

CHAPTER-IV: LAND REVENUE, STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of the records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year 2008-09 revealed non-collection, non/short assessment, loss of revenue, blocking of revenue etc., amounting to Rs. 434.47 crore in 75,141 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
LAND REVENUE			
1.	Non-collection of premium etc. on land occupied by local bodies/private bodies etc.	52	99.62
2.	Non-realisation of revenue due to delay in finalisation of OEA (<i>Bebandobasta</i>) cases	11,529	8.40
3.	Blockage of revenue due to non-finalisation of OLR cases	2,463	1.98
4.	Non-lease/irregular lease of <i>sairat</i> sources	365	1.10
5.	Other irregularities	3,585	11.41
Total		17,994	122.51
STAMP DUTY AND REGISTRATION FEES			
1.	Blockage of revenue due to non-disposal of 47A cases	52,566	258.46
2.	Levy and collection of stamp duty and registration fee	1	48.58
3.	Loss of revenue due to non-consideration of highest sale value at the time of registration (under valuation cases)	3,232	2.20
4.	Blockage of revenue due to pending impounding cases	633	1.10
5.	Short levy of stamp duty and registration fees due to non-revision of bench mark value	123	0.21
6.	Non-assessment of town planning/urban area charges	528	0.12
7.	Other irregularities	64	1.29
Total		57,147	311.96
Grand total		75,141	434.47

During the year 2008-09, the department accepted underassessment, non-realisation of revenue and other deficiencies of Rs. 38.15 crore in 22,128 cases pointed out in 2008-09. The department recovered Rs. 173.85 crore in 3,899 cases pointed out during 2008-09 and earlier years.

A few illustrative audit observations involving Rs. 75.51 crore are discussed in the following paragraphs.

4.2 Audit observations

Scrutiny of the records relating to assessment and collection of land revenue and stamp duty and registration fees revealed non-collection, non/short assessment, loss of revenue, blocking of revenue and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out repeatedly; but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit so that these omissions can be avoided, detected and corrected.

Land Revenue

4.3 Non-observance of Government orders/instructions

In regard to alienation⁶³ of Government land, Government orders/instructions require that:-

- (i) Government land be alienated to various bodies/organisations on payment of premium equivalent to market value of the land along with ground rent and cess at the prescribed rates; and*
- (ii) in case of land alienated in favour of Central Government organisations capitalised value at the rate of 25 times of ground rent and cess is payable.*

Non-observance of some of the above provisions by the assessing authorities as mentioned in paragraphs 4.3.1 and 4.3.2 resulted in non/short realisation of revenue of Rs. 34.33 crore.

4.3.1 Non/short realisation of revenue on alienation of Government land

According to the Government orders of October 1961, May 1963, February 1966, Revenue Department letters of 22 March 1978 and 22 January 2005, government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State departments, etc., on payment of premium fixed on the basis of the market value of the land plus annual ground rent at one *per cent* of the market value and cess at 50 *per cent* of the ground rent upto 1993-94 and 75 *per cent* thereafter. In case of lease of government land to Central Government organisations premium and capitalised value of land revenue equivalent to 25 times of annual rental, i.e., ground rent and cess is payable. Besides, interest at the rate of six *per cent* upto 27 November 1992 and 12 *per cent* thereafter is realisable for the period from the date of occupation of the land till the date of payment of the dues.

⁶³ Transfer of land.

4.3.1.1 Non-finalisation of alienation cases

Test check of the records of three *tahasils* between May and August 2008 revealed that in four cases alienation of government land measuring 335.220 acres was not regularised though the occupants were in possession of the land for periods ranging between 23 months and 44 years. Due to non-finalisation of the alienation cases there was non-realisation of Government revenue amounting to Rs. 29.26 crore towards premium, ground rent, cess and interest as mentioned in the following table.

