

CHAPTER-III

EXECUTIVE SUMMARY

Trend of receipts	The percentage of variation between the BEs and the actual receipts was very high except for the year 2010-11.
Revenue Impact of Audit Reports	During the last five years, through our Audit Reports we had pointed out non/short levy, non/short realisation and loss of revenue, etc. with revenue implication of ₹ 354.54 crore in 26 paragraphs. Of these, the Government/Department had accepted audit observations in 19 paragraphs involving ₹ 302.75 crore and had since recovered only ₹ 0.68 crore which constitutes only 0.22 <i>per cent</i> of the total accepted amount.
Results of audit	<p>We conducted a test check records of the records of 163 offices of the Stamps and Registration Department during the year 2011-12, which revealed evasion, non-realisation, short levy of stamp duty and registration fee, etc. amounting to ₹ 5.66 crore in 993 cases.</p> <p>The Department accepted underassessment of ₹ 56 lakh in 181 cases pointed out during the year. In addition, the Department also recovered ₹ 9.50 lakh in 12 cases pointed out in earlier years. Further, in response to one of the draft paragraphs, the entire amount of ₹ 11.34 lakh was recovered.</p> <p>We also conducted a performance audit on “Computerisation of Department of Stamps and Registration”, the findings of which are featured in this chapter.</p>
What we have highlighted in this Chapter	<p>A performance audit on “Computerisation of Department of Stamps and Registration” revealed the following:</p> <p>No Information System (IS) Audit was conducted by Department of Stamps and Registration (DSR) even after a lapse of eight years since the date of computerisation. The provision for IS Audit was neither contemplated in the document “Software Requirement Specification (SRS)” nor was any departmental instruction issued in this regard.</p> <p style="text-align: right;">(Paragraph 3.8.8.1)</p> <p>Under KAVERI system, there was no lateral</p>

connectivity across the Sub-Registrars' offices. The consolidated information relating to the total number of documents registered, amount of stamp duty and registration fee collected and other recoveries made in the State in a day was not available in the system.

(Paragraph 3.8.8.2)

The legacy data has not been digitised so far and in the absence of legacy data, the Department of Stamps and Registration could not issue Encumbrance Certificate (EC) on the same day as stipulated in the website.

(Paragraph 3.8.8.3)

There was no module for generation of tokens in the software to systematically deal with the requirements of the members of the public visiting SROs.

(Paragraph 3.8.9.1)

KAVERI system does not have a provision for presentation of documents online for examination, valuation and determination of duty and fees. The KAVERI website has an interface in English only and not in Kannada. The Karnataka Registration (Deed Writers' Licence) Rules, 1978 framed under the Registration Act, 1908 was not provided in the website.

(Paragraph 3.8.9.3 and 3.8.9.4)

The implementation of logical access controls like user names and passwords by the DSR was not found in tune with business practices necessary to ensure authorisation requirements and establishment of accountability

(Paragraph 3.8.10)

The business rules like denotation of duty, rejection of documents, registration of property notified for non-registration, valuation of lease deeds etc. were not mapped in the system.

(Paragraph 3.8.11)

It was noticed in the 'PropertyMaster' table that 50 *per cent* of the data was redundant. This resulted in unnecessary wastage of data storage capacity.

(Paragraph 3.8.12.1)

In the test checked SROs, we noticed that due to incorrect data entry 2,428 out of 15,116 incomplete

	<p>documents were not qualified as pending. This had resulted in duplication of payment details. Besides, we found incomplete/incorrect entries in the 'PersonDetails' table of the marriage registration module.</p> <p style="text-align: right;">(Paragraph 3.8.12.2)</p> <p>Cross verification of the data from 'DocumentMaster' with 'ScanMaster' tables in two SROs revealed that 2,841 extra pages were scanned for which no receipt was generated and no payment on this was made into the Government account. This resulted in short realisation of revenue of ₹ 86,310.</p> <p style="text-align: right;">(Paragraph 3.8.14)</p> <p>In SRO Tumkur, we found shortage of computers and peripherals that affected the service delivery in the system. We also found that, though kiosks were installed in the SROs, these were not found working in any of the offices test checked.</p> <p style="text-align: right;">(Paragraph 3.8.15)</p> <p>KAVERI has the provision for generation of the reports required to be sent by SROs to the higher authorities. Though the reports are generated, their figures were not correct, with the result, SROs prepare the reports manually for submission to supervisors.</p> <p style="text-align: right;">(Paragraph 3.8.16)</p>
Recommendations	<p>The Department/Government may consider:</p> <ul style="list-style-type: none"> • The Government/DSR may take necessary steps to ensure that an information audit system is put in place, the SROs are inter-linked and legacy data is entered into the system on top priority to enable fast and efficient EC issue. • A token module system may be introduced, the website may be updated regularly and made available in vernacular. • The DSR may implement logical access controls like user names and passwords in tune with business practices necessary to ensure authorisation requirements and

