

EXECUTIVE SUMMARY- CHAPTER - V

Increase in the collection of stamp duty and registration fees	In the year 2010-11 the collection of Stamp Duty and Registration fees increased by 49.49 <i>per cent</i> over the previous year but there was a shortfall in collection of ₹ 181.54 crore in comparison with the revised budget estimates for 2010-11.
Recovery by Department of observations pointed out by us in earlier years.	During the period 2005-06 to 2009-10 we had pointed out non/short levy etc, involving revenue implication of ₹ 168.67 crore in 3,164 cases of these the department, Government had accepted audit observations in 691 cases involving ₹ 12.45 crore but recovered only ₹ 3.68 crore in 735 cases pertaining to the audit findings of previous years. The recovery position as compared to acceptance of objections was ranging from 0.04 <i>per cent</i> to 539.39 <i>per cent</i> .
Internal audit not conducted	Internal audit is intended to examine and evaluate the level of compliance with rules and procedure. Effective internal audit system both in the manual as well as computerised environment are pre-requisite for the efficient working of any Department. However, no internal audit wing existed in the Department. .
Result of audit conducted by us during 2010-11	In 2010-11 we test checked the records of 108 units relating to stamp duty and registration fee and noticed several cases of non/short levy of stamp duty and registration fee and other irregularities and misappropriation of Government money involving ₹ 43.82 crore in 583 cases. The Department accepted audit observations involving ₹ 21.27 crore in 23 cases and recovered ₹ 2.81 crore in 165 cases pertaining to audit finding of the earlier years.
What we have highlighted in this Chapter.	<p>In this chapter we present illustrative cases of ₹ 3.92 crore inclusive of misappropriation of Government of receipt of ₹ 19.74 lakh selected from observations noticed during our test check of records relating to stamp duty and registration fee in the offices of Sub-Registrar/Joint Sub Registrar where we found that provision of Act/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Report for the past several years, but the Department have not taken corrective action despite switching over to an IT enabled systems in the whole Department. We are also concerned that though these omissions were apparent from the records which were made available to us, the Department was unable to detect these mistakes.</p>

Our conclusion and Recommendations	<p>The Department needs to improve the internal control system including strengthening the internal audit so that weakness in the system are addressed and omission of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the non-realisation, under assessment of tax etc. pointed out by us, more so in those cases where it has accepted our contention.</p>
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CHAPTER-V

Stamp duty and Registration fees

5.1 Tax administration

The State Government exercises control over the Registration of instruments through the Inspector General of Registration, who is assisted by the Deputy Commissioner (Collector), Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars (SRs) and Joint Sub-Registrars (JSRs) respectively. No registration work is however, done in the office of the Registrars. The Registrar exercises Superintendence and Control over the SRs and JSRs of the district. For the purpose of levy and collection of Stamp Duty and registration Fee, the State has been divided into four divisions and 20 districts having 20 Registrars, 78 SRs and 76 JSRs.

5.2 Analysis of budget

Budget Estimates for the year 2010-11 were assigned at ₹ 2,200 crore by the Department, but the budget fixed by the Finance Department was ₹ 2,395 crore. The Finance Department again revised it to ₹ 2,500 crore. Against which, the actual receipts were ₹ 2,318.46 crore.

5.3 Trend of receipts

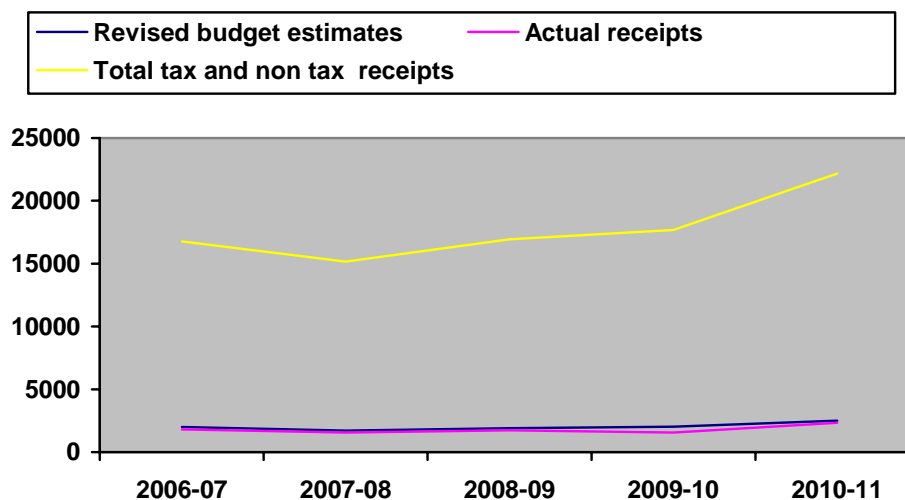
Actual receipts from Stamp duty and Registration fees during the period 2006-07 to 2010-11 along with the total tax/non-tax receipts collected by the State during the same period is exhibited in the following table.

