

CHAPTER – 6
STAMPS AND
REGISTRATION FEES

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6.1 Tax administration

The Department of Registration and Stamps functions under the overall charge of the Principal Secretary, Commercial Tax Department. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. One Joint Inspector General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts officer (AO) are deployed at the headquarters. The Department has four regional offices located at Bhopal, Gwalior, Jabalpur and Indore working under four zonal DIGs, Registration. There are 51 DR offices and 234 Sub Registrar (SR) offices in the State. The District Collector is the head of Registration administration in the districts. The District Collectors are assisted by 14 SDRs and 37 DRs posted in 51 districts. There are 262 SRs posted in 234 SR offices.

SRs are the registering officers. It is the duty of DRs to guide SRs in their day-to-day function, determine correct market value of land or stamp duty in the cases referred to them by SRs, issue orders to impose penalty or to make refund and inspect the registration offices. The DR is also referred to as the Collector of Stamps.

Stamp duty and Registration fees are collected under the provisions of the following Acts, Rules and notifications issued thereunder:

- Indian Stamp Act, 1899;
- The Registration Act, 1908;
- Indian Stamp (Madhya Pradesh Prevention of Undervaluation of Instruments) Rules, 1975;
- Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000;
- Madhya Pradesh Stamp Rules, 1942;
- Madhya Pradesh Municipal Corporation Act, 1956;
- Madhya Pradesh Municipalities Act, 1961;
- Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993;
- Madhya Pradesh *Upkar Adhiniyam*, 1982; and
- Circulars and orders of the Government/ IGR of Madhya Pradesh, issued from time to time.

6.2 Trend of receipts

Actual receipts from Stamps and Registration fees during the period 2012-13 to 2016-17 along with the budget estimates during the same period are exhibited in **Table 6.1**.

Table 6.1
Trend of receipts from Stamps and Registration fees

(₹ in crore)

Year	Budget estimates prepared by the Department	Budget estimates approved by the Finance Department	Actual receipts	Percentage of variation
2012-13	3,200	3,200.00	3,944.24	(+) 23.26
2013-14	3,500	4,000.00	3,400.00	(-) 15.00
2014-15	4,000	4,000.00	3,892.77	(-) 2.68
2015-16	4,200	4,700.00	3,867.69	(-) 17.71
2016-17	4,000	4,500.00	3,925.43	(-) 12.77

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

It can be seen from the above table that the budget estimates prepared by the Department for years 2013-14, 2015-16 and 2016-17 were increased by the Finance Department. The Finance Department intimated (April 2018) that the estimates were raised to realise the potential of the Department to earn more revenue. There is no evidence on the manner in which the Finance Department tried to achieve this, and the actual receipts fell short of the estimates prepared by the Finance Department.

6.3 Internal Audit

The Department has an Internal Audit Wing (IAW) which is headed by the Joint Director (Finance). Against the sanctioned strength of one Accounts Officer (AO) and 10 Assistant Audit Officers (AAO), there were one AO and four AAOs in the IAW during the year 2016-17. Audit observed that against six posts of AAOs, which were sanctioned by the Government in January 2015, no appointments were made.

In 2016-17, against the plan to audit 30 DR offices, only eight DR offices could be audited. Audit scrutinised (April 2018) the eight Inspection Reports (IRs) of Internal audit and found that irregularities on pendency of 246 RRC cases involving amount of ₹ 1.26 crore and 543 cases referred to DRs by the SRs for valuation of market value of land involving ₹ 2.66 crore were pointed out. However, the Department could not enforce the settlement of cases referred to DRs within prescribed time limit and the same has also been pointed out in this Audit Report.

Audit noticed that out of 83 Internal Audit IRs of DR/SR offices issued during the period 2012-13 to 2016-17, Compliance Reports of only seven IRs were received in IGR office till April 2018. This indicates that the follow up of Internal Audit IRs was not being monitored properly by the Department.

