

## CHAPTER VI

### ASSESSMENT OF NON-AGRICULTURAL LANDS

**Introduction**

We have already seen that where land is used for purposes of agriculture, the return to the State is fixed under the land revenue settlements, having regard to factors such as soil, yield, prices, rainfall, rental statistics, economic conditions of the area etc. But when land is put to non-agricultural uses like constructing a residential building or erecting an industrial plant, the owner of the land gets an unearned increment particularly within or in the vicinity of growing towns and cities. This increment in land values can generally be attributed mostly to the expenditure incurred out of public revenues, either by Government or by local bodies. In order that this increment should be utilized as a source of revenue, the Government of India had, as early as 1879, informed the provincial Governments that there was no reason why land revenue should not be recovered on lands attached to private residences or occupied by buildings on the same basis as upon arable or pasture lands. Further, instructions were issued in 1897 in regard to the assessment of urban land sold or let by Government specifying that where competition existed, the ground-rent should be assessed at full rates and that where other considerations came into play, the ground-rent should be assessed at a rate not exceeding 33 per cent. of the letting value. In 1911, in view of the diversity of the practices obtaining in different provinces of assessing non-agricultural lands and the advisability of securing for the benefit of the community an adequate revenue from the taxation of such lands, the Government of India considered it necessary to prescribe certain general principles for the assessment of such lands. But before it could consult the provincial Governments and settle the principles, the Montford Reforms were introduced and land revenue became a provincial subject. Subsequently, the Government of India did not lay down any general principles of non-agricultural assessment for adoption throughout India.

2. It is important to note that the practice regarding the levy of non-agricultural assessment varies from one State to another. For the purpose of levy of non-agricultural assessment, States in India may be classified into three categories, viz., (1) States having statutory provision regarding the assessment of non-agricultural lands; (2) States having no such statutory provision but levying the assessment under executive orders; and (3) States not levying such assessment. In the first category fall States like Assam, Punjab, Bombay, Saurashtra, Kutch, Mysore, Hyderabad, Bhopal, Madhya Bharat, Bihar and West Bengal. Amongst these States, the provision made in the Bombay Land Revenue Code, 1879, and the Rules made thereunder is the most comprehensive. The land revenue laws of Mysore, Hyderabad and Bhopal follows the pattern of the Bombay Code and the provision for levying non-agricultural assessment, if not equally comprehensive, is essentially the same. Amongst all States it is only West Bengal

which has a special enactment (the West Bengal Non-Agricultural Tenancy Act, 1949) for this purpose. States like Madras, Vindhya Pradesh, Rajasthan and Coorg come under the second category where there is no statutory provision for assessment of non-agricultural lands, but such assessment is levied under executive orders issued from time to time.

No assessment on non-agricultural lands is levied in the States of PEPSU, Travancore-Cochin, Himachal Pradesh, Ajmer-Merwara, Uttar Pradesh and Orissa. PEPSU followed the Punjab land revenue system, which till 1952 had no provision in its Land Revenue Act for such a levy. It has yet to accept the new provision adopted in Punjab for the assessment of non-agricultural lands. In Travancore-Cochin, so long as the basic land tax is levied, such a levy is considered unnecessary. In Himachal Pradesh, presumably because of the hilly and backward character of the tract, no distinction is made in the assessment of lands used for agricultural and non-agricultural purposes. In Uttar Pradesh and Orissa, no specific distinction is made in the assessment of agricultural and non-agricultural lands, presumably because of the existence of the zamindari. For these reasons, the concept and practice of non-agricultural assessment has not yet developed in these States.

Appendix F shows in detail the systems and rates of non-agricultural assessments in force in the different States in India.

3. The assessment of non-agricultural lands in rural areas relates primarily to house-sites occupied generally by agriculturists. In Bombay, all the *gaothan* or village sites, which were at the time of the original settlements used by agriculturists for construction of their houses are exempted from non-agricultural assessment. This practice is, however, not uniform in all States. In the Khurda Khas Mahal of Orissa, the house-sites are not only not exempt from assessment but the rent of house-sites is higher than the rental value of agricultural lands. In the ryotwari areas of the Ganjam and the Sambalpur Districts of the same State, however, the house-sites are free from rent. But when any area is especially declared as urban area, the house-sites are assessed at higher rates of rent. In Bihar, under the Bihar Tenancy Act and the Chota Nagpur Tenancy Act, a tenant can use his land for the construction of his residential buildings including pucca buildings and also for running cottage industries, and the use of land for these purposes is considered to be within the terms of the farm tenancy. Tenants in the urban areas of the districts of Cuttack, Puri and Balasore are mostly *pattadars* in respect of their home-stead lands. In Madras, there are cases where sites are occupied free because they formed a part of the old village *natham* (residential sites). There are also cases where house-sites have been disposed of on more favourable terms as to quit-rent. In Madhya Pradesh, the *abadi* lands in mahals in the old Central Provinces were not assessed at previous settlements. In Berar, no assessment is levied on lands in village sites in villages and towns which are not subject to the *nazul* rules. Under the revenue law obtaining in both the areas, agriculturists are entitled to a free house-site in a village. In towns administered as *nazul* lands in both parts of the States, there are lands which

