

CHAPTER III
SPECIAL DEPUTY COLLECTOR
(STAMPS)

Highlights

18,517 documents were pending disposal by the DRO(Stamps)/SDC(Stamps) in the offices selected by audit, as on 31 March 2009, as against 7,601 as on 31 March 2006.

[Paragraph 3.2]

Delay in assessment and determination of market value in 3,016 cases resulted in blocking of revenue of ₹ 353.02 crore due to the Government.

[Paragraph 3.6.1]

74 instruments referred for determination of market value were returned without determination of market value resulting in non-realisation of revenue of ₹ 5.24 crore.

[Paragraph 3.8.1]

3.1 Introduction

Under Section 47A of the IS Act, if the registering officer has reason to believe that the market value of the property has not been truly set forth in the instrument, he may, after registering the instrument, refer the same to the Collector viz., DRO(Stamps)/SDC²⁰ (Stamps) for determination of the correct market value and duty payable thereon. The DRO(Stamps)/SDC(Stamps) determines the market value under section 47A(2), collects the deficit duty, if any, and returns the document to the registering authority for collection of the deficit registration fee, if any. The Collector, under Section 47A(3), may *suo motu* or otherwise review the value of properties fixed by the registering authorities.

The valuation made may be challenged by the executants under Section 47A(5) by appealing to the Chief Controlling Revenue Authority (CCRA). The CCRA under Section 47A(6) may also *suo motu* review the values determined by the Collector.

There are two²¹ DRO (Stamps) and nine SDC²² (Stamps) offices. We selected²³ two DRO (Stamps) and three SDC (Stamps) offices on the basis of pendency of documents. We analysed 9,500 documents out of 1,10,787 documents received in these five offices for determination of market value during the period of audit involving a referred deficit duty of ₹ one lakh and above in each case as detailed in the Annexure.

²⁰ DRO – District Revenue Officer; SDC – Special Deputy Collector

²¹ Chennai and Coimbatore

²² Cuddalore, Madurai, Salem, Thanjavur, Tirunelveli, Trichy, Tuticorin, Vellore and Virudhunagar

²³ Chennai, Coimbatore, Madurai, Salem and Trichy

3.2 Trend in pendency of documents

The number of documents pending as on 31 March 2009, alongwith the position for the previous years in respect of the five offices selected by audit is detailed below:

	Position as on 31 March			
	2006	2007	2008	2009
Number of documents pending	7,601	14,198	16,489	18,517
Increase in percentage of pending documents over previous year	---	87	16	12
Amount involved (₹ in crore)	351.58	355.02	493.01	819.29

The number of pending documents increased by 87 per cent in 2007 as compared to 2006 whereas the increase percentages were 16 and 12 for the years 2008 and 2009 respectively.

3.3 Internal control mechanism

A Master Register is maintained in each office of the department to make entries of details of documents referred under Section 47A(1) and 47A(3) and to monitor the progress of disposal. The register has columns for incorporating various details such as document number, date of registration, value referred, value fixed, date of notice under Form I, etc. All entries were assigned unique numbers every calendar year to facilitate identification of cases and the relevant files.

We observed that each office maintained the master register in its own way and a number of columns were left blank or incorrectly entered. No column was provided in the register to enter the date of receipt of cases and audit had to consider the date of entry as the date of receipt. The correctness of the entries was not authenticated and the register was not closed. In the absence of vital information like the date of receipt of document, date of issue of Form I notice, final orders, status of the cases, etc and authentication and closing of registers, we could not ascertain the correctness of the details prepared and submitted every month to the CCRA.

Thus, the internal control mechanism was rendered ineffective as the returns/periodicals submitted to the CCRA did not present the complete information since the basic data from which these returns/periodicals were prepared were incomplete.

3.4 Discrepancies in system of valuation

Section 47A(2) empowers the Collector to determine the market value of properties referred to him by the registering authority. The market value of a property, as provided in the explanation under Section 47B, shall be estimated to be the price which, in the opinion of the Collector or the CCRA or the High Court as the case may be, such property would have fetched or would fetch if sold in the open market on the date of execution of the instrument of conveyance, exchange, gift, release of benami right or settlement. Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules prescribes the principles to be followed for determination of the value of properties.

The guideline values have several applications apart from being a valuation criteria for the Registration Department. In Tamil Nadu, there are about one crore guideline values and they are displayed on the Internet for use by the general public. The Registration Department and the officials of Revenue Department headed by the Collector were involved in the preparation of guideline value. However, the guideline values do not have statutory backing and therefore, have to be distinguished from market values.

