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# CHAPTER-I

## Introduction

### 1.1 Introduction

Management of levy and collection of stamp duty and registration fees is the responsibility of both the Government of India (GOI) and the State Government.

The Indian Stamp Act, 1899 (IS Act) enacted by the GOI prescribes the rates of Stamp Duty in respect of Bills of Exchange, Cheques, Promissory notes, Bills of lading, Letter of credit, Policies of insurance, Transfer of shares, Debentures, Proxies and receipts as specified in entry 91 of list-I Union list of the Seventh Schedule to the Constitution of India. The States are empowered under Entry 63 of list-II State list of the Seventh Schedule to the Constitution of India to prescribe the rate of stamp duty on instruments other than the instruments specified in Entry 91 of Union list.

Receipts from the Stamp Duty and Registration fees (SD and RF) in the State of Rajasthan are regulated under the Rajasthan Stamp Act (RS Act), 1998; the Registration Act, 1908 and Rules made there under. The Stamp duty is leviable (*ad valorem* or fixed) on market value of the instruments executed at the rates prescribed from time to time in the IS Act or RS Act and registration fees is payable at the rates prescribed in the Registration Act, 1908.

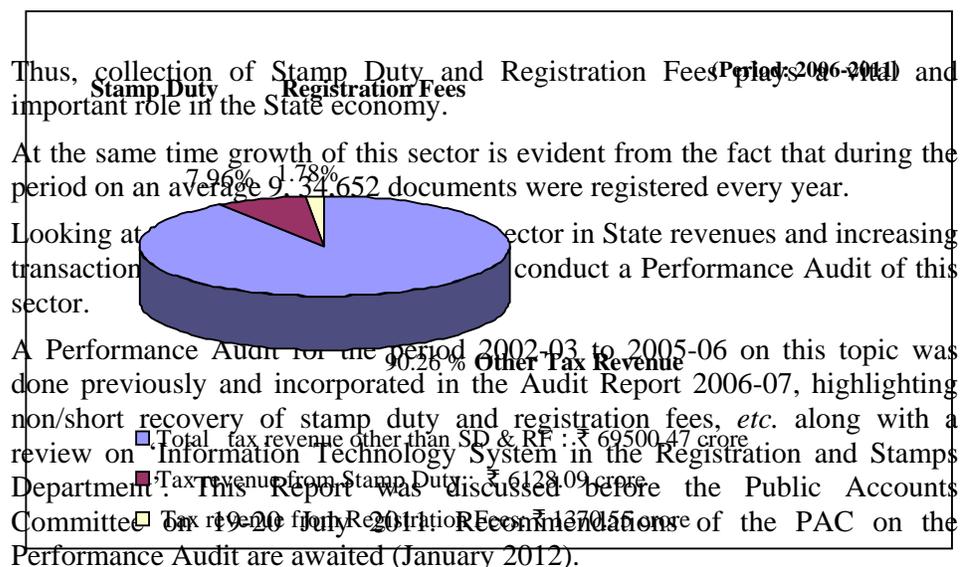
Stamp Duty is leviable on instruments evidencing transactions. The Stamp Act is a fiscal law enacted under the State policy to ensure payment of Stamp Duty on certain executed instruments. The Stamp Act's objective is to collect revenue for the State by levying stamp duty on instruments, to penalise acceptance of an irregularly stamped document on instruments evidence, and to provide prosecution in case of evasion of stamp duty. The Stamp Duty is payable at the rates (*ad valorem* or fixed) prescribed under the RS Act. With the enactment of the RS Act, 1998, which came into force with effect from 27 May 2004, the IS Act, 1899, as adapted in Rajasthan under the Rajasthan Stamp Law (Adaptation Act, 1952 (No. VII of 1952), was repealed.

The GOI enacted the Registration Act, 1908 which extends to the whole of India except the State of Jammu and Kashmir. The Registration Act provides evidence regarding any transaction of immovable property between vendor and vendee through a registered instrument. All transactions relating to transfer of immovable properties of the value of one hundred rupees and upwards, transferred *intervivos* are compulsorily registrable. The registration fees at the prescribed rates are charged on every instrument, not as a source of income for the State but in lieu of the expenditure incurred to register the document and for keeping it safe in Government custody.