(Rupees in crore)

Sl. No	Name of the <i>Tahasil</i> Name of the occupant	Year/ month of occupation	Area (in acre)	Revenue remained unrealised			Total
				Premium	Ground rent Cess	Interest	
1.	<u>Berhampur</u> GRIDCO ⁶⁴	1964	10.000	2.75	<u>1.21</u> 0.70	13.39	18.05
The department did not take any action for 35 years. The occupant applied for alienation of land in September 1999. Despite lapse of more than eight years the case has not been finalised (May 2008).							
2.	<u>Kanisi</u> ADGM School ⁶⁵	1985	320.590	1.84	<u>0.46</u> 0.35	6.03	8.68
Advance possession of the land was given in 1985. Despite lapse of 23 years the case has not been finalised (July 2008).							
3.	<u>Tangi</u> GRIDCO	1970	1.630	0.24	<u>0.09</u> 0.06	1.05	1.44
The land was encroached by GRIDCO since 1970. The Executive Engineer, GRIDCO stated to have applied in September 1991 to the <i>Tahasildar</i> , Banpur for alienation of the land. However, no alienation case was started in Banpur <i>tahasil</i> . Consequent upon creation of Tangi <i>tahasil</i> in 1996 the land was transferred from the jurisdiction of Banpur <i>tahasil</i> to Tangi <i>tahasil</i> . The <i>Tahasildar</i> , Banpur started an encroachment case in July 1996 vide case No. 167/96-97 and advised (November 2001) the corporation to apply for alienation. The case has not, however, been finalised (May 2008).							
4.	<u>Berhampur</u> Software Technology Park of India, Bhubaneswar	May 2006	3.000	0.86	<u>0.02</u> 0.01	0.20	1.09
The organisation applied in August 2005 for alienation of the land in its favour. Advance possession was handed over in May 2006. Though the case of non-finalisation of alienation was pointed out by audit in November 2006, despite lapse of two years and 10 months the case has not been finalised (May 2008).							
Total:			335.220	5.69	<u>1.78</u> 1.12	20.67	29.26

After the cases were pointed out, the *Tahasildar*, Berhampur stated in May 2008 that action would be taken to finalise the cases and raise the demands. The *Tahasildar*, Kanisi stated in August 2008 that the case was pending with the Government and after sanction of the lease the amount is likely to be realised. The *Tahasildar*, Tangi stated in June 2008 that application for alienation of the land has not been filed by the GRIDCO authorities. The fact,

64 Grid Corporation of Orissa Limited.

65 Air Defence Guided Missile School, Golabandha.

however, remains that despite the land being in possession of GRIDCO since 1970 the department failed to take action for finalisation of the case. A report on further development in the other cases has not been received (October 2009).

The matter was reported to the Government between November 2008 and February 2009. In respect of Sl. No. 1, the Government stated in August 2009 that the alienation case initiated was pending for finalisation due to pendency of the conversion of a plot of land from *gochar*⁶⁶ to *patita*⁶⁷. It was also stated that advance possession was not given to GRIDCO. The reply is not tenable as the plot of land for which the conversion case was pending was not related to the case in question. Further, GRIDCO was in possession of the land since 1964 as stated by the Executive Engineer, GRIDCO in September 1999 in his application for alienation of the land. Reply in respect of the other cases has not been received (October 2009).

4.3.1.2 Short demand of capitalised value

Test check of the records of five *tahasil* offices between May and August 2008 revealed that Government land measuring 176.607 acres was alienated to two Central Government organisations. While calculating the dues payable to the Government, the *tahasildars* levied the capitalised value on the ground rent only instead of levying it on both the ground rent and cess. Thus, there was short demand of Rs. 3.61 crore including interest calculated upto March 2008 as mentioned in the following table.

(Rupees in lakh)

Sl. No.	Name of the <i>tahasil</i>	Name of the occupant	Year of occupation	Area (in acres)	Cess not levied	Interest payable	Total
1.	Keonjhar	East Coast railway	2003-04	67.330	72.55	34.83	107.38
2.	Khallikote	NHAI ⁶⁸	2003-04	50.799	95.36	57.22	152.58
3.	Kanisi	-do-	2005-06	19.030	59.02	14.16	73.18
4.	Tangi	-do-	2004-05	31.165	14.58	5.25	19.83
5.	Bhadrak	-do-	2006-07	8.283	7.07	0.85	7.92
Total :				176.607	248.58	112.31	360.89

After the cases were pointed out, while the *tahasildars*, Bhadrak and Khallikote raised the demand in July 2008 and May 2009 respectively, the *Tahasildar*, Tangi stated in May 2008 that action would be taken to realise the amount. *Tahasildar*, Kanisi stated in August 2008 that the NHAI would be intimated regarding the demand. *Tahasildar*, Keonjhar stated in August 2008 that action would be taken on receipt of clarification from the Government.