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax and non-tax receipts of the State	Percentage of actual receipts vis-à-vis total tax and non-tax receipts
2006-07	2,000.00	1,803.93	(-) 196.07	(-) 9.80	16,761.74	10.76
2007-08	1,700.00	1,567.84	(-) 132.16	(-) 7.77	15,153.14	10.35
2008-09	1,900.00	1,730.29	(-) 169.71	(-) 8.93	16,934.10	10.22
2009-10	2,015.00	1,550.94	(-) 464.06	(-) 23.03	17,692.18	8.77
2010-11	2,500.00	2,318.46	(-) 181.54	(-) 7.26	22,158.35	10.46

Though the actual receipts during 2010-11 increased as compared to that of for the preceding year, yet there was shortfall in collection by ₹ 181.54 crore against the envisaged (Revised) budget estimates.

The trend of actual receipts vis-a-vis budget estimates during 2006-07 to 2010-11 is depicted in the following graph.



5.4 Analysis of arrears of revenue

No arrears of revenue are pending in the Department.

5.5 Cost of collection

The gross collection of stamp duty and registration fee, expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2006-07 to 2010-11 along with the relevant all India average percentage of expenditure on collection are mentioned below:

(₹ in crore)

Head of Revenue	Year	Gross Collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage over the previous year
Stamp duty and registration fees	2006-07	1803.93	30.21	1.67	2.87
	2007-08	1567.84	18.22	1.16	2.33
	2008-09	1730.29	23.69	1.37	2.09
	2009-10	1550.94	12.42	0.80	2.77
	2010-11	2318.46	25.47	1.10	2.47

The cost of collection in 2010-11 was increased by 0.30 *per cent* as compared to the previous year 2009-10. The reasons of variations were called for from the Department and the reply is awaited (December 2011).

5.6 Impact of Audit Reports

5.6.1 Revenue impact

During the last five years, audit through its reports had pointed out non/short levy etc., involving revenue implication of ₹ 168.67 crore in 3,164 cases. Of these, the Department/Government had accepted audit observations in 691 cases involving ₹ 12.45 crore and had recovered ₹ 3.68 crore in 735 cases. The details are shown in the following table:

(₹ in crore)

Year	Number of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	127	909	7.90	114	3.95	51	0.17
2006-07	99	458	11.05	325	7.41	203	0.92
2007-08	132	919	49.32	205	0.45	121	0.44
2008-09	116	316	42.32	24	0.31	88	0.37
2009-10	141	562	58.08	23	0.33	272	1.78
Total	615	3,164	168.67	691	12.45	735	3.68

The Government may consider for issuing of instructions for the recovery of the revenue at least in the accepted cases on priority.

5.7 Working of internal audit wing

Internal audit is intended to examine and evaluate the level of compliance with the Rules and procedures so as to provide a reasonable assurance on the adequacy of the internal control. Effective internal audit system both in the manual as well as computerised environments are a pre-requisite for the efficient functioning of any Department. However, no internal audit wing exists in Department.

5.8 Results of audit

Test check of the records of 108 units relating to stamp duty and registration fee during 2010-11 revealed irregularities involving ₹ 43.82 crore in 583 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short levy of stamp duty and registration fee	334	18.90
2.	Short levy of stamp duty and registration fee on lease deeds	4	17.82
3.	Misclassification of instruments	21	1.23
4.	Other irregularities	224	5.87
Total		583	43.82

During the year 2010-11, the Department accepted the audit observations involving ₹ 21.27 crore in 23 cases and recovered ₹ 2.81 crore in 165 cases pertaining to the audit findings of the earlier years.