During exit conference (November 2017), the Department intimated that shortfall in audit was due to lack of staff. It was further informed that as an alternative arrangement inspection of subordinate offices was done by IGR/DIGR/DR as per Registration Manual and registration cases were also test checked. Besides, several instructions were also issued for random inspection of Departmental offices from time to time.

Recommendation:

The Department should initiate measures to strengthen the Internal Audit Wing.

6.4 Results of audit

Audit test checked records of 89¹ out of 273 units of the Department during 2016-17. Revenue generated by the Department during the year 2015-16 aggregated to ₹ 3,867.69 crore of which, the audited units collected ₹ 2,688.47 crore. Audit examined 59,440 deeds out of 4,95,333 deeds registered in these offices during the period covered in audit and observations on revenue not realised due to inordinate delay in finalisation of cases referred to DRs, misclassification of deeds, undervaluation of properties, short realisation of Stamp duty and Registration fees, incorrect exemption and other observations involving ₹ 30.74 crore in 1,393 cases were made as mentioned in **Table 6.2**.

Table 6.2
Results of Audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Revenue not realised due to inordinate delay in finalisation of cases referred to DRs under Section 47-A of the Indian Stamp Act	576	23.90
2.	Undervaluation of property	230	3.77
3.	Short levy of Stamp duty and Registration fees on instruments of power of attorney, lease deeds, development/ builder agreements and mortgage deeds	48	1.38
4.	Misclassification of deeds	44	0.74
5.	Irregular exemption of Stamps and Registration fees	244	0.59
6.	Others	251	0.36
Total		1,393	30.74

These observations were communicated to the Department (between May 2016 and April 2017). The Department accepted (between May 2016 and November 2017) underassessment and other deficiencies of ₹ 2.36 crore in 329 cases, against which recovery of ₹ 75.65 lakh was made in 61 cases of which, there was part recovery in 35 cases. In other cases, the Department replied that audit would be intimated after verification of the cases by the DRs. These will be watched in audit.

During 2016-17, the Department effected recovery of ₹ 7.38 crore in 1,012 cases in respect of audit objections pertaining to previous Audit and Inspection Reports. Out of the recovered amount, ₹ 3.35 crore corresponds to Audit Report 2010-11.

6.5 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 384.32 crore in 101 paragraphs against which Department accepted observations involving ₹ 236.33 crore and recovered ₹ 5.77 crore. Out of these 101 paragraphs, 79 paragraphs² were

¹ One DR office and 88 SR offices.

² 2011-12 (05), 2012-13 (09), 2013-14 (23), 2014-15 (02) and 2015-16 (40).

selected by the Public Accounts Committee (PAC) between June 2014 and May 2017 and are awaiting discussion. The PAC has already given its recommendations and directions during 2014-15 and 2015-16 to the departments on similar paragraphs of ARs for the periods 2004-05 and 2006-07. The directions were: (i) the Department was to prescribe definite time limit for effecting recovery and disposal of pending cases; (ii) the Department was to fix responsibility against the Departmental Officers who did not calculate market value as per guidelines and caused revenue loss to the Government.

The Department, however, has not complied with the recommendations.

Recommendation:

The Department should immediately comply with the directions of the Public Accounts Committee to effect recoveries, dispose of pending cases and fix responsibility on defaulting officers.

6.6 Delay in disposal of cases referred by Sub Registrars (SRs)

DRs failed to finalise 172 cases involving revenue of ₹ 4.90 crore referred to them by SRs for determination of market value of properties, though the stipulated period of three months for disposal of referred cases had lapsed.

The Indian Stamp Act provides for the Registering Officer, in specific circumstances, to refer any property registration instrument to the District Registrar (DR) for determination of the correct market value of such property and duty leviable thereon. The Department prescribed (July 2004) a maximum period of three months within which the DR had to dispose such cases.

Audit test checked (between August 2016 and March 2017) 252 cases, referred by 24 SR³ offices (out of 234 SR offices) between April 2009 and March 2016 and observed that in 172 cases, market value of properties were not determined by the DRs, even though the period of three months had elapsed. Out of these 172 cases, 29 cases involved delay of four to 12 months, 122 cases involved delay of 13 to 35 months and 21 cases involved delay of 36 to 85 months beyond stipulated period. The DRs did not comply with the Departmental instructions and the cases referred by the SRs involving Stamp duty and Registration fees of ₹ 4.90 crore were not finalised.