### 1.2 Why we chose the topic

Stamp duty is an important source of revenue to the State. The Stamp Duty receipts in Rajasthan grew from ₹ 1,293.68 crore in 2006-07 to ₹ 1,941.07

crore in 2010-11. The average revenue realised as Stamp Duty and Registration Fees during the years 2006-07 to 2010-11 constituted almost ten per cent of the total tax revenue of the State as shown in the chart under:-



### 1.3 Audit objectives

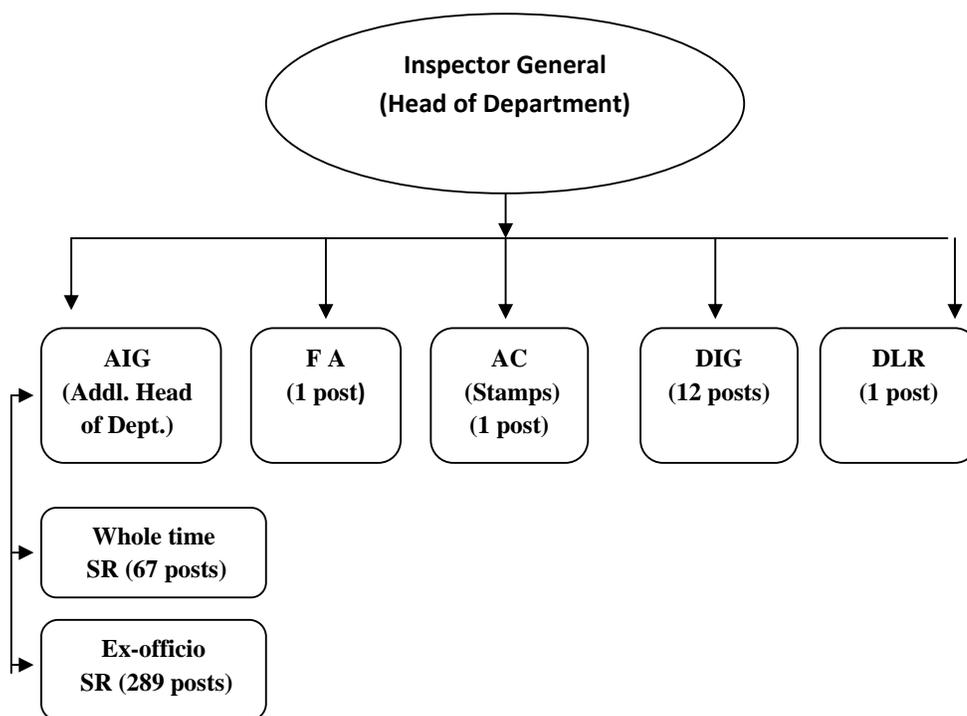
We conducted the audit to get a reasonable assurance that:

- the provisions of the relevant Act/Rules and Departmental instructions were adequate and were enforced properly to safeguard revenue of the State;
- the Department had devised systems to ensure that the documents required to be registered were presented for registration and the requisite Stamp Duty and Registration Fees were levied;
- adequate system and procedures were in place to ensure that the exemptions/remissions were correctly granted;

- registering authorities were discharging their functions in accordance with the prescribed rules and procedures; and
- internal control mechanism was effective and sufficient to safeguard collection of the Stamp Duty and Registration fees.

#### 1.4 Organisational set up

The Department functions under the overall administrative control of the Finance Department. The Inspector General, Registration and Stamps (IG) is the head of the Department. He is assisted by an Additional Inspector General in administrative matters and by a Financial Adviser in financial matters. The State has been divided into 13 circles, of which 12 circles are headed by the Deputy Inspector General (DIG) cum *ex-officio* Collector (Stamps) and Jaipur circle by Additional Collector (AC) (Stamps). There are 67 Sub-Registrar offices headed by a Sub-Registrar (SR) and 289 *ex-officio* Sub Registrar offices headed by a *Tehsildar* or *Nayab Tehsildar*. The persons in position as on 31 March 2010 were as under:-



#### 1.5 Audit scope and methodology

We reviewed the records in the offices of the Secretary Finance (Revenue), IG, Registration and Stamps; ten out of 33 DRs, nine out of 13 DIGs and 36 out of 356 SRs along with a few major public offices for the period 2006-07 to 2009-10. Our audit was conducted during September 2010 to April 2011. Important audit observations which came to the notice in the course of test audit of records during the year 2009-10 to 2010-11 are also incorporated.