	<p>establishment of accountability.</p> <ul style="list-style-type: none">• The business rules like denotation of duty, rejection of documents, registration of property notified for non registration, valuation of lease deeds etc. may be mapped in the system.• The DSR may establish a mechanism to monitor and ensure that the service delivery by third party service providers is as per the requirements stated in the contracts and The existing automated kiosks may be made functional and kiosks installed in every SRO.• The Government may issue instructions for strengthening the internal control so that correct and reliable reports are generated for submission to higher authorities.
--	---

CHAPTER-III: STAMP DUTY AND REGISTRATION FEES

3.1 Tax Administration

Levy and collection of stamp duty and registration fees in the State is governed by the Indian Stamp Act (IS Act) 1899, the Karnataka Stamp Act (KS Act) 1957, the Registration Act, 1908 and rules made thereunder. The levy and collection of stamp duty and registration fee is administered by the Department of Stamps and Registration (DSR) headed by the Inspector General of Registration and Commissioner of Stamps (IGRCS). There are 35 District Registrar (DR) offices and 241 Sub-Registrar offices (SRO) in the State.

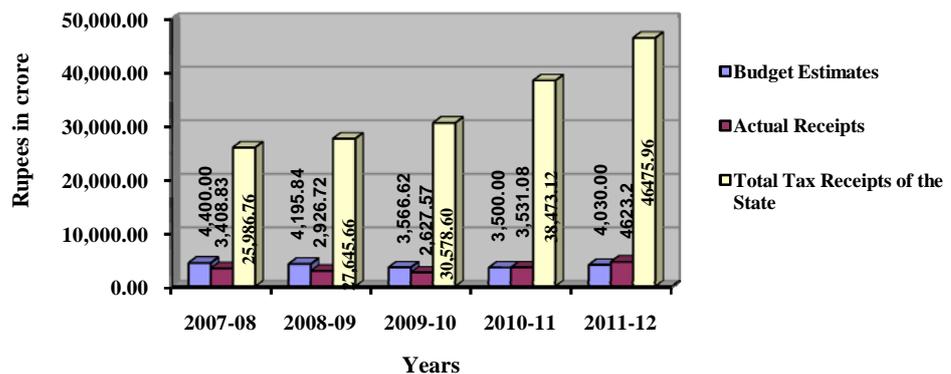
3.2 Trend of Receipts

Budget Estimates (BEs) and actual receipts from stamp duty and registration fees during the years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	4,400.00	3,408.83	(-) 991.17	(-) 22.53	25,986.76	13.12
2008-09	4,195.84	2,926.72	(-)1,269.12	(-) 30.25	27,645.66	10.59
2009-10	3,566.62	2,627.57	(-) 939.05	(-) 26.33	30,578.60	8.59
2010-11	3,500.00	3,531.08	(+) 31.08	(+) 0.89	38,473.12	9.18
2011-12	4,030.00	4,623.20	(+) 593.20	(+)14.72	46,475.96	9.95

Graph 1 : Budget estimates, Actual receipts and Total tax receipts



It would be seen from the above that the percentage of variation between the BEs and the actual receipts was very high except for the year 2010-11. The increases in 2011-12 was stated to be due to increase in market value and increase in the number of registered documents.

3.3 Analysis of arrears of revenue

As per the information furnished to us by the Department in November 2012, the amount of uncollected revenue as on 31 March 2012 stood at ₹ 76.17 crore. The year wise position of arrears of revenue for the period 2007-08 to 2011-12 as furnished is mentioned in the following table:

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year from the arrears	Closing balance of arrears	Percentage of collection to opening balance of arrears
2007-08	88.90	11.32	77.65	12.73
2008-09	77.65	15.95	62.90	20.54
2009-10	62.90	4.83	60.53	7.68
2010-11	60.53	3.29	77.57	5.43
2011-12	77.57	3.49	76.17	4.50

As seen from the table above, the closing balance figures do not agree with the figures of opening balance and collection in any of the five years furnished by the Department. Therefore, the Department should reconcile the figures and furnish correct data. However, assuming the closing balance figures furnished by the Department to be correct, the percentage of collection of arrears was highest during 2008-09 and thereafter it recorded a sharp fall in the rate of its collection.