have been occupied free by the people long before a town was settled and which have been allowed to continue to be held free of assessment.

4. Apart from the residential lands, there are other lands in several States which are either wholly exempt from assessment or subject to quit-rent or old (nominal) rent fixed for a long period. In Bombay, there are lands granted revenue-free for construction of schools, colleges, hospitals, dharmashalas or lands assigned for public purposes such as burial or grazing purposes. Besides, in some cases, non-agricultural assessments have been settled under long leases varying from 30 to 999 years. Further, in the city of Bombay, the assessment is not fixed according to the agricultural or non-agricultural uses of land, but is governed by the special provisions of the Bombay City Land Revenue Act, 1876. The assessment under the Act depends upon the nature of the existing land tenures. In Madras also there is a freehold tenure in plantations, which was created in lieu of a lump sum payment of ground-rent. The Madras Land Revenue Reforms Committee has, however, recommended its abolition. In West Bengal non-agricultural lands are held on a fixed rent or free of rent either under a decree or order passed by a competent authority. The rents of such lands are not liable to enhancement. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, which makes no differentiation in the assessment of lands used for agricultural and non-agricultural purposes, however, provides for exclusion from the assessment of lands occupied by *khatyans*, grave-yards, groves and buildings which do not constitute improvements.

The above illustrative cases indicate that the Governments' right to levy or enhance non-agricultural assessment has, for certain categories of lands, been limited on account of factors like past revenue history and exigencies of administration during the British regime.

5. The basis of assessment of non-agricultural lands in rural areas differs from State to State. In Assam, the settlement terms usually contain a provision that if the land is used for commercial or industrial purposes the assessment may be revised during the term of settlement: the highest assessment for land diverted to non-agricultural use in rural areas is ten times the agricultural assessment in similar lands. In Bombay, the law provides for the levy of the non-agricultural assessment according as the use is for (a) building or (b) purposes other than building. The villages are divided into two categories and the rules prescribe the minimum non-agricultural assessment equal to the agricultural assessment and the maximum equal to two pies per square yard (or Rs. 50 per acre). Mysore and Hyderabad levy non-agricultural assessment according to the use made of the lands concerned, as in Bombay.

The law in West Bengal does not make any distinction between rural and urban areas in the matter of non-agricultural assessment. The rents for such uses are fixed, having regard to factors like the

existing rent, rents prevailing for similar uses in the vicinity, market value, etc. The rent can be enhanced up to a limit of  $12\frac{1}{2}$  per cent. of the previous rent.

Till 1952, there was no provision in Punjab for imposition of non-agricultural assessment; but the Punjab Land Revenue Act, 1887, was amended in 1952 to enable Government to levy such assessment.

6. Different States have adopted different methods for assessing non-agricultural lands in the urban areas. As indicated earlier, Bengal makes no distinction between rural and urban areas, while Bombay has separate provision for non-agricultural assessment in rural and in urban areas. The towns and villages are divided into two classes and the maximum and minimum rates are fixed (*vide* Statistical Appendix G). A special rate higher than two pies per square yard is levied when the land is used for temporary non-agricultural purpose or the land enjoys the advantage of an exceptionally good situation or the use is of a special kind. But where there is a keen demand for building sites, the rates of assessment are fixed on half the five per cent. of the market value of land. These are called the standard rates. In order to stimulate building activity, concessions are granted for payment of five-eighth non-agricultural assessment generally and by way of the non-levy of such assessment for the first three years in the case of co-operative housing societies. If the standard rates are high, there is a provision for a graduated levy of the assessment. In the case of lands used for commercial and industrial purposes, the non-agricultural assessment is leviable at the standard rate or at a rate higher than the ordinary rate. For brick manufacture, the assessment is levied at Rs. 40 per acre and an additional rate of Rs. 2/8/- per every lakh of bricks manufactured. Like Bombay, Bhopal levies the non-agricultural assessment according to the use of land.