Similar observations were pointed out in Audit Reports for the years 2011-12 to 2015-16 but appropriate action was not taken by the Department to check the persistence of such irregularity. The Department did not enforce implementation of its own instructions of July 2004 regarding disposal of cases referred to DRs within prescribed time limit of three months.

During the exit conference (November 2017), the Department assured that appropriate action would be taken.

³ Agar Malwa, Ambah (Morena), Badnagar (Ujjain), Bagli (Dewas), Datia, Dewas, Dhar, Garoth (Mandsaur), Ganjabsoda (Vidisha), Gwalior I, Gwalior II, Hoshangabad, Indore IV, Jawad (Neemuch), Jirapur (Rajgarh), Manasa (Neemuch), Mehgaon (Bhind), Narsinghgarh (Rajgarh), Raisen, Rajpur (Badwani), Satna, Sanavad (Khargon), Sonkaksh (Dewas) and Susner (Agar).

Recommendation:

The Department should ensure compliance of its orders by District Registrars to dispose, within three months, all cases referred by Sub Registrars regarding determination of correct market value and duty leviable thereon.

6.7 Incorrect determination of market value

The SRs did not determine correct market value of the properties in 180 instruments which resulted in short levy of Stamp duty and Registration fees of ₹ 2.70 crore.

The Indian Stamp Act prescribes that if the registering officer, while registering any instrument, finds that the market value of any property set forth is less than the market value shown in the market value guidelines, he should, before registering such instruments, refer the same to the DR for determination of the correct market value of such property and duty leviable thereon. The District Collector issues market value guidelines every year for valuation of immovable properties.

Audit test checked 44,111 instruments registered between April 2009 and March 2016 in 38 SR⁴ offices and observed that in 180 instruments, the market value of the properties, as per guidelines, was ₹ 114.12 crore against registered value of ₹ 72.34 crore. Audit observed that the SRs incorrectly determined the market value of lands by treating commercial lands as commercial-cum-residential lands, roadside properties valued as off-road properties, developed plots valued as agricultural land, etc. The SRs levied Stamp duty of ₹ 4.48 crore on these properties against leviable duty of ₹ 6.83 crore, and Registration fees of ₹ 58.98 lakh against the leviable fees of ₹ 93.90 lakh. This resulted in short levy of ₹ 2.70 crore.

During the exit conference (November 2017), the Department informed that action was taken in 95 cases and ₹ 40 lakh recovered. The Department assured that DRs/SRs would be instructed to follow the Collector's guidelines and also strictly adhere to the provisions of Section 47-A of the Indian Stamp Act. Further progress in this regard would be watched in Audit.

Similar observations were pointed out in previous Audit Reports and the Department/Government have neither checked the persistence of such irregularity nor complied with the recommendations of the PAC (72nd Report, 2015-16 on Audit Report for the year 2006-07) to take action against the officers responsible for misclassification of instruments and application of incorrect rates of Stamp duty. Despite this, the Department failed to evolve an effective mechanism to check persistence of such irregularities.

⁴ Aasta (Sehore), Ajaygarh (Panna), Bakswaha (Chhatarpur), Bhabra (Alirajpur), Biaora (Rajgarh), Chanderi (Ashoknagar), Dabra (Gwalior), Datia, Devsar (Singrauli), Dhar, Gadawara (Narsinghpur), Ganjabsoda (Vidisha), Gwalior I, Gwalior II, Indore IV, Jabalpur I, Jabalpur II, Jawad (Neemuch), Kalapipal (Shajapur), Karera (Shivpuri), Kellaras (Morena), Kolaras (Shivpuri), Kurwai (Vidisha), Manasa (Neemuch), Manawar (Dhar), Nasrullaganj (Sehore), Navlakha (Indore II), Paribazar (Bhopal I), Raisen, Rajnagar (Chhatarpur), Rajpur (Badwani), Rampur Baghelan (Satna), Sanavad (Khargone), Shahdol, Shajapur, Sheopur, Sukhaliya (Indore III) and Vidisha.