A few illustrative cases involving ₹ 3.92 crore are discussed in the following paragraphs.

5.9 Audit observations

We noticed several cases of non-observance of provisions of Acts/Rules; resulting in misappropriation of Government money, non/short levy and irregular remission of stamp duty and registration fee due to misclassification of documents, application of incorrect rates of stamp duty and inadmissible benefits as mentioned in the succeeding paragraphs. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of Sub-Registrars/Joint Sub Registrars (SRs/JSRs) are pointed out in audit repeatedly, but not only the irregularities persist, they also remain undetected till we conduct audit. There is need for the Government to improve the internal control system so that such omissions can be detected and corrective measures taken.

5.10 Non-observance of provision of Act/Rules

The Indian Stamp Act, 1899, The Indian Registration Act, 1908 and Rules frame thereunder provide for:-

- (i) levy of stamp duty and registration fee at the prescribed rates,
- (ii) exemption from stamp duty and registration fee and
- (iii) correct determination of stamp duty and registration fee.

The SRs/JSRs while registering the deeds did not observe some of the provisions of Acts/Rules in the cases mentioned in paragraphs 5.10.1 to 5.10.9 This resulted in non/short levy and non-realisation of stamp duty and registration fee of ₹3.92 crore.

5.10.1 Misappropriation of Government dues

SR, Amritsar-I

Punjab Government vide notification dated July 2009, revised the rate of registration fee to one *per cent* of the value of the deeds subject to a minimum of ₹ 50 and maximum of ₹ 30,000 with effect from 21 July 2009 in respect of all compulsorily registerable documents other than leases of immovable property.

a (i) We found (August 2010) that in 224 cases of registration of deeds executed during 2009-10, registration fee of only ₹ 7.46 lakh was collected against the due fee of ₹ 25.20 lakh. This was done by adopting the modus operandi of lowering the value of deeds for levy of registration fee though the stamp duty was levied on the full value of deeds. The registration fee was collected on lower value despite the

fact that as per calculation by computerised software, the full amount of registration fee was to be levied. This resulted in fraud/short collection of Government dues of ₹ 17.74 lakh.

ii) Similarly, by co-relating of counter foil of receipt book and cash book we found (August 2010) that in three cases during 2009-10, against the collection of Government dues of ₹ 0.09 lakh, only ₹ 102 was accounted for in the cash book. This was done by not taking the amount of two receipts of

₹ 7420 to the cash book and by taking ₹ 102 against the receipt for amount of ₹ 1400. The SR is responsible for correct deposit of Government money failed to detect the misappropriation. This had resulted in misappropriation of Government dues of ₹ 0.09 lakh.

The Rules further provide that all the Government receipts collected during the day, should without any further delay be paid into the Government treasury on the same day or on the next working day. The head of the office should verify the totals of the cash book or have this done by some other responsible subordinate official other than the writer of the cash book.

iii) We found (August 2010) that in 10 cases the totals in the fee register were taken less by ₹ 0.52 lakh between the period September 2009 to February 2010 by adopting the modus operandi of short totaling. Thus, non-checking of the total by some other responsible official resulted in misappropriation of Government money of ₹ 0.52 lakh. When we pointed (August 2010), the Sub Registrar accepted the audit objection and stated that out of ₹ 18.35 lakh (17.74+0.09+0.52), an amount of ₹ 11.55 lakh had been

deposited into the Government treasury (August 2010) and the balance amount of ₹ 6.80 lakh had been recovered from the concerned official and deposited into the treasury, but the treasury challans for ₹ 6.80 lakh were yet to be verified. It was also intimated by the SR that the official concerned has been suspended by the Deputy Commissioner. However, in this case responsibility of the head of the office remained un-addressed.

SR, Tarn Taran

(b) We found (September 2010) that in six cases against the actual receipts of ₹ 1.13 lakh, only ₹ 46.00 was taken into account in the fee register. This was detected by us by cross checking of the counter foils of the receipt books for 2009-10 with the entries in the cash book. This had resulted in misappropriation of Government dues of ₹ 1.13 lakh.