66 *Gochar* –Grazing field

67 *Patita* – Waste land

68 National Highway Authority of India.

A report on realisation in the cases at Sl. No. 2 and 5 and further developments in the remaining cases has not been received (October 2009).

The matter was reported to the Government in March 2009; their reply has not been received (October 2009).

4.3.1.3 Short demand of premium and capitalised value

Test check of the records of the *Tahasildar*, Hemgir in November 2008 revealed that the Government of India, Ministry of Energy, Department of Coal notified on 11 February 1987 the acquisition of 7,632.93 acres of land in Hemgir *tahasil* under the Coal Bearing Areas (Acquisition and Development) Act, 1957. Of this, revenue forest land measuring 48.64 acres was handed over to the Mahanadi Coalfields Limited in March 1995. The *tahasildar* raised demand of Rs. 21.29 lakh towards premium and capitalised value in respect of this land in March 2003 adopting 10 *per cent* appreciation for 13 years. However, the dues payable on that account comes to Rs. 40.67 lakh calculated adopting 10 *per cent* appreciation in each subsequent year including interest for the period from 1995-96 to 2002-03. The omission resulted in short demand of premium, capitalised value and interest amounting to Rs. 19.38 lakh. Besides, interest of Rs. 11.63 lakh was also leviable for the period from 2003-04 to March 2008.

After the case was pointed out, the *tahasildar* stated in November 2008 that action would be taken to raise revised demand. A report on further development has not been received (October 2009).

The matter was reported to the Government in January 2009; their reply has not been received (October 2009).

4.3.2 Non-raising of demand on unauthorised occupation of Government land

As per the Government of Orissa, Revenue Department letter of February 1966, government land occupied without permission of the Government are generally to be treated as encroachment cases and the occupants are to be evicted under the provisions of the Orissa Prevention of Land Encroachment (OPLE) Act. In such cases, however, the Government, due to certain good and sufficient reasons, may consider to settle the land with the occupiers on payment of premium, etc., determined on the basis of the market value of the land as on the date of recommendation of the *tahasildar* or as on the date of occupation of the land, whichever is higher. Besides, interest at the rate of 12 *per cent* is leviable from the date of occupation.

Test check of the records of the *Tahasildar*, Titlagarh in September 2008 revealed that Government land measuring 0.664 acre was unauthorisedly occupied by the Notified Area Council (NAC), Titlagarh since 2002 where a market complex had been constructed. Neither did the NAC authorities apply for alienation of the land nor did the *tahasildar* take any action either to initiate encroachment case under the OPLE Act for eviction or to regularise the unauthorised possession by granting lease. Thus, inaction of the

department for the last six years resulted in blockage of Government revenue of Rs. 1.15 crore payable on alienation of the land including interest of Rs. 41.93 lakh calculated upto March 2008.

After the case was pointed out, the *tahasildar* stated in September 2008 that action would be taken for initiation of encroachment case and for alienation of the land on realisation of premium, ground rent, etc. A report on further development has not been received (October 2009).

The matter was reported to the Government in February 2009; their reply has not been received (October 2009).

4.4 Short realisation of premium on conversion of agricultural land for non-agricultural use

Conversion of agricultural land for non-agricultural use at pre-revised rate resulted in short realisation of revenue amounting to Rs. 15.41 lakh.

Under the Orissa Land Reforms (OLR) Act, 1960, a *raiyat*⁶⁹ is liable to eviction if he has used agricultural land for non-agricultural purpose. Such land can, however, be resettled on payment of premium at the prescribed rate as revised with effect from 5 October 2004.