In Madras, the ground rent is separately charged for the Madras City and the mufassil towns. In the Madras City, the rent is fixed at a figure slightly below the estimated competitive annual rental value and the occupancy right is sold in auction. In mufassil towns, there are (a) ground rents of the Madras City type and (b) ground rents at a flat rate of Rs. 6/4/- and Rs. 12/8/- per acre. The Madras Land Revenue Reforms Committee has recommended that the Madras City Rules of ground-rent should also be extended to other urban and semi-urban areas in the State.

The Assam Land Revenue Reassessment Act, 1936, divides lands into town lands and non-town lands. The town lands are in turn divided into three main classes:—

- (a) agricultural land (including agricultural residences),
- (b) residential sites, and
- (c) trade sites.

The rates of assessment are not to exceed the rate of assessment of agricultural land by 25 per cent. and 50 per cent. respectively, in the case of the lands at (b) and (c) above.

In Bihar, the urban lands are divided into three categories, viz.,

- (1) for commercial purposes,
- (2) for residential purposes of higher income groups, and
- (3) for residential purposes of lower income groups.

In the area earmarked for commercial leases, the settlement is made by auction according to the highest bid. In the residential area of higher income groups, the settlement is to be made on the basis of a higher standard; whereas in the area for the lower income groups, Government have to fix the fair rate of rent and salami (a lump sum payment).

The Hyderabad law provides for the levy of non-agricultural assessment; but most of the lands within or in the vicinity of growing towns or cities have not been subject to non-agricultural assessment, even though the lands have been extensively built upon. This was presumably due to the existence of jagirs and Sarfe-khas lands of the Nizam. Now that these categories of lands no longer survive, the State can levy non-agricultural assessment.

In Rajasthan, there is no statutory provision for the levy but special rules have been framed for imposition of altered assessment called the 'urban assessment'. Such assessment is not levied in any part of Rajasthan except the Jaipur city.

The Madhya Bharat law empowers Government to grant leases of lands to be used for purposes other than agricultural purposes. The rights and the liabilities of such leases are defined by the terms of the lease. No distinction seems to have been made for rural and urban areas.

7. From the foregoing account, it will be clear that there is a great diversity in the basis and rates of assessment of non-agricultural lands. The annual value is taken as a basis in Assam, gross rental value in West Bengal, freehold value in Madhya Pradesh and Madras, and market value in Bombay. Even in individual States, like Bihar, Bombay and Vindhya Pradesh, we find different basis for different uses. We have already referred to the existence of many and varying rates of assessment in several States. This complexity in the bases and rates of assessment arises out of the past revenue history and different land systems prevalent therein.

8. In the States where the non-agricultural assessment is levied, the rates of assessment are fixed for a certain number of years. In Bombay, the rates are generally guaranteed for 30 years. In Bihar, all leases of lands for buildings and commercial purposes are revisable at the end of 30 years and the rent can be enhanced subject to the maximum of double the rent fixed. In Madhya Pradesh, the leases of the *nazul* lands are renewable at the end of 30 years and the ground-rent is liable to be revised at each renewal. The ground-rents in Madras are, however, subject to revision at the end of ten years. In Assam, the rates of revenue for the town land (based on the annual value of the sites) are guaranteed for a maximum period of 30 years. In West Bengal, the rent of a tenant, once it is enhanced by a court

or under the terms of a contract, cannot be further enhanced during the following fifteen years.

In short, the periods of re-assessment of the non-agricultural lands vary from 10 to 30 years generally.

9. After the enactment of laws for the abolition of the zamindaris, jagirs and other special non-ryotwari tenures, the State Governments have turned their attention to revising the existing land revenue laws or framing new ones where none exists. This tendency is particularly noticeable in some States, e.g., the State Governments of Rajasthan, Madhya Pradesh, Delhi and Vindhya Pradesh have recently sponsored legislation on this subject. These legislative measures, *inter alia*, provide for the levy of non-agricultural assessment. The Rajasthan Land Revenue Bill, 1954, provides for the levy of non-agricultural assessment when agricultural land is put to non-agricultural use and for special rates in lieu of revenue or rent for the urban areas. Similar provision has been made in the Delhi Land Reforms Act, which was passed recently.