When we pointed out (September 2010), the SR stated that the entire misappropriated amount had been recovered and deposited into the treasury (September and October 2010). The SR further stated that misappropriation of ₹ 0.85 lakh was detected by the Department which was also recovered and deposited into the treasury (September 2010) and the official concerned has been suspended and a charge sheet was being issued to him. However, in this case responsibility of the head of the office remained un-addressed.

Joint SR, Attari

c (i) We found (November 2010) that in four cases against the actual receipt of ₹ 0.16 lakh, receipt of ₹ 16 only was accounted for in the cash book, which was detected by us by cross checking the counter foils of receipt books for 2009-10 with the entries in the cash book. This had resulted in misappropriation of Government due of ₹ 0.16 lakh.

(ii) Similarly we found (November 2010) that registration fee of ₹ 0.10 lakh was not accounted for in the fee register which was detected by us while cross checking of the fee realised as per deed registered during 2009-10 with the

entries in the fee register. This had resulted in misappropriation of Government dues of ₹ 0.10 lakh.

When we pointed (November 2010), the JSR, Attari stated that the misappropriated dues of the Government would be recovered after verification of the records. Final outcome of the matter is awaited (December 2011).

We reported the above mentioned cases of misappropriation to the Department (between August and November 2010) and the Government (between August 2010 and January 2011); their replies are awaited (December 2011).

5.10.2 Short levy of stamp duty

10 SRs¹ and Six² JSRs

Under the Punjab Stamp Rules, 1983 as amended in 2002, the Collector of a district in consultation with the committee of experts as defined thereunder, fixes the minimum market value of land/properties, locality wise and category wise in the district, for the purpose of levying stamp duty on the instruments of transfer of any property.

We found (between January 2010 and March 2011) that on 25 instruments registered during 2008-09 and 2009-10 for the sale of agricultural/ residential/commercial properties, the stamp duty was wrongly charged on the consideration value of ₹ 26.89 crore set forth in the instruments instead of ₹ 60.81 crore, the minimum market value of properties at the price fixed by the respective Collectors. This resulted in short levy of stamp duty of ₹ 2.57 crore.

When we pointed out in audit, the JSR Machhiwara stated that the deed would be sent to the Collector under section 47-A. The remaining SRs stated that recovery would be made after verification of the records.

We reported the matter to the Department and the Government (between January and March 2011); their replies are awaited (December 2011).

¹ Amritsar-I,II, Gidderbaha, Hoshiarpur, Jalandhar-I&II, Malaut, Nawan shahar, Sangrur and Shahkot

² Attari, Banga, Koom Kalan, Macchiwara, Noor Mahal and Talwandi Bhai

5.10.3 Non/short levy of stamp duty and additional stamp duty

Five SRs³

As per the notification issued in April 2007, the Punjab Government remitted the stamp duty chargeable on the instrument of transfer of urban residential property falling within the limit of municipal committee or municipal corporation as the case may be, when the property is transferred by the owner in favour of his class-I heirs.

The remission was not available for transfer of commercial/ agriculture property under the said notification. Further, additional stamp duty is chargeable in respect of every instrument of immoveable properties falling within the municipal limit.

We found (between April 2010 and February 2011) that nine transfer deeds for transfer of urban “commercial/ agricultural properties” valuing ₹ 8.26 crore were executed by the owners in favour of their class-I heirs⁴. The exemptions as granted under the notification (April 2007) were not admissible in the case of ‘Commercial/ agricultural property’. Thus stamp duty and additional stamp duty was recoverable on these transfers. Non-levy of stamp duty in these cases worked out to ₹ 40.86 lakh. Besides additional stamp duty of ₹ 23.80 lakh was also not levied in these cases.

When we pointed out (between April 2010 and February 2011), SR Dasuya stated (April 2010) that the land is ‘*gairmumkin*’ (non-cultivable) and not industrial. The reply is not acceptable because as per *jamabandi* records attached with the deed, a factory was in operation on that land. The other SRs stated that action would be taken after verification of records.

We reported the matter to the Department and the Government (March 2011); their replies are awaited (December 2011).