Our methodology was based on two stage sampling. Initially, we prepared list of all the 356 SR offices in alphabetical order showing the last four years revenue receipts and progressive total receipts against each office. We selected

36 offices (i.e. ten *per cent* of total 356 offices) on the basis of Simple Random Sampling with Replacement method. At the second stage, we selected 12,640 instruments by adopting Systematic Random Sampling Method in selected 36 offices.

In the SR offices, registered instruments are entered in the following type of books:-

- (i) Book no. I :Register of non-testamentary instruments relating to immovable property.
- (ii) Book no. III :Register of 'will' and 'authorities' to adopt.
- (iii) Book no. IV :Miscellaneous register for non-testamentary instruments (other than will) relating to movable property and optional instruments covered under Section 18 (f) of Registration Act, 1908.

With a view to select optimum sample size, we selected maximum 350 instruments (n) in an office. The total number of instruments (N) registered in Book no. I, III and IV by each office were divided by the sample size (n) to arrive at an interval between two instruments. The 350 instruments for detailed audit were picked-up at a regular interval which was calculated by dividing total instruments (N) from sample size (n) and then this interval was added to the first number selected from the random table.

## **1.6 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the Finance (Revenue) Department and IG, Registration and Stamps in providing necessary information and records for audit. An entry conference was held on 14 October 2010 with the Secretary, Finance (Revenue) wherein, objectives and Methodologies of audit were explained.

An exit conference was also held on 17 January 2012 with the Secretary Finance (Revenue) in which results of audit and recommendations were discussed. The replies of the Government/ Department have been incorporated in the Performance Audit.

## **1.7 Budget estimates and trend of revenue receipts**

Actual receipts from Stamp Duty and Registration Fees vis-a-vis budget estimates along with total tax receipts of the State during the years 2006-07 to 2010-11 are exhibited in the following table:

(₹ in crore)

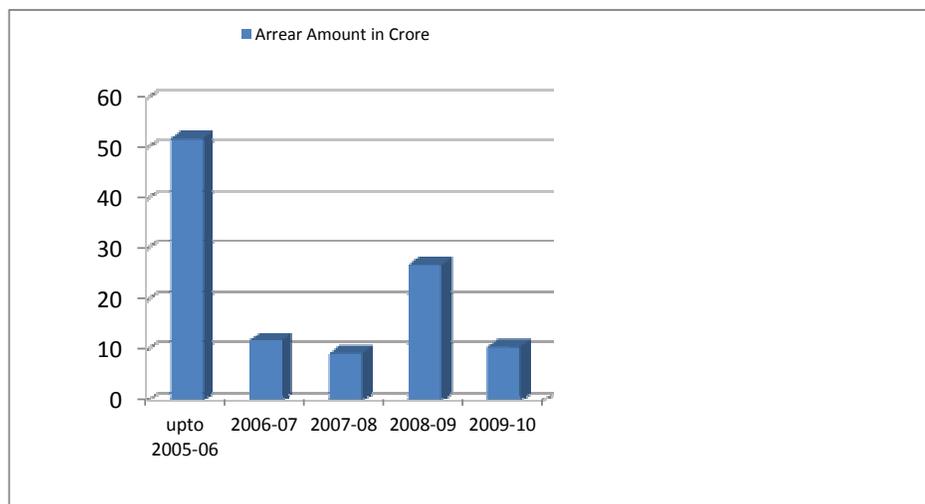
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2006-07	1,275.00	1,293.68	(+) 18.68	(+) 1.47	11,608.24	11.14
2007-08	1,500.00	1,544.35	(+) 44.35	(+) 2.96	13,274.73	11.63
2008-09	1,575.00	1,356.63	(-) 218.37	(-) 13.86	14,943.75	9.08
2009-10	1,450.00	1,362.94	(-) 87.06	(-) 6.00	16,414.27	8.30
2010-11	1,750.00	1,941.07	(+) 191.07	(+) 10.91	20,758.12	9.35

The actual receipts from Stamp Duty and Registration Fees were 13.86 *per cent* less of the budget estimates (BEs) during the year 2008-09. The Department stated (January 2011) that shortfall in actual receipts during 2008-09 to 2009-10 were due to decrease in number of instruments for registration in the year 2008-09, rebate allowed in stamp duty to female purchasers and remission in stamp duty during the year 2009-10.