We recommend that the Department may take remedial measure for improving the collection of arrears of revenue.

3.4 Cost of Collection

The gross collection in respect of stamps and registration fee, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant All India average percentage of expenditure on collection to gross collection for the respective preceding years were as follows:

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the preceding year
	(₹ in crore)			
2009-10	2,650.17	53.18	2.01	2.77
2010-11	3,554.48	53.52	1.51	2.47
2011-12	4,644.46	58.70	1.26	1.60

The table above indicates that the percentage of cost of collection to gross collection was less than the All India average percentage for the preceding years.

3.5 Working of Internal Audit Wing

The objective of an IAW is to have a deterrent and reforming effect in the direction of prevention of mistakes and to play a corrective role by pointing out mistakes and ensuring remedies without loss of time.

Mention of absence of IAW in the Department was made in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 and recommended that the Government

expedite the setting up of IAW in the Department. It was also reiterated in our 2010-11 Report. Despite this, there was no IAW in the Department as of October 2012, thus leaving it vulnerable to the risk of control failure.

3.6 Impact of Audit Reports

During the last five years, through our Audit Reports, we had pointed out non/ short levy, non/short realisation and loss of revenue, etc. with revenue implication of ₹ 354.54 crore in 26 paragraphs. Of these, the Government/ Department had fully/partly accepted audit observations in 19 paragraphs involving ₹ 302.75 crore and since recovered ₹ 68 lakh. The details are given in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount ¹	Number	Amount ¹
2007-08	02	2.44	01	0.03	01	0.03
2008-09	06	325.83	05	283.04	03	0.45
2009-10	07	16.49	05	12.03	04	0.08
2010-11	05	7.39	05	7.39	01	0.09
2011-12	06	2.39	03	0.26	Nil	0.03
Total	26	354.54	19	302.75	9	0.68

Out of the amount of ₹ 325.83 crore included in the Audit Report of 2008-09, an amount of ₹ 260.76 crore pertains to Performance Audit on 'Levy and collection of stamp duty and registration fees' which was accepted by the department.

As seen from the above table, the recovery made by the Department is only 0.22 per cent of the amount involved in the total accepted cases.

3.7 Results of Audit

We conducted a test check of the records of 163 offices of the Stamps and Registration Department during the year 2011-12, which revealed evasion, non-realisation, short levy of stamp duty and registration fee, etc. amounting to ₹ 5.66 crore in 993 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Computerisation of Department of Stamps and Registration (A Performance Audit)	1	--
2.	Short levy of stamp duty and registration fees	203	3.93
3.	Non-realisation of stamp duty	1	0.01
4.	Loss of stamp duty and registration fee due to suppression of facts	10	0.91
5.	Short levy due to undervaluation of properties	32	0.37
6.	Other irregularities	746	0.44
Total		993	5.66

Out of the amount mentioned above, the Department accepted underassessment of ₹ 56 lakh in 181 cases pointed out in audit during the

¹ Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.

year. In addition, the Department also recovered an amount of ₹ 9.50 lakh in 12 cases pointed out in earlier years. Further, in response to one of the draft paragraphs, the entire amount of ₹ 11.34 lakh was recovered.

A performance audit on '**Computerisation of Department of Stamps and Registration**' and a few illustrative audit observations involving ₹ 2.39 crore are mentioned in the succeeding paragraphs.

3.8 Performance Audit on “Computerisation of Department Stamps and Registration”

Highlights

No Information System (IS) Audit was conducted by Department of Stamps and Registration (DSR) even after a lapse of eight years since the date of computerisation. The provision for IS Audit was neither contemplated in the document “Software Requirement Specification (SRS)” nor was any departmental instruction issued in this regard.

(Paragraph 3.8.8.1)

Under KAVERI system, there was no lateral connectivity across the Sub-Registrars’ offices. The consolidated information relating to the total number of documents registered, amount of stamp duty and registration fee collected and other recoveries made in the State in a day was not available in the system.

(Paragraph 3.8.8.2)

The legacy data has not been digitised so far and in the absence of legacy data, the Department of Stamps and Registration could not issue Encumbrance Certificate (EC) on the same day as stipulated in the website.

(Paragraph 3.8.8.3)

There was no module for generation of tokens in the software to systematically deal with the requirements of the members of the public visiting SROs.

