning Building Overseers are responsible to ensure that all encroachments are licenced and to remove unlicenced encroachments. In other words, it

³⁶ Section 344 (2) of the Act

³⁷ Section 344 (1) of the Act

is the responsibility of the TPBO to ensure that the fee is paid and the encroachments are licensed. Action shall be taken to remove the encroachments, if the fees are not paid within the stipulated time. Ordinarily there shall not be any arrears of encroachment fees as there is a provision for removal of encroachments for failure to pay the fees. In case the person does not take the licence for the encroachment, he may be prosecuted.³⁸ The Commissioner shall review this item of work once in a month. Wherever there is a post of Town Planning Officer, the Commissioner may delegate these powers to him.

10. Parking fees

The Commissioner has got power to lease road sides and street margins for occupation for a temporary purpose³⁹. Under this provision, the Commissioner may identify certain roads and streets and lease them out for parking of vehicles by collecting fee. The rate of fee and unit of fee have to be fixed by Council⁴⁰; and the Council may place the collection of such fees under the management of such person as may appear to it proper.⁴¹

In view of these provisions, the Commissioner may identify important road and street margins for temporary parking of vehicles by collecting parking fee and entrust the right to collect fee to a third party through public auction. The Commissioner has to prepare a sale notification for approval of Council with the following terms and conditions.

- (i) List of road/street margins and the extent for parking of vehicles.
- (ii) Timings for parking of vehicles
- (iii) Parking fees to be collected for different vehicles (on hourly basis or other unit)
- (iv) Period of right of collection of parking fee
- (v) Amount of security deposit to be paid at the time of auction.
- (vi) Amount of solvency certificate to be produced by the bidder.
- (vii) Payment of three months parking fees to be paid after acceptance of the bid (as advance).
- (viii) Payment of balance amount in nine equal installments.

³⁸ Section 366 of the Act

³⁹ Section 193 (3) of the Act

⁴⁰ Section 344 (2) of the Act

⁴¹ Section 344 (3) (a) of the Act.

- (ix) Execution of agreement within 15 days from the date of acceptance of the bid.
- (x) Maintenance of accounts and registers by the lessee.

10.1 Auction of right to collect parking fee

After approval of the sale notification by the Council, the Commissioner has to take action to publish the notification in the District Gazette and on the notice board of the municipal office and other important local public offices. The Commissioner or an officer authorised by him shall conduct the auction subject the conditions stipulated in the sale notification. After completion of auction, the Commissioner shall place before the Council or contract committee⁴² a list of bids received at the auction together with a comparative statement of income during the past three years with a recommendatory note. Normally the competent authority accepts the highest bid. Where the bid accepted is not the highest, the reasons for such rejection shall be recorded. In exceptional cases where sales in public auction have proved unsuccessful on at least two occasions owing for want of bidders or strong combination among them, the Commissioner may invite sealed tenders for the lease and place such tenders before the competent authority for necessary action.

10.2 Registration of Lease Deed

After approval of the bid by the Council/Contract Committee, the Commissioner shall enter into a written lease deed with the bidder and get the lease deed registered at the cost of the lessee incorporating all conditions of lease set forth in the sale notification. The collection of amounts due from the lessee shall be watched through the Miscellaneous Demand Register.

11. Miscellaneous items of non taxes

There are certain other miscellaneous items of non-taxes collected by the municipalities. They are like:

- (i) Issue of birth and death certificates
- (ii) Extracts of records like council resolution, property tax demand, building permit, licence, notification etc.
- (iii) Sale proceeds of road sweepings / compost

⁴² Section 43 of the Act

- (iv) Revenue from avenue trees
- (v) Lease of water tanks and lakes (fisheries)
- (vi) Sale of tender documents, application forms etc.
- (vii) Sale proceeds of old newspapers, distrained properties, unserviceable material etc.
- (viii) Burial ground charges
- (ix) Guest house charges etc.

Wherever, the proceeds come through fee, the fee has to be fixed by the Council and the rate of fee has to be notified. In case the proceeds come through sale, the approval of the Council to be obtained initially for the sale; and of the Council/Contract Committee/Commissioner⁴³ for acceptance of the bid amount. Secondly, all such sales have to be entered in the Register of Revenue Yielding Properties and Other Miscellaneous Sources of Revenue (M.F.No.24).

12. Service charges on central government properties

Under the Constitutional provision⁴⁴, Central Government properties are exempt from payment of property tax. Government of India however permitted ULBs to levy service charges on Central Government properties. Levying service charge is limited to Central Government properties only. The central government undertakings are liable for property tax like any other person/institution.

In pursuance of the orders of the Supreme Court⁴⁵, Government of India (2009)⁴⁶, have issued guidelines that the Union of India and its departments will pay service charges to the Municipalities and Municipal Corporations. No property tax will be paid. Service charges will be paid on the basis of services utilized by the central government properties at the following rates:

⁴³ Section 43 of the Act

⁴⁴ Art.285 of the Constitution

⁴⁵ Orders of Supreme Court dated 19-11-2009 in CA No.9458-9463 of 2003

⁴⁶ Lr. No.N-11025/26/2003-UCD dated 17-12-2009 of MoUD, GoI

Criteria	Range of Service charge
Where properties of the central government are provided with all services/facilities as were provided to other areas	75% of property tax
Where central government properties are provided with some of the services/facilities	50% of property tax
Where central government properties do not avail any of the services provided by the municipalities	33.3% of property tax

The State Govt. have also issued instructions in the matter.⁴⁷ The Commissioner has to take the following action in the matter.

- He shall make intensive survey of various central government properties and identify the head of the office. He should also identify the level of provision/utilisation of services (fully, partially and none) by the central government properties.
- He has to intimate the heads of central government properties in the city about the civic services provided by the municipality in the vicinity of concerned central government properties and request them to furnish full data regarding their properties to enable the municipality to work out the service charges. After receipt of required data, the Commissioner has to calculate the property tax (on the usual method) and then fix service charges payable at 75%, 50% or 33.3% of property tax according to the level of services provided to the central government properties.
- He has to issue a self contained (speaking) order to the head of central government property indicating the process followed in working out the service charges and the amount of service charges payable per annum.
- He has to enter into an agreement with the head of central government department for payment of service charges till the next general revision of property tax.

⁴⁷ Govt. Memo No.170/TC-1/2010-1 dated 5-5-2010 of MA&UD Dept. of GoAP and Endorsement Roc. No.9292/2010/F1 dated 13-7-2010 of CDMA

- He shall not resort to coercive steps like stoppage of service, or resorting to revenue recovery proceedings for recovery of service charges.
- In the event of disagreement on any issue, he has to send proposal to Govt. for constitution of a 3-member mediation committee to resolve the issue. The committee consists of (i) a representative of central government, (ii) representative of concerned municipality; and (iii) a representative of MA&UD Department.