Test check of the records of five *tahsils*⁷⁰ between September 2008 and January 2009 revealed that the *tahasildars* allowed conversion of agricultural land measuring 10.165 acres in 77 cases for non-agricultural use after October 2004 on realisation of premium at the pre-revised rate. This resulted in short realisation of revenue amounting to Rs. 15.41 lakh.

After the cases were pointed out, the *tahasildars* stated between October 2008 and January 2009 that the deficit amount would be realised on issue of demand notices. A report on further development has not been received (October 2009).

The matter was brought to the notice of the Government in February 2009; their reply has not been received (October 2009).

Stamp Duty and Registration Fees

4.5 Non-observance of the Acts/Rules/Government instructions

The Indian Stamp Act (IS Act), 1899, Indian Registration Act (IR Act), 1908, Orissa Stamp Rules, 1952 and the market value guidelines prescribed under the Orissa Stamp (Amendment) Rules, 2001 provides for :-

- (i) *Levy of stamp duty and registration fee at the prescribed rate;*
- (ii) *levy of stamp duty and registration fee on bench mark value;*

⁶⁹ Any person holding the land for the purpose of cultivation with the right of occupancy according to tenancy law.

⁷⁰ Bhawanipatna, Jeypore, Kesinga, Panposh and Titlagarh.

- (iii) registration of lease deeds/sale agreements; and
- (iv) exemption from stamp duty on fulfilment of prescribed conditions.

Non-observance of some of the above provisions in cases as mentioned in the following audit observations resulted in non/short levy of stamp duty and registration fee, loss of stamp duty and registration fee due to delay in implementation of bench mark valuation and irregular exemption from stamp duty as mentioned in paragraph 4.6.

4.6 Levy and collection of stamp duty and registration fees

4.6.1 Introduction

Receipts from stamp duty and registration fees in the State are regulated under the Indian Stamp Act (IS Act), 1899, Indian Registration Act (IR Act), 1908, Orissa Stamp Rules, 1952 and the market value guidelines prescribed under the Orissa Stamp (Amendment) Rules, 2001. While stamp duty (SD) was leviable at the rate of eight *per cent* upto 4 August 2008 and at the rate of five *per cent* thereafter, registration fees (RF) is leviable at the rate of two *per cent*. Additional stamp duty under the Orissa Town Planning and Improvement Trust Act, 1956 was leviable wherever applicable at the rate of two/three *per cent* up to 24 May 2005 and three *per cent* thereafter upto 4 August 2008.

4.6.2 Non/short levy of stamp duty and registration fee

As per the explanation below Article 23 of the Indian Stamp (Orissa Amendment) Act, 2001, as amended in 2003, an agreement to sell any immovable property or power of attorney shall, in case of transfer of the possession of such property before or at the time of or after the execution of such agreement or power of attorney, be deemed to be a conveyance and stamp duty thereon shall be chargeable accordingly. However, section 47-A of the IS Act, shall not apply to such agreement and power of attorney. Further, as per the provisions of Article 23(b) of the above Act, in respect of conveyance on immovable property, SD and RF is chargeable on the consideration set forth in the document or the market value of the property, whichever is higher.

4.6.2.1 General power of attorney

Test check of general power of attorney instruments registered between 2006 and 2008 in three⁷¹ registering offices revealed that in 21 cases although recitals indicated transfer of possession, the documents were stamped as general power of attorney instead of levying SD and RF payable on conveyance deed. This resulted in short levy of SD and RF of Rs. 20.36 crore.

After the cases were pointed out, the registering officers stated that the provision “Section 47-A of the IS Act shall not apply in these cases” incorporated in the Orissa Amendment Act of 2003 debars them from levying

71 Cuttack, Khurda and Sambalpur.

duty on the market value as conveyance and the registering officer has no jurisdiction to force the parties to disclose and set forth the market value of the property in the deed. The District Sub Registrar (DSR), Sambalpur stated in June 2009 that action would be taken after examination of the documents. Thus, due to an inconsistent clause in the amended provision the Government had forgone an amount of Rs. 20.36 crore.

