

## CHAPTER VI STAMP DUTY AND REGISTRATION FEES

### 6.1 Results of audit

Test check of the records of the offices of Additional Registrars of Assurances, District Sub-Registrars Additional District Sub-Registrars, etc. indicated underassessment of stamp duty and other irregularities involving Rs. 55.65 crore in 42 cases which could be classified under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Assessment, levy and collection of Stamp Duty and Registration Fees (A review)	1	48.65
2.	Information Technology – Computerisation of Registration of Documents (A review)	1	2.63
3.	Non-issue of demand notice	14	1.52
4.	Non-realisation of deficit stamp duty and registration fees	11	1.26
5.	Other irregularities	15	1.59
<b>Total</b>		<b>42</b>	<b>55.65</b>

During the course of the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 52.34 crore in 27 cases of which 24 cases involving Rs. 52.21 crore were pointed out in audit during the year 2008-09 and the rest in the earlier years. An amount of Rs. 40.67 lakh was realised in 10 cases at the instance of audit during the year.

A review on ‘Assessment, levy and collection of Stamp Duty and Registration Fees’ and ‘Information Technology Audit of Computerisation of Registration of Documents (CoRD)’ with total financial effect of Rs. 51.08 crore and an illustrative observation involving Rs. 1.02 crore are mentioned in the succeeding paragraphs.

## **6.2 Assessment, levy and collection of Stamp Duty and Registration Fees**

### **Highlights**

- Non-determination of market value in referred cases resulted in non-realisation of revenue of Rs. 3.29 crore.

**(Paragraph 6.2.10.2)**

- Delay in referring the cases to the Collector for determination of market value resulted in non-realisation of deficit stamp duty and registration fees of Rs. 43.24 crore.

**(Paragraph 6.2.12.1)**

- Short realisation of revenue of Rs. 1.26 crore due to under valuation of property.

**(Paragraph 6.2.13.1)**

- Short realisation of revenue due to non-levy of additional stamp duty of Rs. 21.24 lakh.

**(Paragraph 6.2.14)**

- Short levy of stamp duty and registration fee of Rs. 20.32 lakh due to irregular allowance of discount on the value of the property.

**(Paragraph 6.2.16.2)**

### **6.2.1 Introduction**

The levy and collection of stamp duty and registration fees are regulated under the Indian Stamp (IS) Act, 1899 and the Indian Registration (IR) Act, 1908 and the Rules framed thereunder as applicable in West Bengal (WB). Instruments to be registered under the Acts are chargeable to stamp duty and registration fees at the rates prescribed by the State Government from time to time.

The Government of WB has enacted the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS (PUI)] Rules, 2001 with effect from 15 March 2001 to prevent undervaluation of properties.

Under the IS Act, the stamp duty to be paid depends on the real nature or substance of the transactions recorded in the instruments and not on any title or description or nomenclature given by the parties who execute the instruments.

The Registering Officer (RO) is empowered to ascertain the market value of the properties which is the subject matter of the instrument and to compute proper stamp duty chargeable thereon in the prescribed manner as provided in the Act and to send to the concerned party a notice calling upon him to pay the deficit amount of stamp duty and registration fees within the specified period. If the party does not make this payment, the RO shall refer the case to the Collector/Deputy Inspector General of Registration (DIGR) for determination of the market value and stamp duty payable thereon.

**Audit reviewed the system of assessment, levy and collection of stamp duty and registration fees. It indicated a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.**

#### **6.2.2 Organisational set up**

Stamp duty and registration fees are administered by the Finance (Revenue) department headed by the Principal Secretary. The overall control and superintendence over assessment, levy and collection of stamp duty and registration fees vests with the Inspector General of Registration (IGR), West Bengal, who is assisted by nine Deputy Inspector General of Registration (DIGR), 17 District Registrars (DR), three Additional Registrars of Assurances (ARA), 26 District Sub-Registrars (DSR), 191 Additional District Sub-Registrars (ADSR) and 17 Sub-Registrars.

#### **6.2.3 Audit objectives**

The review was conducted to examine whether:

- provisions of the Acts and Rules framed thereunder and the departmental instructions were adequate and observed properly;
- system was in place and working properly for assessment, levy and collection of stamp duty and registration fees including penalty;
- adequate internal control mechanism was in place to monitor assessment and collection and to prevent leakage of revenue; and
- internal audit existed and functioned at the desired level.

#### **6.2.4 Scope of audit**

There are 237 units, which have been divided into 'A', 'B', and 'C' category depending on the average volume of transactions. Out of the above, based on random sampling method, 25 units from A, 19 units from B and 6 units from C, totalling 50 units<sup>1</sup> have been selected for audit. The records pertaining to the years 2003-04 to 2007-08 in 50 units were reviewed between November 2008 and May 2009.

#### **6.2.5 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the Finance (Revenue) Department in providing necessary information and records to audit. An entry conference to discuss the objective and scope of audit was held in February 2009. The findings of the review was forwarded to the department/government in April 2009 and an exit conference was held in July 2009 with the IGR from the department. Replies of the department received during the exit conference and at other points of time have been appropriately incorporated in the respective paragraphs. Reply of the government has not been received (October 2009).

#### **Audit findings**

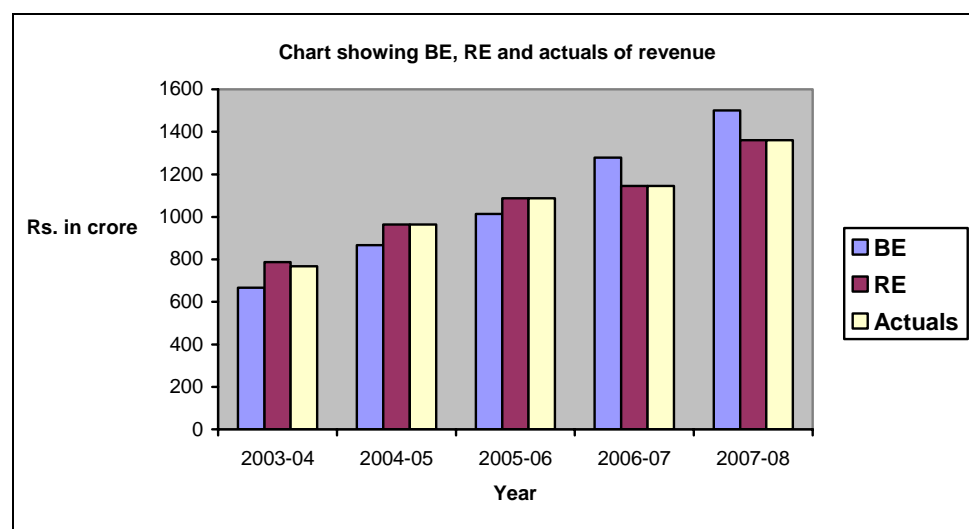
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### 6.2.6 Trend of revenue