5.10.4 Short levy of stamp duty due to misclassification of properties

SR Amritsar-II

Under the Punjab Stamp (Dealing of Under-valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts fixes the minimum market value of land/properties locality wise and category wise in the district for the purpose of levying stamp duty.

(a) We found (May 2010) that three deeds for transfer of properties were registered during the year 2009-10 as “residential” instead of “commercial” properties. The Collector’s rates as applicable to those properties were not applied for levy of stamp duty. This mistake in classification resulted in

³ Bholath, Dasuya, Jagraon, Ludhiana (East) and Mukerian

⁴ Class-I heirs include son, daughter, wife, mother, son of a pre-deceased son, daughter of a pre-deceased daughter, widow of a pre-deceased son, son of a pre-deceased son of a pre-deceased son, daughter of a pre-deceased son of a pre-deceased son, widow of a pre-deceased son of a pre-deceased son.

short levy of stamp duty of ₹ 2.66 lakh.

When we pointed out (May 2010), SR stated that matter would be looked into.

JSR, Noor Mahal

(b) We found (January 2011) that two deeds for transfer of land were registered during 2009-10. The stamp duty of ₹ 1.76 lakh was levied on the consideration of ₹ 35.25 lakh calculated at the rate ₹ 8.00 lakh per acre applicable for agricultural land instead of stamp duty of ₹ 8.81 lakh (leviable on the total consideration ₹ 176.25 lakh calculated at the rate of ₹ 0.25 lakh per marla) applicable for the residential purpose. This misclassification was identified by us by cross linking the “Khasras” mentioned in the deeds with the list of Khasras for residential area declared by the Collector. This mistake in classification resulted in short levy of stamp duty of ₹ 7.05 lakh.

When we pointed out (January 2011), the JSR stated that the cases would be sent to the Collector under section 47A. Final outcome of the cases are awaited (December 2011).

We reported the matter to the Department and the Government (March 2011); their replies are awaited (December 2011).

5.10.5 Irregular remission of stamp duty

Four SRs⁵

The Punjab Government by notification issued on 21 December 2001 remitted the stamp duty chargeable in the case of transactions of transfer of agricultural and residential property situated in rural areas. By another notification issued on 27 April 2007, the Government remitted the stamp duty chargeable on the transfer of residential property situated in urban areas, when the transactions are executed in favour of class I heirs as defined under section 8 of the Hindu Succession Act. This concession shall also be available when the transfer of the above mentioned category of properties are registered in favour of the son's of the brother (class II heirs) of the executor and the executor is unmarried or issueless.

We found (between June and November 2010) from the records for the year 2009-10 maintained in the offices of SRs that four instruments for transfer of agriculture land in rural area in three cases and urban residential property in one case involving consideration of ₹ 2.10 crore were executed and registered (between July 2009 and February 2010) without charging stamp duty as if the transfer was executed in favour of class I heirs. However, we noticed that the land had been transferred to class II heirs (Nephews) in two cases when the class I heirs (wives) of the executors were alive. Similarly, in other two cases, the agriculture land and

⁵ Jalalabad, Kapurthala, Ludhiana (West) and Phillaur.

residential properties were transferred by the owner of property to their grand sons when the sons of these executors were alive. These omissions had resulted in inadmissible exemption from levy of stamp duty of ₹ 11 lakh inclusive of registration fee of ₹ 0.50 lakh.

When we pointed out (between June and November 2010), three SRs⁶ stated that action would be taken after verification of records. While the SR Ludhiana (West) stated that the matter would be looked into. Final action/replies in all four cases are awaited (December 2011).

We reported the matter to the Department and the Government (March 2011); their replies are awaited (December 2011).

5.10.6 Short levy of stamp duty due to application of incorrect rate of stamp duty

SR, Fatehgarh Sahib

Punjab Government vide ordinance issued in September 2007 revised the rate of stamp duty on conveyance deed covering transfers of immovable property to five *per cent* from six *per cent*.