(Paragraph 3.8.9.1)

KAVERI system does not have a provision for presentation of documents online for examination, valuation and determination of duty and fees. The KAVERI website has an interface in English only and not in Kannada. The Karnataka Registration (Deed Writers’ Licence) Rules, 1978 framed under the Registration Act, 1908 was not provided in the website.

(Paragraph 3.8.9.3 and 3.8.9.4)

The implementation of logical access controls like user names and passwords by the DSR was not found in tune with business practices necessary to ensure authorisation requirements and establishment of accountability

(Paragraph 3.8.10)

The business rules like denotation of duty, rejection of documents, registration of property notified for non-registration, valuation of lease deeds etc. were not mapped in the system.

(Paragraph 3.8.11)

It was noticed in the ‘PropertyMaster’ table that 50 *per cent* of the data was redundant. This resulted in unnecessary wastage of data storage capacity.

(Paragraph 3.8.12.1)

In the test checked SROs, we noticed that due to incorrect data entry 2,428 out of 15,116 incomplete documents were not qualified as pending. This had resulted in duplication of payment details. Besides, we found incomplete/incorrect entries in the 'PersonDetails' table of the marriage registration module.

(Paragraph 3.8.12.2)

Cross verification of the data from 'DocumentMaster' with 'ScanMaster' tables in two SROs revealed that 2,841 extra pages were scanned for which no receipt was generated and no payment on this was made into the Government account. This resulted in short realisation of revenue of ₹ 86,310.

(Paragraph 3.8.14)

In SRO Tumkur, we found shortage of computers and peripherals that affected the service delivery in the system. We also found that, though kiosks were installed in the SROs, these were not found working in any of the offices test checked.

(Paragraph 3.8.15)

KAVERI has the provision for generation of the reports required to be sent by SROs to the higher authorities. Though the reports are generated, their figures were not correct, with the result, SROs prepare the reports manually for submission to supervisors.

(Paragraph 3.8.16)

3.8.1 INTRODUCTION

The Government of Karnataka (GoK) embarked upon a scheme of computerisation on the activities of the Department in 2002. The aim of the computerisation as stated by the Department of Stamps and Registration (DSR) was to make the process of registration speedy, simple, transparent, accountable and to build in² market value intelligence. The work of the computerisation was assigned to the Centre for Development of Advanced Computing, Pune (C-DAC³). It was appointed as a technical solution provider by the Inspector General of Registration (IGR), to design and develop the application software for the DSR. This application system was named as Karnataka Valuation and e-Registration (KAVERI). An agreement to this effect was entered into by DSR on 25 July 2002 and a document entitled “Software Requirement Specification” (SRS) was endorsed by the GoK, DSR and C-DAC. The purpose of this document was to lay down the functionality expected by the user of the system and to help DSR to review the requirements and propose changes or enhancements if necessary.

The C-DAC developed the KAVERI application suite and implemented it in all the Sub-Registrar Offices (SROs) and District Registrar (DR) offices in Karnataka with effect from August 2004. The software developed by C-DAC had nine modules: Registration Module, Valuation Module, Reports Module, Vendor Management System, Utilities Module, Societies, Firms and Marriage Registration Module, Scan-Archival Module, Data Transmission Module and Website. The stamp duty and registration fee are administered by the regulations framed by Central and State Laws. KAVERI was developed in light of these Acts and Rules.

3.8.2 Organisational Setup

The DSR is headed by the Inspector General of Registration (IGR) who is also designated as the Commissioner of Stamps and Chief Controlling Revenue Authority. He is under the administrative control of Principal Secretary to the GoK, Revenue Department and is assisted by three Deputy Inspectors General of Registration (DIGR) and three Assistant Inspectors General of Registration (AIGR). At district level, there are 34 District Registrars. There are 242 SROs at the taluk level headed by Sub-Registrars who are responsible for registration of documents under the Registration Act, 1908. The responsibility of implementation of computerisation in DSR is entrusted to an AIGR, designated as AIGR (Computers).

² to embed market value intelligence in the system permanently for future use and reference.

³ a scientific society under, the Ministry of Communication and Information Technology, Government of India.

3.8.3 Audit Objectives

We conducted a Performance Audit with a view to ascertain whether:

1. the process of system development was with systematic planning and adequate assessment of operational requirements;
2. the computerisation has ensured effective, economical and efficient administration of registration processes and achievement of the aims of the Government;
3. the organisational and application level controls are in place to effectively safeguard information system assets;
4. the system meets with the requirements of the relevant Act and Rules and appropriate application level controls have been established to ensure confidentiality, integrity and availability of data; and
5. appropriate controls are in place to ensure continuity of business in the event of loss or damage to resources.