Paragraph 16 of the West Bengal Budget Manual read with the Rules 338, 339 and 343 of the West Bengal Financial Rules states that in framing the budget estimate (BE) of the ensuing year, the actual of the previous years and revised estimate (RE) of the current year should be the best guide. Paragraphs 10 and 11 say that the 'RE' are forecasts, as accurate as possible, of the actual receipts of the current year and for preparation of 'RE', the actual receipts of those months of the current year which have already elapsed are the most important guide.

The bar chart indicates budget estimate, revised estimate and actual figure of the revenue under the head stamp duty and registration fees and their inter se variations.



Audit observed that the Finance department prepared the budget estimates by merely increasing the previous year's figures instead of preparing the budget based on estimates obtained from the field offices as required under the existing procedure. **During the exit conference, the Finance (Revenue) Department agreed to ensure better co-ordination between the field offices and the Finance department while preparing the BEs in future.**

### System deficiencies

#### 6.2.7 Improper maintenance of database of revenue foregone

The Government in extending exemptions or remissions foregoes revenue in pursuance of certain defined objectives. A reliable database of revenue foregone is, therefore, a prerequisite for informed decision making and transparency.

Scrutiny of the records of the registering offices indicated that **there was no database or any other record to ascertain the revenue foregone due to concessions and remissions in respect of co-operative societies, discount on large land, Government's amnesty schemes etc.**

After this was pointed out, the department stated (July 2009) that revenue of Rs. 96 crore was foregone during the years 2003-04 to 2007-08 on account of grant of remission in stamp duty and registration fees under different amnesty schemes introduced by the Government during the period. **But the department could neither furnish the exact number of cases where remissions were allowed nor the number of cases in which exemptions were allowed to the members of co-operative societies and the money value involved.** Therefore, the database of revenue foregone maintained by the department is not complete.

**The Government may consider proper maintenance of a centralised database of remissions/concessions for effective monitoring of the schemes.**

#### **6.2.8 Non-maintenance of statutory registers**

Three registers Market Value Monitoring Register, Pending Register and Reference Register are maintained in the registering offices to keep watch over completion of registration of documents submitted in the respective offices.

Pending Register is an important register, which shows, *inter-alia*, the number of pending documents, market value assessed, total duty and registration fees payable, stamp duty and registration fees paid.

Scrutiny of the records of 50 registration offices indicated that in 20 offices the register of pending cases was not maintained and in the remaining 30 offices the register of pending cases was not maintained properly; vital information columns like “market value assessed” and “deficit stamp duty and registration fees” were left blank. **Due to non-maintenance or improper maintenance of the register, audit was not in a position to ascertain the number of deeds pending and quantum of deficit stamp duty and registration fees realisable.**

After this was pointed out, the ADSR, Deganga and Suri stated in January 2009 that the pending register could not be maintained due to acute shortage of staff. The reply furnished by other ADSRs did not touch upon the issue raised by audit.

#### **6.2.9 Non-fixation of time limit for first assessment**

Under the provisions of the IS Act and WBS (PUI) Rules, 2001 the registering officer is required to register an instrument after assessment of market value of the property. But no time limit for assessment has been prescribed therein.

Audit scrutiny in 35 registration offices indicated that **the market value was not ascertained by the registering officers in case of 30,391 deeds presented for registration between April 2003 and March 2008.**

After this was pointed out, the registering officers stated that the documents had not been referred to Collector/DIGR due to inadequate staff.

**The Government may prescribe a time limit for ascertaining the market value and registration of document either by issuing executive orders or amending the rules.**

#### **6.2.10 Lacunae in the Acts and Rules**

Under the provisions of the WBS (PUI) Rules, if the person by whom the stamp duty is payable does not pay the differential stamp duty within the specified period, the registering officer shall make a reference to the Collector for determination of the market value. But no time limit for ascertaining the market value and registration of document thereof has been prescribed in the rules.

**6.2.10.1** Audit scrutiny indicated that, due to above shortcoming, 8,187 cases were pending in 40 offices. This has resulted in blockage of revenue for indefinite period.

**6.2.10.2** Audit scrutiny of 1,014 out of 2,228 pending deeds in eight registration offices indicated that the registering officers had ascertained the market value of properties in respect of 398 instruments presented between 2003 and 2008 at Rs. 61.46 crore against the value set forth therein of Rs. 25.68 crore. Though demand of differential stamp duty and registration fees was raised, the executants did not pay the differential amount within the prescribed period of 30 days. Thereafter the cases were referred to the collector/DIGR between April 2004 and February 2008 but the cases were not returned by them after determination of market value even after the lapse of 1 to 48 months. Thus, Government revenue of Rs. 3.29 crore was not collected as mentioned below:

(Rupees in crore)				
Name of the Office	No. of cases	Market value		Differential stamp duty
		set forth	assessed	
ADSR/Alipore	230	22.53	51.23	2.76
ADSR/Bidhannagar	1	0.003	0.39	0.03
ADSR/Tamluk	38	0.84	2.41	0.1
ADSR/Burdwan	22	0.63	2.11	0.10
ADSR/Behala	32	0.79	2.21	0.14
ADSR/Behuadahari	20	0.10	0.38	0.02
ADSR/Krishnanagar	22	0.39	0.80	0.03
ADSR/Egra	33	0.40	1.93	0.11
<b>Total</b>	<b>398</b>	<b>25.683</b>	<b>61.46</b>	<b>3.29</b>

After this was pointed out, the department stated in July 2009 that DIGRs have been instructed to dispose the cases as early as possible. It was further stated that a proforma had also been prescribed for monthly monitoring of pending cases. A report on further development has not been received (October 2009).