4.6.2.2 Agreement to sell

Test check of the agreement to sell instruments registered between 2004 and 2008 in eight⁷² registering offices revealed that in 37 cases although consideration money was already set forth in the documents and recitals indicated transfer of possession, SD and RF were levied on advance amount paid instead of the total consideration money set forth in the instruments classifying it as conveyance deeds. This resulted in short levy of SD and RF of Rs.1.18 crore.

After the cases were pointed out, the registering officers stated that the SD and RF were levied on the advance amount paid as per provisions of the IS Act. The fact, however, remains that under Section 23(b) of the IS (Orissa Amendment) Act, 2003, in case of agreements where recitals indicated transfer of possession, the instruments were to be registered as conveyance deed.

4.6.3 Non-registration of lease deeds/sale agreements

As per Section 17 of the IR Act, lease agreements exceeding one year are to be compulsorily registered. Further, under Section 2(16) of the IS Act any instrument of toll contracts is chargeable to stamp duty as an instrument of lease at the prescribed rates. Under Section 2(10) of the IS Act, a conveyance includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred and which is not otherwise specifically provided for in Schedule I to the Act.

Information collected from various sources such as Government departments, Industrial Infrastructure Development Corporation (IDCO), Industrial Development Corporation Limited (IDCOL) and Registrar of Co-operative Societies relating to sale agreements and lease records revealed that three agreements executed between June 2005 and January 2007 and lands measuring 10,405.204 acres transferred between May 1992 and April 2008 were not registered though required to be done compulsorily. This resulted in non-realisation of SD and RF of Rs. 14.80 crore as shown in the following table.

72 Balasore, Berhampur, Cuttack, Ganjam, Khurda, Mayurbhanj, Puri and Sambalpur.

(Rupees in crore)

Sl. No.	Name of the lessor	Location of the land/ property	Area in acre Consideration amount	SD and RF leviable	Remarks
1.	Tahasildar, Cuttack	Cuttack	<u>185.970</u> 6.00 (Market value Rs. 65.25 crore)	4.57	Government land was transferred in favour of Sri Sri Ravishankar Vidyamandir Trust, Bangalore in December 2007 for establishment of a multi-disciplinary university at Cuttack at a concessional rate on payment of consideration money in November 2007.
2.	Collector, Ganjam	Gopalpur	<u>3,733.464</u> 39.65	3.57	For establishment of integrated steel plant at Gopalpur, Ganjam both Government and private lands were transferred between October 1996 and February 1999 on payment of value of the land between November 1995 and December 2006.
3.	Works department	Palaspanga – Bamebari Road	<u>NA</u> 48.20	3.37	Build operate and transfer (BOT) agreement was made in July 2006 on stamp paper of Rs. 100 with concession period for 15 years.
4.	Industrial Development Corporation Ltd. (IDCOL)	Aska, Baripada and Sonepur	<u>NA</u> 15.65	1.56	Three spinning mills were transferred on 15 January 2007 to a private party on execution of an agreement deed and payment of consideration money on the same date.
5.	Baramba Co-operative Sugar Industries Ltd.	Baramba	<u>NA</u> 8.29	0.83	Agreement was executed on 27 June 2005 on stamp paper of Rs. 100 and possession was handed over on the same date on payment of first instalment of the consideration money of rupees one crore.
6.	Collector, Jajpur	Jajpur Tahasil	<u>6,241.660</u> 28.49	0.61	Government land was transferred to IDCO for industrial purpose which was subsequently handed over to different industries between May 1992 and April 2008.
7.	Tahasildar, Puri	Puri	<u>244.110</u> 4.09	0.29	Government land was transferred in September 2007 for establishment of Vedanta University on payment of consideration money in September 2007.
Total :			<u>10,405.204</u> 209.62	14.80	

In all the above cases though the lands involved were transferred by government departments/semi-government organisations the departments failed to discharge their duties in safeguarding the interest of revenue.