We observed during test check that there was wide

variation between the values referred by the registering officers and the values fixed by the DRO/SDC (Stamps). In 590 out of 5,691 cases whose values were fixed during the period of review, the value fixed was 10 *per cent* or less than 10 *per cent* of the guideline values referred.

For the purpose of ascertaining the assessment procedure followed by the Collector for determination of value, the audit period was divided into two parts. The first part was from 1 April 2005 to 31 July 2007. During this period, the guideline values fixed on 1 April 2003 remained unrevised. The Collector, however, had valued the properties lower than the guideline values in respect of cases referred to him during this period as detailed in the following table:

Total cases analysed	2,781 cases.	Percentage of total cases analysed
Determination of value around 10 <i>per cent</i> of the guideline value	296 cases	11
Determination of value around 10 to 25 <i>per cent</i> of the guideline value	528 cases	19
Determination of value around 25 to 50 <i>per cent</i> of the guideline value	466 cases	17
Determination of value equal to or more than the guideline value	188 cases	7

The second period was from 1 August 2007, the date on which a revised structure of guideline values was introduced by the Registration Department. These values were prepared by a panel of officials from both the Registration and Revenue Departments and the classification of lands too was revised in consultation with the Revenue Department. The purpose of the revised structure was to eliminate anomalies in classification and values, and reduce appeals. Even after this revision, the Collectors continued to differ with the nature of land and values referred to them, and their decisions had mostly gone against the revenue as detailed below:

Total cases analysed (registered after 1.8.2007)	2,748 cases	Percentage of total cases analysed
Determination of value around 10 <i>per cent</i> of the guideline value	287 cases	10
Determination of value around 10 to 25 <i>per cent</i> of the guideline value	506 cases	18
Determination of value around 25 to 50 <i>per cent</i> of the guideline value	400 cases	15
Determination of value around 50 to 75 <i>per cent</i> of the guideline value	730 cases	27
Determination of value around 75 to 99 <i>per cent</i> of the guideline value	664 cases	24
Determination of value equal to or more than the guideline value	161 cases	6

The above table show that the Collectors, only in seven *per cent* of the documents, had fixed the value equivalent to the guideline value in the pre-revised period. For the latter period, where the guideline values were prepared in consultation with the Revenue Department, fixation of value equivalent to the guideline value was made in only six *per cent* of documents referred.

3.5 Lack of provision for levy of minimum duty

We observed during the analysis of 9,500 cases sampled, that in 2,913 cases (30.68 *per cent*) value of 10 *per cent* or less than that of the guideline value was set forth. In 130 documents, the declaration was only upto one *per cent* of the guideline value. In the absence of a provision for levy of minimum stamp duty for registration of documents at the time of presenting the documents for registration, the executants in these cases chose to declare a modest

consideration while protesting the guideline values. It bestows double advantage to parties protesting guideline values as they can pay a meagre amount as duty at the time of registration and pay the balance after fixation of the deficit duty by the Collector at a much later date. Moreover, the registration fee also is collected only on the declared consideration.

The Government may consider levy of stamp duty and registration fee payable on any document admitted for registration on a percentage of guideline value which could be adjusted in the final assessment by Collector.

3.6 Delay in assessment and determination of market value

According to rule 7(1) of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, the Collector shall determine the value of the property referred to him under Section 47A(1) and issue a final order within three months from the date of issue of notice in Form I (first notice).

3.6.1 We observed during test check of the sampled cases that as at the end of 31 March 2009 market values of the properties were not determined in 3,016 cases (constituting 31.75 *per cent*) within three months after the issue of Form I notice. The delay ranged from four to 49 months. This resulted in blocking of revenue of ₹ 353.02 crore due to the Government.

3.6.2 We further observed that there was also delay in issue of final orders and orders on provisional assessment in 2,319 cases where determination of market values of properties have been completed. The delay ranged from three to 46 months. The non-adherence of the time limit prescribed in Rule 7(1) of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules had delayed the realisation of revenue due to the Government. An illustrative case is detailed below:

3.6.2.1 We noticed in the office of the Special Deputy Collector (Stamps), Vellore in July 2008 that a sale deed registered in 2000 was referred to SDC (Stamps) for determining the market value of the property. The SDC (Stamps) after inspection of the site, determined the market value at ₹ 1.81 crore and worked out the deficit stamp duty at ₹ 21.58 lakh in February 2001.