### **6.2.11 Internal audit**

Internal audit is a tool available to the management to monitor the functioning of an organisation. It helps the management to take corrective measures wherever necessary to ensure that the systems are functioning reasonably well and the stated objectives are achieved.

It was observed that the Department does not have an internal audit system of its own. Further, the department of internal audit of the State Government is yet to conduct internal audit of the directorate.

In reply the department stated (July 2009) that the matter has been taken up with the Commissioner of internal audit for initiating regular internal audit and system audit and there was no scope for building up a separate internal audit body for this directorate.

**The Government should take appropriate measures for conducting internal audit of the directorate of regular intervals.**

### **Compliance deficiencies**

#### **6.2.12 Non-realisation of deficit stamp duty and registration fees**

Under the Indian Stamp (IS) Act, 1899 as applicable in West Bengal read with the departmental circular issued in July 1998, where the registering authority has reason to believe that the market value of the property has not been truly set forth in the document presented for registration, the registration of the documents shall be kept in abeyance. Thereafter, he is required to ascertain the market value of the property and issue a notice to the party for payment of deficit stamp duty and registration fees, if any, within 30 days. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/DIGR within 15 days for determination of the market value of property and collection of deficit stamp duty and registration fees. There is no provision for registration of document provisionally.

**6.2.12.1** Scrutiny of the records of 49 Registering Offices in 13 districts between April 2008 and May 2009 indicated that 7,634 documents presented for registration between April 2003 and March 2008 were kept in abeyance. Stamp Duty was levied on the consideration of Rs. 146.96 crore set forth in the instruments instead of on the market value of the property of Rs. 677.14 crore subsequently assessed by the registering authorities. Scrutiny further indicated that neither notices for payment of deficit stamp duty and registration fees were issued nor were the cases referred to the Collector/DIGR. This resulted in non-realisation of revenue of Rs. 43.24 crore as mentioned in the Annexure.

After this was pointed out, the department stated (July 2009) in respect of 7,311 cases involving Rs. 42.79 crore that DRs and DIGRs have been directed to take special initiative to take up the matter with the registering officers for urgent issue of notices in a time bound manner and the matter has engaged the attention of the highest authority. In the remaining 323 cases involving Rs. 45 lakh, the department stated that majority of the referred documents have been disposed under the remission scheme introduced by the Government between 2003 and 2006. However, the number of deeds disposed

under the remission scheme and revenue realised therefrom has not been furnished by the department.

**6.2.12.2** Scrutiny of the records of ADSR, Durgapur in the district of Burdwan in October 2008 indicated that 57 documents presented for registration between February 2006 and April 2008 were kept in abeyance due to undervaluation of properties. The Stamp Duty was paid on the value of Rs. 85.71 lakh as set forth in the instruments instead of on the market value of Rs. 4.24 crore subsequently assessed by the registering authority. Demand notices had been issued to the concerned parties for payment of deficit stamp duty of Rs. 18.98 lakh and registration fees of Rs. 3.65 lakh within 30 days. The parties had not made the payment within the stipulated period but the cases were not referred to the DIGR/Collector even after the lapse of 6 to 24 months from the date of issue of the demand notices. This resulted in non-realisation of revenue of Rs. 22.63 lakh.

After this was pointed out, the department stated (July 2009) that the deficit stamp duty and registration fee had been realised in a number of cases under the Amnesty Scheme and steps had been taken by the DIGRs for realisation in other cases. A report on further development has not been received (October 2009).

#### **6.2.13 Short levy of stamp duty due to undervaluation of property**

The WBS (PUI) Rules, 2001, provides that market value of any immovable property shall be determined on the basis of the highest sale price of property of similar nature and area, in a comparable locality, during the five consecutive years immediately preceding the date of execution of any instrument. For this purpose each registering officer maintained a market value monitoring register till computerisation of registration of documents was introduced.

**6.2.13.1** Scrutiny of the records of ARA-II, Kolkata indicated that in 11 cases, the registering officer determined the market value of the properties as Rs. 14.43 crore instead of Rs. 21.27 crore ascertainable as per market value monitoring register. The collector/DIGR further reduced the market value of the properties to Rs. 6.48 crore without assigning any reason. The value determined by the DIGR and the registering officer varied substantially though both the officers were expected to have considered the same set of documents. The variation ranged between 31 and 56 *per cent*. Besides, the value determined by the DIGR was 49 to 83 *per cent* lower than those prescribed in the market value monitoring register. This resulted in short realisation of stamp duty and registration fees of Rs. 1.26 crore.

**6.2.13.2** Scrutiny of the records of ADSR, Cossipore indicated that in three cases, the Registering officer determined the market value of the properties at Rs. 1.05 crore instead of Rs. 1.36 crore determinable as per market value monitoring register. This resulted in undervaluation of property by Rs. 31 lakh leading to non-realisation of stamp duty and registration fees of Rs. 2.21 lakh.

When these cases were pointed out, the department stated (July 2009) that every property was *sui-generis* in nature and in determining the market value, not only the market value monitoring register data but also other factors were being considered by registering officers. So the apparent loss as pointed out by



the audit is not actual loss as the value was determined by the registering officers duly observing the rules as framed under PUI Rules applicable at that time. The fact remains that no reasons were recorded in any of the cases the reasons for reducing the market value to a substantially lower rate than the rate determinable as per market value monitoring register.

#### **6.2.14 Short realisation of Government revenue due to non-levy of additional stamp duty**

In terms of the Government Order issued in March 2007, additional stamp duty at one *per cent* is leviable on the value of the properties of Rs. 25 lakh and above presented for registration on or after 1 April 2007.