The Madhya Pradesh Act, 1954, which consolidates and amends the law relating to land revenue, similarly provides for the assessment of non-agricultural lands in urban and non-urban areas. In the non-urban areas, the assessment of non-agricultural land is not to exceed 33 per cent. of the estimated rental value of land and is to be guaranteed for a period not less than 30 years. As regards the assessment of lands in urban areas, the lands are to be formed into blocks for industrial, commercial, residential and such other purposes. The standard rate of assessment for residential purposes is to be one-third of the average annual letting value and for industrial or commercial purposes one-half of the said value. Such rates are to remain in force for ten years.

The Vindhya Pradesh Land Revenue and Tenancy Bill, 1953, as it emerged from the Select Committee in September 1954, provides for assessment of urban land at special rates. Provision is also made for exempting from assessment of land revenue certain categories of lands such as market and village sites, permanent threshing floors, grazing grounds, grave-yards, cremation grounds, etc. Lastly, every tenant, agricultural artisan or labourers and every village chowkidar is made eligible to a rent-free house-site in *abadi* not included in any urban area.

10. In Bombay and Madhya Pradesh, a part of the receipts from the non-agricultural assessment is handed over to the local authorities on the assumption that increased return from the land is partly due to the amenities provided by the municipalities. In Bombay, 75 per cent. of the non-agricultural assessment is given as grant-in-aid to the municipalities. In Madhya Pradesh, four-fifth of the receipts from nazul revenue excluding premia on sales are paid to local bodies after meeting the cost of administration.

11. From the above analysis, two facts emerge. Firstly, the principles and practices regarding non-agricultural assessment are mainly based upon the use and the value of land. Secondly, the majority of the States have not given

adequate attention to the taxation of unearned income derived by lands put to non-agricultural uses. The assessment of such lands at rates higher than those for agricultural lands is wholly justifiable since the increase in value of non-agricultural lands is generally not due to any expenditure or effort on the part of the owner, but arises because of the growth of population, the extension of towns, the introduction of railways, the provision of civic facilities and so on. We see no reason why States which have not developed this source of revenue so far should not now do so. We recommend that in such cases a regular system of assessment of non-agricultural assessment should be introduced on the lines of the system prevailing in States like Bombay.

Non-agricultural lands are of different types: those used for the construction of buildings and factories and those used for other purposes like manufacturing bricks. We are of opinion that the assessment will have to differ according to the use to which the land is put. On lands used for constructing buildings and factories, the assessment will have to be related to the market value of the property, and where this is not feasible, to its annual value.

Apart from the diversity in basis and rates of assessment, there is no uniformity in the term of settlement. A long term assessment is likely to involve either loss to Government or hardship to the owners. As the market values of lands fluctuate from time to time, it is advisable to fix non-agricultural assessment for a reasonable period—neither too short nor too long. We therefore recommend that the land revenue laws should provide for periodical revision of the rates fixed.

In several States, the building sites in village *abadis* (sites) are exempt from payment of any assessment either wholly or partially because of the customary usages and practices. We are of opinion that it may not be expedient to disturb the century-old practice and subject such sites to assessment. We, therefore, recommend that the present exemption of the village sites from payment of assessment may continue as hithertofore with a view, firstly, to develop them and, secondly, to enable the village panchayats to realise some revenue from those sites.

In old towns and cities, where there are certain areas held as wholly or partially free from assessment, agricultural or non-agricultural, these alienations of land revenue were necessitated on historical or contractual grounds. After independence, as we have elsewhere noticed, several such alienations in the rural areas, pertaining to agricultural land have been abolished by State Governments. We recommend that, as a rule, such concessions of land revenue should be withdrawn in the urban and the semi-urban sectors as well with reference to both agricultural and non-agricultural uses of land.

We have carefully considered the question whether it is desirable to make some concessions in the case of revision of ground-rents in localities used for residential purposes by persons belonging to lower income-groups. We are of opinion that no special concessions are called for.

We have noticed that some States at present prohibit conversion of agricultural land to non-agricultural uses and if the use is altered without the permission of the Collector, a fine is imposed. We recommend that the system of levying penalties in lieu of or in addition to non-agricultural assessment should be discouraged and replaced by a regular tax on non-agricultural lands.

As in the case of the assessment of agricultural lands, there should be provision for the grant of suspension and remission of non-agricultural assessment in times of distress, when buildings are affected by fire, floods, storm, etc., and become uninhabitable or when construction is prohibited for security reasons.

Lastly, in some States, a part of the receipts from assessment of non-agricultural lands is assigned to local authorities. As the receipts are largely realised in urban areas, it is but appropriate that municipalities should benefit financially from any increment in the value of sites. We recommend, therefore, that a part of the receipts from non-agricultural assessment should be given as grants to the local bodies within whose areas they are collected.