The receipts from stamp duty and registration fees consisted 8.30 *per cent* of the total tax receipts of the State during the year 2009-10, as against 11.63 *per cent* during the year 2007-08. There has been a decreasing trend since 2007-08 to 2009-10 in collection of revenue under the stamp duty and registration fees in comparison with the total tax receipts of the State.

## 1.8 Arrears of revenue

After the documents are registered, if subsequent irregularity in valuation of the underlying subject matter i.e. property etc., is noticed, fresh demand is raised for the differential Stamp Duty. The party may go in appeal against the valuation to higher authorities, including court. We observed that ₹ 119.60 crore were pending for recovery as on 31 March 2010 as shown below:



The Department stated (October 2010) that the demand of ₹ 44.70 crore is covered by recovery certificates and recovery of ₹ 74.90 crore is stayed by the High Court and other judicial authorities.

## 1.9 Cost of collection

The gross collection in respect of stamp duty and registration fees, expenditure incurred on their collection and percentage of expenditure to gross collection during the years 2006-07 to 2010-11 along with the relevant All India average percentage of expenditure of collection to gross collection for the relevant

years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2006-07	1,293.68	19.21	1.49	2.33
2007-08	1,544.35	22.80	1.48	2.09
2008-09	1,356.63	29.09	2.14	2.77
2009-10	1,362.94	31.33	2.30	2.47
2010-11	1,941.07	35.95	1.85	NA

The percentage of expenditure to gross collection was less than all India average, however, the percentage of expenditure on collection to gross collection increased from 1.49 per cent (2006-07) to 2.3 percent (2009-10).

### 1.10 Cases pending for adjudication

Under Rule 51 and 65 of the Rajasthan Stamp Rules (RS Rules), 2004, instruments relating to under-valued properties or those that are under stamped are referred to Collector (Stamps) for adjudication by registering authorities. Collector (Stamps) issues show-cause notices to the persons liable to pay duty on the instruments and is required to complete the summary enquiry within a period of three months.

We observed that 3,770 cases were pending for adjudication in 13 circles<sup>1</sup> involving stamp duty and registration fees of ₹ 91.09 crore as on 31 March 2010. The year-wise position of cases pending adjudication during 2006-10 was as under:

Year	Position of cases pending for adjudication				Amount involved (₹ in crore)			
	Opening balance	Additions during the year	Clearance during the year	Pending cases	Opening balance	Additions during the year	Clearance during the year	Pending cases
2006-07	8,646	10,498	13,665	5,479	83.25	16.55	50.27	49.53
2007-08	5,479	9,258	10,073	4,664	49.53	70.72	51.89	68.35
2008-09	4,664	7,364	7,101	4,927	68.35	89.20	51.21	106.34
2009-10	4,927	6,904	8,061	3,770	106.34	23.98	39.23	91.09
<b>Total</b>		<b>34,024</b>	<b>38,900</b>			<b>200.45</b>	<b>192.60</b>	

<sup>1</sup> Ajmer, Alwar, Bharatpur, Bhilwara, Bikaner, Hanumangarh, Jodhpur, AC (Stamps) Jaipur, DIG (Rural) Jaipur, DIG (Vigilance) Jaipur, Kota, Pali and Udaipur.

We noticed that 3,295 cases have remained outstanding beyond the prescribed time limit of three months involving stamp duty and registration fees of ₹ 85.67 crore as on 31 December 2009. The age wise analysis of the cases pending for adjudication are mentioned as under:-

Sl. no.	Period of pendency		Number of cases	Amount involved (₹ in crore)
	More than	Less than		
1	three months	one year (01.04.09 to 31.12.09)	1,491	18.55
2	one year	three years (01.04.06 to 31.03.09)	1,693	57.78
3	three years	five years (01.04.04 to 31.03.06)	67	1.28
4	five years and above (cases before 31.03.06)		44	8.06
<b>Total</b>			<b>3,295</b>	<b>85.67</b>

As seen from the above table, the Collector (Stamps) failed to adhere to the time limit of three months prescribed for disposal of cases pending for adjudication having substantial revenue impact of ₹ 85.67 crore. We also noticed that the Department had not prescribed any return for monitoring pending adjudication cases.

**The Government may consider evolving a system for monitoring and timely disposal of the pending cases by prescribing periodical returns.**