Scrutiny of the records of five registration offices indicated that the registering authorities did not levy additional stamp duty on 46 deeds, presented and registered between April 2007 and January 2008; in which the value of property exceeded Rs. 25 lakh in each case. This resulted in short realisation of revenue of Rs. 21.24 lakh as mentioned below:

Sl. no.	Name of the unit	No of deeds	Period between	Market value (Rs. in crore)	Short realisation (Rs. in lakh)
1.	DSR-II, Barasat	15	01-04-07 and 31-05-07	6.40	6.40
2.	ADSR, Alipore	4	01-04-07 and 31-01-08	1.76	1.73
3.	ADSR, Bidhannagar	22	01-05-07 and 30-11-07	9.80	11.10
4.	ADSR, Cossipore	2	01-05-07 and 30-06-07	0.54	0.53
5.	ADSR, Sealdah	3	01-04-07 and 30-06-07	1.48	1.48
<b>Total</b>		<b>46</b>		<b>19.88</b>	<b>21.24</b>

After the cases were pointed out, the department stated (July 2009) that short realisation was due to the late receipt of Government order and the process for recovery had started. A report on further development has not been received (October 2009).

#### **6.2.15 Short realisation of revenue due to levy of stamp duty at pre revised rate**

The IS Act and the Rules made thereunder provide that the stamp duty at the prescribed rate is to be realised on the market value of the property before its registration.

**6.2.15.1** Scrutiny of the records of ADSR, Alipore indicated that in two cases, the market value was assessed by the collector as Rs. 2.99 crore. The required stamp duty at 10 *per cent* of market value determined was Rs. 29.95 lakh, but the registering authority realised only Rs. 22.25 lakh before the date of registration. This resulted in short realisation of revenue of Rs. 7.70 lakh.

After this was pointed out, the department stated (July 2009) that short realisation was due to late receipt of Government order of 21.10.2002 and process had been started to recover the stamp duty. Report on realisation has not been received (October 2009).

#### **6.2.15.2 Short-realisation of revenue due to computation mistake**

Scrutiny of the records of ADSR, Howrah indicated that in one case the Registering Authority assessed the market value of the property at Rs. 64.07 lakh. The required stamp duty was Rs. 5.13 lakh of which Rs. 4,000 only was paid by the executant at the time of presentation of the deed. However, the registering authority mistakenly determined the differential stamp duty at Rs. 4.09 lakh instead of Rs. 5.09 lakh. The executant accordingly paid Rs. 4.09 lakh and the deed was registered on 31 March 2006. This resulted in short realisation of revenue of Rs. 1 lakh.

After this was pointed out, the department stated (July 2009) that the apparent mistake in calculation of stamp duty was being looked into and registering officer had been advised to check the documents and report. Report on further development has not been received (October 2009).

#### **6.2.16 Irregular allowance of discount on the value of the property**

In terms of Circular 5 issued in 2002 by the IGR, West Bengal, in assessing the market value of large piece of land, discount ranging approximately between 20 *per cent* and 50 *per cent* may be allowed depending on whether the land is situated in rural or urban area. Assessment of market value must reflect application of mind and exercising of quasi judicial discretion and function.

**6.2.16.1** Scrutiny of the records of ADSR, Sealdah indicated that the Registering Officer assessed the market value of a property at Rs. 4.81 crore after allowing 40 *per cent* discount from Rs. 8.01 crore determinable as per market value monitoring register. The case was referred to the DIGR in October 2007, who redetermined the market value at Rs. 3.55 crore which exceeded the permissible discount of 50 *per cent*. This undervaluation of the property by Rs. 45.41 lakh resulted in short levy of stamp duty and registration fees of Rs. 3.68 lakh.

After the case was pointed out, the department stated (July 2009) that discount allowed by the DIGR after hearing and considering all the factors as an appellate authority was justified and the judgment was passed on the guideline of the IGR.

The fact remains that the DIGR allowed depreciation at such a rate, which was higher than the limit of 50 *per cent*.

**6.2.16.2** In terms of circular No 5 of 2002 of the IGR, West Bengal, tenancy depreciation will be allowed at 15 *per cent* maximum on the occupied portion for a tenancy of more than 15 years.

Scrutiny of the records of ARA-II, Kolkata indicated that the Registering Officer initially determined the market value of a plot of land with fully tenanted building at Rs. 12.21 crore, but allowed tenancy depreciation at 30 *per cent* instead of maximum allowable limit of 15 *per cent*. Thus, finally determined market value was Rs. 8.54 crore instead of Rs. 10.37 crore, which led to short levy of stamp duty and registration fees of Rs. 20.32 lakh.

After the case was pointed out, the department stated (July 2009) that the circumstances under which the depreciation was granted would be looked into. Report on further development has not been received (October 2009).

### **6.2.17 Short realisation of stamp duty on set forth value of pending deeds**

Under the provisions of the IS Act and Rules made thereunder, no instrument chargeable with duty shall be admitted for any purpose, unless such instrument is duly stamped.

Scrutiny of the records of ARA-II, Kolkata indicated that in seven instruments presented for registration between January 2004 and May 2006, the set forth value of the properties was Rs. 45.03 lakh on which stamp duty and registration fees of Rs. 0.27 lakh was paid instead of Rs. 3.77 lakh payable on the set forth value. Further scrutiny indicated that though the registering officers have recorded the amount pending against each document in their records yet no action has been taken to realise the balance dues till the date of audit (February 2009). Thus, acceptance of instruments by registering officers without realisation of full stamp duty on the set forth value was irregular which resulted in short realisation of stamp duty of Rs. 3.50 lakh.

After this was pointed out, the department stated (July 2009) that Section 41 of the IS Act states that if any person fails to pay proper stamp duty due to any mistake or urgency and offers to pay the stamp duty suo-motu, the document shall not be impounded. In such cases the registering officers realised such deficit stamp duties after determination of the market value of the property. Further, this is the normal practice of registering officers who was the best authority to judge whether that section of the IS Act should be considered for a particular document and the action of the registering officer appeared to be justified. The fact remains that market value of the properties assessed by the registering officer in five out of seven cases was higher than the value set forth in the documents and deficit stamp duty was not realised for those cases. Market value of the property in the remaining two cases was not at all determined by the registering officer though two years have elapsed after presentation of those deeds.