6.8 Stamp duty and Registration fees levied at incorrect rates

Stamp duty and Registration fees of ₹ 1.22 crore was short realised on 46 instruments due to application of incorrect rates.

Audit test checked 41,674 instruments registered between April 2010 and March 2016 in 23 SR offices⁵ and found that in 46 instruments, Stamp duty and Registration fees were levied at incorrect rates due to incorrect categorisation of Power of Attorney (POA)⁶, wrong treatment of builder agreements as POA, title deed as loan agreement, gift deed⁷ as release deed⁸, etc. The SRs accepted these unduly stamped instruments for registration, which resulted in short levy of Stamp duty and Registration fees of ₹ 1.22 crore.

During the exit conference (November 2017), the Department accepted recovery in 11 cases out of which RRC was issued in nine cases, in one case recovery was pending and in one case amount of ₹ 5.95 lakh was recovered. Though the Department informed that eight cases were found correct by the DRs, revised orders were not provided to Audit. The action of the Department is insufficient in the remaining 27 cases pointed out by Audit. Documentary evidences and final action were awaited in all the cases (May 2018).

Similar irregularities relating to misclassification and incorrect application of rates were pointed out in previous Audit Reports also and despite discontent of the PAC (72nd Report, 2015-16 on Audit Report for the year 2006-07) on pendency (upto six years) of recovery in objected cases, the Department/Government has not evolved an effective mechanism to check the persistence of such irregularities.

6.9 Stamp duty and Registration fees on mining/other leases short realised

Stamp duty and Registration fees amounting to ₹ 1.13 crore was short realised in 11 mining leases and 10 other leases.

Audit test checked 196 mining lease deeds executed between January 2016 and February 2017 in six District Mining Offices⁹ and found that in six instruments of mining lease, the whole amount of royalty payable or deliverable under such lease, as mentioned in the approved mining plan, was not taken into consideration for determination of Stamp duty and Registration fees, while in five cases, Stamp duty and Registration fees was levied at the rates applicable before 14 January 2016.

⁵ Anuppur, Bijawar (Chhatarpur), Burhanpur, Dewas, Gwalior I, Indore I, Jabalpur I, Jabalpur II, Jawahar Chowk (Bhopal II), Jirapur (Rajgarh), Kalapipal (Shajapur), Karera (Shivpuri), Kukshi (Ddhar), Manawar (Dhar), Paribazar (Bhopal I), Raisen, Rajpur (Badwani), Rampur Baghelan (Satna), Rewa, Satna, Shahdol, Sukhaliya (Indore III) and Umariya.

⁶ POA is an instrument empowering a specified person to act for and in the name of the person executing it.

⁷ Gift deed is a deed by which a person transfer his own property to another as a gift.

⁸ Release deed is a deed by which one of the several co-owners of a property renounces his claim in favour of others.

⁹ Anuppur, Burhanpur, Shahdol, Sidhi, Harda and Hoshangabad.

Audit further test checked 3,402 lease deeds of five SR¹⁰ offices executed between April 2013 and March 2016 and found that in six lease deeds, Stamp duty and Registration fees was short levied due to underassessment of market value of land while in four cases rates applicable for lesser period of lease were applied.

Audit observed that an amount of ₹ 1.83 crore was leviable as Stamp duty and Registration fee against which ₹ 70.48 lakh was levied. The failure of the SRs to levy correct Stamp duty and Registration fees resulted in short realisation of ₹ 1.13 crore.

The Department intimated (November 2017) that in three cases of lease deeds other than mining lease, RRCs had since been issued. In case of mining leases, the Department intimated (January 2018) that final action taken by the DRs would be intimated. Further progress in this regard would be watched in Audit.

¹⁰ Chhatarpur, Dhar, Karera (Shivpuri), Navlakha (Indore II) and Sukhalia (Indore III).