We found (May 2010) that three conveyance deeds covering the transfer of agriculture land in rural areas were registered during 2009-10 by charging stamp duty of ₹ 1.48 lakh against the leviable duty of ₹ 7.06 lakh. The duty charged works out to 0.81 to 1.63

per cent of stamp duty on the consideration of the deeds against the applicable rate of five percent. The omission resulted in short levy of stamp duty of ₹ 5.58 lakh.

When we pointed (May 2010 and May 2011) and enquired as to whether the deficient stamp duty was deposited directly in the bank by the executors or the same had been recovered in the SR office, the SR stated that the deficient stamp was neither deposited directly in the bank nor it had been recovered by the registrar while registering the deeds.

We reported the matter to the Department and the Government (March 2011); their replies are awaited (December 2011).

⁶ Jalalabad, Kapurthala and Phillaur

5.10.7 Non-registration of the lease deeds

Director, Industries and Commerce, Punjab

Under section 17 (d) of the Registration Act, 1908 leasing of immovable property for any term exceeding one year or reserving a yearly rent are compulsorily registrable. The Government of Punjab, Department of Revenue and Rehabilitation (Stamp and Registration Branch) vide Notification dated 15th October, 1999 specified registration fees, as one per cent of the value of the transaction mentioned in the document, subject to a minimum of ₹ 50 and maximum of ₹ 10000.

We collected information from the Directorate of Industries and Commerce, Punjab and observed (December 2010) that 285 contracts for leasing of mining of sand, gravel and building stones etc were entered into in 13 districts⁷ during the year 2008 for a consideration of ₹ 27 crore. We saw that the lease deeds for

the contract periods, April 2008 to March 2010 were not registered in the respective registering authorities. This omission resulted in loss of registration fee of ₹ 14.36 lakh.

We reported the matter to the Department and the Government (January 2011); their replies are awaited (December 2011).

⁷ Amritsar, Bathinda, Faridkot, Ferozepur, Gurdaspur, Hoshiarpur, Jalandhar, Kapurthala, Ludhiana, Moga, Mohali, Nawan shahar and Patiala

5.10.8 Short levy of stamp duty and registration fee due to inadmissible benefits

SR,Ludhiana (West)

Punjab Government's notification (March 2009) clarified that consideration amount fixed by the Government/semi Government at the time of allotment of immovable property shall be deemed to be the Collector rate and stamp duty shall be charged for registration of the document upon that consideration. The benefit was not available to organisations which were not Government/Semi Government organisations.

Under the Punjab Stamp (Dealing of Under-valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts fixes the minimum market value of land/properties locality wise and category wise in the district for the purpose of levying stamp duty.

We found (July 2010) that two deeds with consideration of ₹ 0.76 lakh were executed by M/s Kabir Co-operative House Building Society Ltd. Ludhiana (a non-Government/ Semi Government Organisation) in favour of its members. Stamp duty of ₹ 0.06 lakh was levied on the consideration of ₹ 0.76 lakh set forth in these deeds treating the Society as semi Government organisation and without applying the Collector rates for valuation of the transaction. The leviable duty of ₹ 5.97 lakh was worked out in audit on the consideration of ₹ 76.88 lakh valued at Collector rate. The mission had resulted in short levy of stamp duty of ₹ 5.90 lakh.

When we pointed out (July 2010), the SR stated that matter would be looked into. Final action on the issue is awaited (December 2011).

We reported the matter to the Department and the Government (March 2011); their replies are awaited (December 2011).

5.10.9 Non-realisation of stamp duty

Sub-Registrar, Tarn Taran

The Indian Stamp Act provides that except otherwise expressly provided in this Act, all the duties with which any instruments are chargeable shall be paid and such payment shall be indicated on such instruments by means of stamp.

We found (September 2010) that while registering a conveyance deed during 2009-10, the SR had detected the deficiency of stamp duty of ₹ 4.46 lakh, but erred to register the deed without realising the deficit stamp duty. The omission resulted in non-realisation of stamp duty of ₹ 4.46 lakh.

When we pointed out (September 2010), the SR stated that the deficiency was already pointed out by his office and recovery would be made shortly. The reply of the SR is not acceptable because the instrument was required to be registered only after realising the whole due stamp duty, which he failed to do so before registration of the document.

We reported the matter to the Department and the Government (March 2011); their replies are awaited (December 2011).