### **6.2.18 Short realisation of stamp duty due to short determination of additional stamp duty on Market Value**

The IS Act and the rules made thereunder provide that required stamp duty is to be realised on market value of property before its registration.

Scrutiny of the records of ADSR Sealdah indicated that in six referred cases, the DIG(R) assessed the market value of property at Rs. 2.43 crore. The required stamp duty leviable at the rate of five *per cent* plus two *per cent* additional stamp duty was Rs. 17.01 lakh, but the DIG(R) determined the stamp duty at Rs. 13.56 lakh without assigning any reason. This resulted in short realisation of stamp duty of Rs. 3.45 lakh.

After this was pointed out, the department stated (July 2009) that the DIGR assessed the stamp duty on the basis of the market value determined by him and considering the nature of the document as well as article on which additional stamp duty at the rate of two *per cent* is chargeable. Such duty was chargeable on sale including certificate of sale, gift and mortgage. The fact remains that the rate of stamp duty on sale deeds prevailing at the time of execution of those deeds was 7 *per cent* (5 plus 2 *per cent* Stamp Duty on Calcutta Improvement Act) instead of 5 *per cent*.

#### **6.2.19 Conclusion**

The review indicates there is no centralised database of remission/ concession for effective monitoring of the schemes and there are lapses in the monitoring of receipt and collection of Government revenues due to non-finalisation of cases by the registrars and collectors. As a result, amounts due to Government have remained unrealised. The position of disposal of pending cases was not monitored at any level. And there is no effective internal control mechanism.

#### **6.2.20 Summary of recommendations**

The Government may consider following recommendations to rectify the system and compliance deficiencies:

- maintenance of a centralised database of remissions/concessions for effective monitoring of the schemes;
- prescribe a time limit for ascertaining the market value and registration of document either by issuing executive orders or amending the rules; and
- take appropriate measures for conducting internal audit of the directorate at regular intervals.

### **6.3 Information Technology - Computerisation of Registration of Documents (CoRD)**

#### **Highlights**

- Database in four ADSR offices revealed that market rate in Market Value Monitoring Register was not updated between 1 April 2007 and 31 March 2008 for which there was short levy of stamp duty and registration fees of Rs. 2.43 crore in 14,977 sale deeds.

**(Paragraph 6.3.6)**

- In three ADSR offices, user charges of Rs. 75.56 was realisable from 38,422 documents registered between 7 November 2006 and 31 March 2008 but no records of its realisation and remittance in Government account was available in data base.

**(Paragraph 6.3.7)**

#### **6.3.1 Introduction**

Directorate of Registration and Stamp Revenue (DoR), West Bengal has taken up an IT project of e-Registration of documents since the year 2000. The receipt from stamp revenue is the second highest revenue receipt of the State. The Directorate collects stamp duty and registration fees and other fees payable for the registration of the instruments.

The Directorate is also responsible for maintaining records of registered documents. In the State of West Bengal, there are 237 registration offices (RO) spread over 19 districts. The State Government approved the Public Private Partnership (PPP) model in 2005 for infrastructure development and initial commissioning of the project. Three agencies were entrusted with the job for three zones covering all the 237 ROs on the basis of recommendation of the Evaluation Committee. The Registering Offices are categorised on the basis of volume of transactions (deeds executed) as large, medium and small offices, respectively. The application software was developed by NIC.

**An Information Technology review of Computerisation of Registration of documents was conducted which indicated a number of compliance and other deficiencies which are discussed in the succeeding paragraphs.**

#### **6.3.2 Organisational set-up**

Stamp duty and registration fees are administered by the Finance (Revenue) Department headed by the Principal Secretary to the Government of West Bengal. The overall control and superintendence over assessment, levy and collection of stamp duty and registration fees vests with the Inspector General of Registration & Commissioner of Stamp Revenue (IGR & CSR), West Bengal. He is assisted by nine Deputy Inspectors General of Registration (DIGR), 17 District Registrars (DR), three Additional Registrars of Assurances (ARA), 26 District Sub-Registrars (DSR), 191 Additional District Sub-Registrars (ADSR) and 17 Sub-Registrars (SR).

#### **6.3.3 Audit objectives**

Audit of the application software CoRD was taken up to evaluate and assess whether the software addresses the needs of the Directorate and is effective in achieving the objectives of the project by improving the quality of the service. The audit objectives were to establish whether

- the data captured in the system were complete and correct;
- built-in-process of input-data and resultant output were adequate;
- all the business rules were properly incorporated in system; and
- internal control framework and monitoring mechanism were adequate.

#### **6.3.4 Scope and methodology of audit**

The review of CoRD was carried out between March 2009 and June 2009. Out of 237 Registration Offices, 158 offices were computerised till March 2008. Out of 37 Registration Offices selected for review of the CoRD system, dump-data were made available for four ADSR offices only. The samples have been selected from three strata of the audited units (ADSR/DSR) depending upon the number of deeds registered during a year by the units. Of these, 60 *per cent* of the 'A' category units (13), 40 *per cent* of the 'B' category units (22) and rest two of the 'C' category units have been selected through computer (IDEA) by Random Selection Method. The data obtained from four ADSR offices were analysed using CAATs (IDEA and EXCEL) to ensure accuracy and completeness of the data and its application in registration of the documents for the period from the date of commissioning of CoRD system in respective ADSR offices to March 2008.

#### **6.3.5 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the Department of Finance (Revenue) for providing information and records to audit. Audit findings of the review were reported to the government in June and July 2009 and discussed with the IGR & CSR in exit conference held in July 2009. The views of the Directorate have been incorporated in the respective paragraphs.

#### **Compliance deficiencies**

##### **6.3.6 Non-updation of MV in MVMR database**

The IGR, West Bengal, issued instructions to all the ADSRs to update the Market Value of land by appreciating the rate at five *per cent* for rural area and at eight *per cent* for urban area, annually on 1<sup>st</sup> day of each financial year.