We pointed this out to the department/Government in August 2008/January 2009 respectively. The Government replied (June 2009) that the final order confirming the value was issued in September 2008.

3.6.3 We also observed that in 222 cases there was delay in issuing final orders after determination of provisional value of properties and issue of notice in Form II (provisional assessment), the delay ranging from three to 39 months.

3.6.4 There were also 76 cases where final orders (Form III) were not issued till the date of audit. However, collection of deficit duty was made based on the provisional order, after a delay ranging from three to 19 months.

The duty involved in these cases amounted to ₹ 5.18 crore.

3.7 Delay in collection of arrears under Revenue Recovery Act

3.7.1 Arrears which could not be collected are referred for collection under the Revenue Recovery Act (RR Act). There are 63,011 cases involving a deficit duty of ₹ 168.93 crore pending for collection under the RR Act. Out of this, 42,097 documents involving ₹ 138.26 crore relate to the offices sampled by audit.

3.7.2 We observed from the records of the SDC (Stamps), Trichy, that in 28 cases, the deficit stamp duty amounting to ₹ 0.79 crore pertaining to the period 2005-2008 remained uncollected till March 2009. The cases were also not referred to the revenue authorities for effecting recovery under the RR Act.

3.8 Non-observance of the provisions resulted in non-realisation of revenue

There is no provision in the IS Act for the return of a document referred under Section 47A(1) of the IS Act without finalising the valuation of the property involved. The Inspector General of Registration had instructed the DRO (Stamps) and SDC (Stamps) in November 2005 to finalise those cases in which the documents were returned to the parties based on court direction within three months. The general procedure is that the original documents are returned based on court directions but the cases are kept pending till the valuation procedure is completed.

3.8.1 We observed during test check of the records in the selected five offices that 74 documents were returned to the registering authorities without determining the value of properties involved in these documents. The reasons for returning the documents were not recorded and the cases were also not shown as pending finalisation in their records. The return of documents without observing the procedure as per law resulted in non-realisation of revenue to the extent of ₹ 5.24 crore.

3.8.2 We further observed that in 66 cases involving a deficit duty of ₹ 209.19 crore the original documents were returned to the parties based on court directions. However, in those cases the valuation of the properties was yet to be determined.

The above procedural lapses provided undue advantage to those who protested the guideline value as against those who accepted the guideline values and paid the duty.

3.8.3 We observed during the test check of records in the Sub Registry, Thiruvottiyur that in respect of three instruments of sale (registered in 2007) referred to DRO(S), Chennai in September 2007 for fixation of market value, the DRO(Stamps), Chennai had fixed the market value in all the three cases in August 2008 and deficit stamp duty was arrived at ₹ 1.67 crore.

However, as per the court directions the documents were returned to the parties concerned in September 2008 without collecting the deficit stamp duty. No further action was initiated to collect the deficit stamp duty of ₹ 1.67 crore as detailed in the following table even after a lapse of two years.

(₹ in crore)

Sl. No	Document Number	Value fixed by the DRO (Stamps)	Value set forth in the document	Difference	Deficit amount of SD
1	10080/07	14.92	6.32	8.60	0.77
2	10081/07	14.34	6.42	7.92	0.71
3	10082/07	3.81	1.70	2.11	0.19
Total					1.67

After we pointed this out, the department replied that the matter would be referred to the DRO (Stamps) for his comments.

3.8.4 Further, in one case, a document pertaining to Sub-Registry, Konnur was returned in July 2007 by the DRO (Stamps), Chennai on the grounds that the document involving the transaction under reference was cancelled subsequently. As there is no provision in the Act to refund stamp duty on cancellation of any document, the return of document in this case resulted in loss of revenue of ₹ 1.87 crore.

3.9 Conclusion

In more than 90 per cent of the cases sampled in audit the Collector had fixed the values in between the set forth value and the guideline value only. The number of pending documents increased from 7,601 in 2006 to 18,517 in 2009. There was delay in determination of market value in 32 per cent of the cases sampled in audit.

3.10 Recommendations

The Government may consider the following:

- The Master Register may be computerised;
- A time frame may be fixed to finalise the cases pending with the SDC/DRO (Stamps); and
- The time limit prescribed in Rule 7(1) for assessment of market value after issue of notice in form I of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules may be enforced.