4.6.4 Loss of revenue due to delay in implementation of bench mark valuation

Consequent upon introduction of market value guidelines in November 2001 amending the Orissa Stamp Rules, valuation committees were formed to determine plot wise bench mark value of property for the purpose of levy of SD & RF. As per the Rules, the bench mark value so fixed shall remain in force for a period of two years to be revised biennially before its expiry. If the committee fails to revise the bench mark value before its expiry, the Collector as Chairman of the committee would enhance the bench mark value by 10 per cent. Due to delay in implementation of the scheme, Government instructed in July 2004 to implement the market value guidelines latest by September 2004. As per information collected from registration offices and verification of records it was revealed that the sale statistics and other relevant information on land value was collected for the years from 2001 to 2003 or 2002 to 2004 basing on which the bench mark value was prepared which was to be implemented from the year 2005. The bench mark value was, however, implemented in different districts between the years 2006 and 2008.

4.6.4.1 Test check of the records of five registration offices in June 2009 revealed that 440 documents were registered between 2005 and 2007 on the value of the lands which was below the bench mark value. This resulted in loss of SD and RF of Rs. 8.54 crore calculated on the differential value as per details given in the following table:

(Rupees in lakh)

Sl. No.	Name of the DSR/SR	No. of documents	SD and RF leviable	SD and RF levied	SD and RF short levied
1.	DSR, Khurda	140	672.89	145.71	527.18
2.	DSR, Sambalpur	152	322.04	74.41	247.63
3.	SR, Berhampur (Town)	36	59.20	11.05	48.15
4.	DSR, Nayagarh	87	29.21	6.58	22.63
5.	DSR, Cuttack	25	25.48	17.10	8.38
Total :		440	1,108.82	254.85	853.97

After the cases were pointed out, the DSRs and Sub Registrars (SRs) stated that the bench mark value was implemented after approval of the Government. The fact, however, remains that due to delay in approval and implementation of the bench mark value there was loss of revenue.

4.6.4.2 Test check of the records of five DSRs and three SRs between April and June 2009 revealed that the bench mark values were prepared in respect of Cuttack and Puri districts taking into account the field data pertaining to the years 2002, 2003 and 2004 whereas in the districts of Ganjam, Jajpur, Jharsuguda and Sundargarh the data for the years 2001, 2002 and 2003 was adopted. The bench mark value was implemented in the above districts without revision or without enhancing the value so fixed by the Collector.

During August 2006 to December 2008, 637 documents were registered adopting the bench mark value fixed on the basis of the field data for the period 2001 to 2004. Thus, adoption of the bench mark value without revision/enhancement resulted in loss of Government revenue of Rs. 41.65 lakh calculated in audit by enhancing the bench mark value by 10 per cent as detailed in the following table.

(Rupees in lakh)

Sl. No.	Name of the DSR/SR	No. of documents	Stamp duty and registration fee		Loss of revenue in shape of SD and RF
			Leviable	Levied	
1.	DSR, Cuttack	171	109.09	99.18	9.91
2.	DSR, Puri	177	104.39	94.86	9.53
3.	SR, Dolipur	116	78.81	71.65	7.16
4.	DSR, Jharsuguda	44	53.15	48.32	4.83
5.	DSR, Sundargarh	39	26.24	22.42	3.82
6.	SR, Berhampur (Town)	23	39.44	35.83	3.61
7.	SR, Bonai	34	14.73	13.19	1.54
8.	DSR, Ganjam	33	13.81	12.56	1.25
Total :		637	439.66	398.01	41.65

After the cases were pointed out, the DSRs and SRs stated between April and June 2009 that the bench mark value was implemented after approval of the Government and enhancement was due after two years from the date of implementation. The fact, however, remains that the delayed Government approval without raising the valuation resulted in loss of revenue.

4.6.5 Escapement of stamp duty and registration fee

As per Section 27 of the IS (Orissa Amendment) Act, the consideration, if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein.