Analysis of the database of four ADSR offices indicated that the market rate in the Market Value Monitoring Register (MVMR) was not updated between 01-04-2007 and 31-03-2008. There were 14,977 sale deeds presented for registration during the period. The market value monitoring register of the four ADSR offices were not updated on the stipulated date resulting in short determination of market value of 14,977 documents and consequent loss of stamp duty and registration fees of Rs. 2.43 crore.

After this was pointed out, the ADSR, Bidhannagar affirmed (April 2009) that the system had no provision for automatic updation of the market value of

property. The Directorate stated (July 2009) that the updation is not frequent. However, the fact remains that the software should have the provision for automatic updation of market value on the stipulated date to avoid loss of revenue due to delay in updation of market value through manual intervention.

#### **6.3.7 Non-levy of standard user charges**

Finance (Revenue) Department, West Bengal, fixed 'Standard User Charges' (SUC) at the rate of Rs. 175 per transaction up to 15 pages and Rs. 6 for each additional page to be collected from the registrant public.

Scrutiny of the computerised database of three ADSRs indicated that 38,422 documents were registered between the period 07.11.2006 and 31.03.2008 for which minimum Rs. 75.56 lakh was realisable as user charges from the registrant public. However, no records are available in the database regarding its realisation and remittance into government account.

The ADSRs, Chandannagar and Serampore replied (April and July 2009) that the matter had been referred to their State Data Centre whereas the ADSR, Sadar, did not furnish any reply. The Directorate stated that the system did not allow continuing if the standard user charges are not collected and the completion of the document will be held up. However, the matter is being looked into.

The fact remains that the SUC had not been incorporated in the CoRD for the period covered in audit resulting in loss of revenue.

#### **6.3.8 Non-mapping of business process/rules in Master Data File**

All the relevant business rules and procedures are required to be identified and suitably incorporated in the application system. Master data file controls are meant for integrity and accuracy of Master Files.

#### **6.3.9 Non-mapping of business process in respect of MVMR flat**

The CoRD system generates market value of the property in rural and urban areas through the module market value monitoring register as per the business rule. The business process provides that the rate per square feet of commercial and semi commercial flats would be 2.5 and 1.5 times of the residential ones respectively.

Analysis of market value monitoring register data in respect of three ROs indicated that the ratio had not been maintained in respect of these records for 9,48,571 semi-commercial and 9,18,556 commercial plots out of total number of 9,65,141 records.

After this was pointed out, the Directorate stated (July 2009) that the business process was a general guideline for determination of the market value of commercial and semi-commercial apartments at the rate of 2.5 and 1.5 times of the residential flats. But in some cases it might differ according to the prevailing market value of that area. Hence, a fixed multiplier on the basic rate could not be permanently applied to arrive at the correct market value.

The fact remains that the purpose of the development of the system was to bring transparency and uniformity in valuation of market value. Exceptional cases should have the approval of the competent authority and system should have a module to accommodate exceptional cases.

### 6.3.10 Non-mapping of business process in respect of road width

Width of the approach road to a plot of land is a factor in determination of market value of the land. The depreciation/appreciation of the basic rate varies between minus 15 *per cent* and plus 25 *per cent* depending on road width (other than KMC/HMC).

Analysis of the data of two ADSR offices indicated that in those cases where the property is situated on road/metal road, the road width is not considered in assessment of the market value of the property by the system. But market value of the property appreciates/depreciates according to the width of the approach road in case the property is not situated on road/metal road.

As the road width is not mapped in the system as per business process there could be underassessment of the market value of the property.

### Incomplete master database

#### 6.3.11 Incomplete master database of MVMR for flats

The SRS prescribed that data preparation relating to the market value of all plots, cost of flat/apartment in any plot must be completed prior to use of the CoRD software.

In the system there were four market value monitoring register files separately for urban and for rural area, one each for land and flat. The market value of the land had been recorded plot-wise under each *mouza* and market value for flat had also been recorded plot-wise on which the building stands. Analysis of the database of three ADSR offices indicated that there was no record of market value in respect of 2,10,009 plots in 13 *mouzas*.

Further, residential plot of land is termed as 'Bastu' (code '010'). In case of 'Bastu', number of *mouzas* and land records in market value monitoring register for land should be equal to the number of *mouzas* and plot records in the market value monitoring register for flat. Detailed analysis indicated that number of the 'Bastu' plots in the market value monitoring register of land in urban area differed from the number of plot records in the market value monitoring register for flats as detailed below:

Name of the ADSR offices	No. of Bastu mouzas in MVMR land	No. of Bastu plots in MVMR land	No. of mouzas in MVMR flat with market rate	No. of plots in MVMR flat with market rate	Difference in number of plots between MVMR land and MVMR plots
	(1)	(2)	(3)	(4)	(5)
ADSR, Serampore	20	3,89,682	15	2,81,900	1,07,782
ADSR, Chandannagar	46	1,71,015	44	94,493	76,522
ADSR, Sadar	16	918	24	1,15,440	1,14,522



The above table indicated that in case of ADSR Serampore and ADSR Chandannagar, 20 and 46 *mouzas* were categorised as '*Bastu*' land consisting of 3,89,682 and 1,71,015 plots respectively, but market value monitoring register for flats shows the records against 15 and 44 *mouzas* consisting of 2,81,900 and 94,493 plots respectively. Whereas in case of ADSR Sadar, there was only 16 *mouzas* in market value monitoring register for land containing 918 plots whereas market value monitoring register for flats contains 24 *mouzas* and 1,15,440 plots.

The CoRD system should ensure that the procedures and controls reasonably guarantee that the data received for processing are genuine, complete, accurate and properly authorised. Absence of flat records in market value monitoring register for flat on 2,10,009 plots in 13 *mouzas* rendered the market value monitoring register database incomplete.

On this being pointed out, the Directorate stated ( July 2009) that District Registrars (DR) had been advised to verify the total number of missing *mouzas*, if any, and report. On the basis of such report, market value monitoring register should be modified accordingly.

#### **6.3.12 Incomplete master database of MVMR for developed land**

The business process provides that in case of land of development authorities, notified areas, cantonment areas and housing estate, market value of land and flats is based on its location inputs like sector or action area, layout block, layout plot number, etc.

Scrutiny of the records of ADSR, Bidhannagar, indicated that the West Bengal Housing Infrastructure Development Company Ltd. (WBHIDCO) had sold land in Rajarhat. The department had not mapped the developed land of Rajarhat in the market value monitoring register and therefore market value of the properties sold out were not assessed through the system. 536 sale documents (year 2007) were registered at the value set forth by WBHIDCO Ltd. The market value of the land was not assessed by the system and set forth value was accepted, bypassing the registration process.

On this being pointed out in audit, the ADSR, Bidhannagar, stated (February 2009) that since it was treated as 'sale by Government', as such set forth value is treated as market value and there was no scope for assessment of market value.

Further, the Directorate stated that the concerned authority had not completed the survey of area and block numbers and plot numbers had not been allotted. The matter had been taken up with Rajarhat Development Authority (RDA). The software for the RDA area was being developed.

No reply had been furnished by the Directorate regarding registration of documents at the set forth value treating the sale by the WBHIDCO as 'sale by government'.

There is an inherent risk of registration of any plot by showing 'sale by Government' which is actually not a Government sale. In case of Government sale, a separate module may be designed in the software.

#### **6.3.13 Overlap of database file**

Business process provides that the same plot should not be included in both the market value monitoring register of rural and market value monitoring register of urban area in the district.

Analysis of the market value monitoring register of the three ADSR offices indicated that 1,49,897 plot records were included both in urban as well as in market value monitoring register of rural area.

After this being pointed out, the Directorate stated (July 2009) that some *mouzas* were within both the urban and rural area. But actual plot numbers for the urban and rural area could not be identified. So all the plots of those *mouzas* have been included both in urban and rural area. Stamp duty is charged on the basis of the declaration of the citizen whether the same plot is under urban area or rural area. However, as pointed out by audit, the matter would be examined before introduction of the next version.

From the reply it is clear that the department depends on the declaration of the registrant and not on the database of the department. The inclusion of same plots in two market value monitoring register in the system compromises the data integrity.

#### **6.3.14 Existence of unrelated data in the database**

The ADSR/SR offices are the lowest level registration offices in the district at sub-division or at the block level. Registration of a property is carried out in its respective jurisdiction of ADSR/SR offices only.

During the analysis of database of ADSR Sadar, Hooghly, it was observed that the market value monitoring register for rural land contained 85,59,444 plot records of 12 other ADSR offices. It was further noticed that market value monitoring register for urban land also contained 11,68,238 records of four other ADSR offices.

Thus, the market value monitoring register of ADSR, Sadar, Hooghly, the lowest level office, contained market value records of other same level offices in its database, which compromises the data integrity.

After this being pointed out, the Directorate stated (July 2009) that it had been provided for registration of the document containing properties of other sub-district/district.

The fact remains that one ADSR office could not register the properties of other ADSR office and hence should not contain the market value monitoring register of other offices. This besides occupying the space in the disk, is also fraught with the risk of misuse of data.

#### **Other deficiencies**

#### **6.3.15 Input control-data validation checks**

Input controls ensure that the data received for processing is genuine, complete, properly authorised, entered accurately without duplication and not previously processed. Input controls also serve as an effective measure to prevent error in input of irrelevant data and fraud in a computerised system.

It was noticed that for input of the data in the important fields, (the factors affecting the market value of the flat/land) e.g. the rate per unit area of a flat/plot, area of the flat/plot, floor type, width of the approach road, nature of usage of the flat/plot, age of the flat and other amenities like lift facility, gymnasium, parking space, etc., were not made mandatory. This resulted in incomplete database. Further, to restrict the invalid values in the records, data input validation is essential.

Analysis of the database of three ADSR offices indicated inaccuracies in the database of market value monitoring register which affected the determination of the market value of a property, as shown in the table below:

Property	Fields	Total no. of records	No. of inaccurate records
Apartment	Built area as well as parking area shown as '0'	5,348	83
	Market value shown as '0'	5,348	50
	Plot no. left blank	102	42
	Approach road shown as '0'	5,348	633
Land	Approach road shown as '0'	54,079	8,952
	Market value shown as '0'	54,079	3,253

**Thus, there was no input control regarding entry data in the above fields leading to undervaluation of property and consequent short realisation of stamp duty and registration fees.**

Further, the data field of built area accepts any value including “zero” in ADSR, Chandannagar, and any value except ‘zero’ in ADSR, Sadar. However, the system should not accept ‘zero’ in this field as this value is a factor in calculating market value. Additionally, this field needs to have a minimum limit of area for apartment/flat. Thus, there was no inbuilt input validation check in the field of super built area of apartment/flats.

The Directorate stated that column showing ‘zero’ ‘area’ and ‘approach road’ were not taken into consideration by the Registration Officer (RO) at the time of registration.

The fact remains that the fields of ‘area’ and ‘approach road’ were the determining factors for the generation of market value. Therefore, consideration of these fields should be mandatory. The possibility of undue benefit to the registrant may not be ruled out.

Further the following discrepancies were noticed which were a result of absence of data validation checks.

Observations	Total no. of records	Irregularities (No. of records)
Date of payment shown earlier than the date of purchase of bank draft	1408	1408

Date of completion of deed shown earlier than the date of bank draft	33,827	58
Date of execution of deed shown earlier than the date of purchase of stamp paper	29,317	2
Date of completion of deed shown earlier than the date of purchase of stamp paper	28,394	2
Date of completion of deed shown earlier than the date of presentation of the deed	28,394	2
Transaction date falling on Saturday or Sunday	43,711	276

Thus, there is no input validation control regarding transaction date and day fields.

### 6.3.16 Inadequate audit trails

Analysis of the database of the four ADSR offices indicated 46 duplicate deed numbers out of 1,28,556 cases and 107 missing deeds out of 31,281 cases of auto generated consecutive deed numbers. There was no internal control mechanism to detect any attempts at deletion of deeds which enhanced the risk of frauds by unauthorised deletion.

Moreover, audit trails viz. 'updated by', 'updated on', 'updated from', 'deleted by' and 'authorised by' to track the history of transactions had not been incorporated in the system.