4.6.5.1 Cross verification of information relating to allotment of Government land obtained from IDCO with the records of the DSR, Jajpur revealed that IDCO allotted Government land of 1,563.520 acres in favour of two industries for setting up steel plants and three deeds were executed between August 2004 and November 2005 with consideration of Rs. 29.39 crore set forth in the documents. It was seen from the recital of the documents with reference to the allotment orders that the value of development charges, ground rent, cess and ex-gratia amounting to Rs. 7.92 crore were not disclosed in the total consideration money. Besides, there was also short levy of SD and RF on the consideration money set forth in the documents. This resulted in escapement of SD and RF of Rs. 1.57 crore.

After the case was pointed out, the DSR stated in June 2009 that the case would be reviewed and the concerned companies would be asked to deposit the SD and RF. A report on further development has not been received (October 2009).

4.6.5.2 Similarly, an area of 500 acres was sanctioned by the Collector, Khurda in November 2007 in favour of IDCO. The deed of agreement was executed and registered in October 2008 between the Governor of Orissa and IDCO, Bhubaneswar on consideration money of Rs. 29.89 crore excluding incidental charges of Rs. 2.50 crore. Though the incidental charges were realised by the Collector, Khurda from IDCO the said transaction could not be considered at the time of registration resulting in escapement of RF of Rs. 5 lakh.

After the case was pointed out, the SR, Jatni stated in June 2009 that supplementary deed could be executed. The fact, however, remains that due to non-execution of supplementary deed there was escapement of RF.

4.6.6 Short realisation of stamp duty and registration fees due to acceptance of valuation below bench mark value

As per the Orissa Stamp (Amendment) Rules, 2001 the bench mark value notified for any plot of land is to be adopted for registration of the deeds in case of sale/ transfer of such land.

Test check of the records of two DSRs and two SRs between November 2008 and April 2009 revealed that contrary to the bench mark value guidelines, 52 documents were registered during the period between January 2007 and December 2008 at a lower rate compared to the bench mark value fixed by the District Level Valuation Committee resulting in under valuation and consequential short levy/realisation of SD and RF of Rs. 100.12 lakh as mentioned in the table below:

(Rupees in lakh)

Sl. No.	Name of the SR/DSR	No. of documents	Period	SD/RF leviable	SD/RF levied	Short levy of SD/RF
1.	DSR, Sambalpur	49	January 2007 to December 2008	108.80	13.35	95.45
2.	SR, Karanjia	1	May 2008	3.35	1.54	1.81
3.	SR, Dolipur	1	January 2007 to December 2008	1.53	0.04	1.49
4.	DSR, Mayurbhanj	1	October 2008	4.93	3.56	1.37
Total		52		118.61	18.49	100.12

After the cases were pointed out, all the DSRs and SRs stated that undervaluation cases would be booked and the amount in question would be realised. A report on further development has not been received (October 2009).

4.6.7 Short realisation of stamp duty due to application of lower rate

According to the provisions of the Orissa Town Planning and Improvement Trust Act, 1956, additional SD at the rate of two *per cent* over and above the normal SD of eight *per cent* of the consideration value is chargeable in case of

registration of instruments pertaining to the land situated in the areas where the above Act is applicable. The Government of Orissa through a gazette notification of 25 May 2005 enhanced the additional SD from two to three *per cent* with immediate effect.

Scrutiny of the records of 10 DSRs⁷³ and seven SRs⁷⁴ between March 2008 and May 2009 revealed that the SD at the enhanced rate was not realised by the DSRs and SRs on 3,066 documents registered between May 2005 and July 2008, while in 86 documents no additional SD was realised by the DSR, Nayagarh. This resulted in non/short realisation of additional SD amounting to Rs. 45.72 lakh.

After the cases were pointed out, all the DSRs and SRs except DSR, Nayagarh and SR, Lakhanpur stated between March 2008 and May 2009 that the notification was circulated by the Board of Revenue in December 2006 and the duty at the enhanced rate was implemented after receipt of the notification. However, DSR, Boudh, Deogarh, Kalahandi, Subarnapur, and SR, Basudevpur stated between September and December 2008 that action would be taken to realise the differential amount. The SR, Lakhanpur stated in April 2009 that the circular for enhancement of additional SD has not been received by him till July 2008. The DSR, Nayagarh stated in June 2008 that the matter would be reviewed and Government would be moved for direction in this regard. However, the enhanced rate was applicable from the date of notification and non-application of the revised rate resulted in non-realisation of revenue. A report on further development has not been received (October 2009).