On this being pointed out by audit, the Directorate stated (July 2009) that in respect of duplicate deeds any mistake in data entry detected after generation of the permanent deed number was corrected with the permission of the District Registrar through a special inbuilt system in the software. In case of gap in deed numbers, the Directorate stated that registration officers (ROs) had been advised to verify and report.

### 6.3.17 Delay in completion of document

One of the objectives of CoRD system is to deliver the registered documents to the registrant on the same day of its presentation.

Analysis of the database of four ADSR offices indicated that after starting of registration through CoRD, 44,731 documents were presented of which 28,813 documents were not completed and delivered on the same day of their presentation. The delay ranged between 1 and 30 days in respect of 60 *per cent* cases and more than 30 days in respect of four *per cent* cases as detailed below:

Total number of documents presented for registration	No. of documents delayed	
	Delay upto 30 days ( <i>per cent</i> )	Delay more than 30 days ( <i>per cent</i> )
44,731	27,015 (60)	1,798 (4)

On this being pointed out, the Directorate stated that the document had been delivered after admission for registration. Therefore, service to the citizens had not been jeopardised.

The fact remains that the CoRD has been developed and implemented with the objective of providing fast service.

### 6.3.18 Short levy of stamp duty and registration fees

Scrutiny of 20 deeds registered between January 2008 and February 2008 under the ADSR, Bidhannagar, indicated that in one case the consideration value of land was Rs. 60.69 crore after a rebate of Rs. 1.24 crore allowed by the seller (WBHIDCO Ltd.). The stamp duty and registration fees was realised by the registering authority on Rs. 60.69 crore instead of Rs. 61.93 crore. In absence of market value monitoring register of developed area in the system, the system could not assess the market value of the said property but accepted the set forth value as stated in the document produced by the WBHIDCO Ltd. The document bypassed the CoRD leading to non-assessment of the market value of the property by the system. This resulted in short realisation of stamp duty and registration fees of Rs. 8.80 lakh.

On this being pointed out, the ADSR Bidhannagar, stated (February 2009) that the rebate was not allowed by the government, rather the consideration was fixed after allowing rebate etc. by the WBHIDCO Ltd. The said consideration was taken as the market value of the property.

The fact remains that the set forth value of the land was Rs. 61.93 crore before the rebate. Hence stamp duty is realisable on market value as assessed by the system or set forth value, whichever is higher.

The Directorate stated (July 2009) that the matter was being looked into.

#### **6.3.19 Non-mapping of stamp Act**

Indian Stamp Act, 1989 provides for stamp duty at concessional rate of 0.5 *per cent* of market value of the gift made in favour of family members.

Detailed scrutiny of the system indicated that in three ADSR offices, there were 10,480 records of gift deed in favour of family members. However, there was no audit trail to establish the donor-donee relationship for registration of the gift deeds at concessional rate. Non-mapping of stamp rules for registration of 'gift' deed at concessional rate in the system may lead to execution of gift deeds at concessional rate in favour of ineligible family members. Test check in one ADSR office indicated that in 7 out of 40 cases the relationship between donor and donee had not been established.

Analysis of data base indicated that in seven cases incorrect application of concessional rate and in 1,222 cases short levy of concessional rate resulted in short levy of stamp duty of Rs. 1.34 lakh and Rs. 10.10 lakh respectively.

**The government may consider incorporating necessary controls into the software to ensure collection of correct amount of stamp duty.**

#### **6.3.20 Inadequate general and logical access controls**

The existence of appropriate general and logical access controls ensure a sound and healthy working environment for any application system. It was observed that the state of general and logical access controls was inadequate and hence was prone to external and internal threats.

**The government may consider strengthening of physical access and logical access controls.**

#### **6.3.21 Conclusion**

The Computerised System of Registration of documents was developed with the objective of improving the efficiency and effectiveness of collection of the stamp duty and registration fees and providing hassle free service to the registrant people. However, the application system is not free from wrong application of the business rules in the transactions due to lack of proper data input control and validation. The department also did not devise any monitoring mechanism to ensure that the correctness and completeness of data input in the system. Thus, implementation of the system did not fully achieve the objective.

#### **6.3.22 Summary of recommendations**

The Government may consider following recommendations to rectify the system and compliance deficiencies.

- incorporate necessary controls into the software to ensure collection of correct amount of stamp duty;
- strengthen physical access and logical access controls;
- map all business process/rules etc., into CoRD system and update regularly to avoid leakage of revenue;
- build the validation controls into the system to avoid inconsistent data entry;
- design and incorporate audit trails in the system to track the transactions, in order to monitor exceptional changes made to the data; and
- establish interface between CoRD and other packages in local bodies and land revenue offices to derive the benefits envisaged.

#### **6.4 Non-registration of agreement and non-payment of stamp duty and registration fees**

Under the provisions of the Indian Stamp (IS) Act, 1899, any agreement signed under a public private partnership project is a lease agreement and such agreement exceeding one year has to be registered on payment of requisite stamp duty and Registration fee at the prescribed rate. As per the West Bengal Taxation Laws (Amendment) Act, 2003, where the lease purports to be for a term of not less than one year, but not more than five years, stamp duty is payable at the rate of rupees forty for Rs. 1,000 of average annual rent and rupees twenty for every Rs. 500 or part thereof in excess of Rs. 1,000. In addition, registration fees @ 1.1% of average annual rent is also chargeable.

Scrutiny of the records of Hooghly River Bridge Commission (HRBC) indicated that the HRBC executed an agreement (effective from 1 April 2006) for installation, operation and maintenance of electronically operated toll collection system on Vidyasagar Setu, Kolkata, at a contractual amount of Rs. 100.35 crore for a period of 60 calendar months under a PPP project. As per the provisions of the IS Act the lease agreement was required to be registered, but the agreement was executed on a non judicial stamp paper of Rs. 100 only and the same was accepted by the HRBC. This resulted in non-realisation of stamp duty and registration fees of Rs. 1.02 crore.

After this was pointed out, the Vice Chairman, HRBC did not furnish any specific reply.

The case was forwarded to Government in April 2009; their reply has not been received (October 2009).