4.6.8 Short levy of stamp duty and registration fees on documents containing distinct matters

Under section 5 of the IS Act, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising of or relating to one of such matters, would be chargeable.

Test check of the records of the DSR, Cuttack in February 2008 revealed that four sale deeds were executed and registered on 11 May 2006. The properties transferred were earlier leased out and the lessee had constructed godowns on each property. On surrender of the lease, a sum of Rs. 84 lakh was paid to the lessee towards the cost of the godowns. It was noticed from the recital of the sale deeds that apart from the sale transactions, the case of surrender lease involving payment of consideration money of Rs. 21 lakh towards the cost of godown constructed by the lessee was included in each sale deed. Though the surrender of lease included in the sale deed was a distinct matter, the same was not considered at the time of registration. This resulted in short levy of SD and RF of Rs. 10.92 lakh.

⁷³ Bolangir, Boudh, Deogarh, Gajapati, Kalahandi, Kendrapara, Mayurbhanj, Nayagarh, Phulbani and Subarnapur.

⁷⁴ Anandpur, Basudevpur, Gunupur, Hinjilikatu, Lakhanpur, Nilagiri and Patnagarh.

After this was pointed out, the DSR stated in February 2008 that the surrender of lease did not involve transfer of ownership. The fact, however, remains that consideration money was paid in each case towards value of the godown constructed by the lessee which was clearly a conveyance on sale and should therefore have been stamped as a distinct matter in relation to sale of the said property.

4.6.9 Irregular exemption of stamp duty

In terms of Revenue and Disaster Management Department order of 7 May 2007 under Industrial Policy Resolution (IPR), 2007, in case of deed executed for allotment of land by the Government to IDCO, full exemption of SD shall be allowed subject to recommendation of the Managing Director (MD), IDCO on the body of the documents so presented at the time of execution.

Test check of the deeds of agreement executed between the Government and IDCO during September 2007 and December 2008 in respect of SR, Berhampur Town and DSR, Sundargarh revealed that exemption of stamp duty amounting to Rs. 9.99 lakh was allowed in respect of two documents although the required recommendation of the MD, IDCO on the body of the document was not recorded.

After this was pointed out in audit, the concerned registering officers admitted the irregularity and requested the MD, IDCO to do the needful. A report on further development has not been received (October 2009).

The matter was reported to the Government in July 2009; their reply has not been received (October 2009).

4.7 Short realisation of stamp duty and registration fees

Registration of documents without verifying the highest sale value resulted in short realisation of SD and RF of Rs. 97.84 lakh.

As per the provision under Section 47(A) of the IS Act read with the instructions of the IGR of September 1993 and October 2002 the highest sale value of similar classification of land in the same village should be the sale value of the land for the purpose of registration. The highest value of three consecutive years upto the end of the month preceding the month in which the document is presented for registration should be considered for valuation.

Test check of the records of the DSR, Kalahandi and six SRs⁷⁵ between March and October 2008 revealed that 87 documents were registered between March 2006 and December 2007 realising Rs. 19.05 lakh towards SD and RF on the consideration set forth in those instruments without verifying the highest sale value of three consecutive years upto the end of the month preceding the month in which the documents were presented. Further scrutiny revealed that the SD and RF leviable on the basis of the highest sale value of the preceding three years was Rs. 1.17 crore. Thus, failure on the part of the registering authorities resulted in short realisation of SD and RF of Rs. 97.84 lakh.

⁷⁵ Biramitrapur, Bonai, G. Udayagiri, Khandagiri, Patnagarh and Rajgangpur.

After the cases were pointed out, all the DSRs and SRs stated between March and October 2008 that the cases would be examined and action would be taken to book the cases under section 47(A) to realise the SD and RF. A report on further development has not been received (October 2009).

The matter was reported to the Government in March 2009; their reply has not been received (October 2009).