3.8.4 Audit Criteria

The audit criteria are derived from the following Central and State Laws and the Rules and notifications issued thereunder to govern levy and collection of stamp duty and registration fees.

1. The Indian Stamp Act, 1899
2. The Registration Act, 1908
3. Karnataka Stamp Act (KSA), 1957
4. Karnataka Stamp Rules, 1958
5. Karnataka Stamp (Prevention of under valuation of instruments) Rules, 1977
6. Karnataka Registration Rules, 1965
7. Information Technology Audit Manual issued by SAI India
8. System Requirement Specification (SRS)

3.8.5 Scope and reasons for selection of Audit

The performance audit was conducted by us from February to August 2012 for the period from August 2004 to March 2012. The audit was conducted in the Office of the IGR. Besides, six SROs were selected for test check. The SROs were selected on the basis of the maximum number of documents registered during the period covered by audit.

The computerisation of DSR had been in operation for about eight years. Since DSR is the third highest revenue earning department under the Government of Karnataka, we felt it was appropriate to conduct a performance appraisal of computerisation in the department.

3.8.6 Audit Methodology

We selected the entire database of the offices selected for test check. Data analysis was done using Computer Aided Audit Techniques (CAATs) with SQL and IDEA. We also checked the records including assessment records that related to computerisation. We conducted an Entry Conference with the representatives of the GOK and DSR in May 2012 in which objectives, scope and methodology of the performance audit were explained and discussed with them while performing the audit. Copies of the draft performance audit report were forwarded to the Government and to the DSR.

An Exit Conference was held in September 2012. The Government side was represented by a team of officers headed by the Secretary, Revenue Department and DSR was represented by IGR. In addition, a representative from C-DAC was also present in the conference. The replies received during the Exit Conference and at other point of time have been appropriately commented in the relevant paragraphs of the Report. The recommendations were discussed and accepted by the Department.

3.8.7 Acknowledgement

We acknowledge the co-operation extended by IGR, state unit of C-DAC team engaged in the maintenance of the system and staff of SROs visited, in providing necessary information and records for audit including access to the system.

3.8.8 Planning and System Development

3.8.8.1 Information System Audit

The document 'Software Requirement Specification (SRS)' envisaged that it would help the DSR to review its requirements so that changes and enhancements if necessary could be proposed. However, we found that no Information System Audit was conducted by DSR despite a lapse of eight years since the date of computerisation. The provision for IS Audit was neither made in the SRS nor any departmental instruction was issued in this regard. We have found a number of deficiencies which could have been avoided had IS Audit been put in place by the DSR. These deficiencies are mentioned in the subsequent paragraphs.

After this was pointed out, the DSR accepted the audit contention and stated that the KAVERI system is proposed to be upgraded and new software called New Kaveri Software Project (NKSP) is being developed. A provision for IS audit will be made mandatory in NKSP.

3.8.8.2 Absence of lateral connectivity between the SROs

Under KAVERI system, there is no lateral connectivity across the SROs. Each SRO in the State has an independent server. As such information relating to the total number of documents registered, amount of stamp duty and registration fee collected and other recoveries made throughout the State in a day was not available in the system. Besides, due to absence of

interlinking, documents registered in one SRO could not be traced in other SROs.

3.8.8.3 Entry of Legacy Data

Article 3 of the software development agreement provided for entrusting 'scanning and archiving of old documents' in addition to 'computerisation of the registration department' to C-DAC. One of the aims of computerisation as mentioned in the website of DSR was issue of Encumbrance Certificate (EC) on the day it was applied for.

The aim of giving EC on the same day cannot be fulfilled unless legacy data is entered into the system. The Chief Secretary, in a meeting held on 8 March 2003, had instructed for digitisation of legacy data of the last 12 years within six months from

the date of commencement of the computerisation, so as to enable generation of ECs for citizens. However, we noticed that the legacy data has not been digitised so far.

In the absence of legacy data, the DSR has failed to provide this service to citizens. Scrutiny of the EC Register revealed that the average time taken to issue EC was about 13 days. Thus the aim of the DSR for issuing the EC on the same date has not been fulfilled even after a lapse of eight years from computerisation.

The DSR stated that proposal for digitisation of legacy data is under the consideration of the GoK, and on its approval the work will be undertaken. However, the reply did not indicate the type of approval that was required for digitisation of legacy data.

We recommend that Government/DSR may take necessary steps to ensure that an information audit system is put in place, the SROs are inter-linked and legacy data is entered into the system on top priority to enable fast and efficient EC issue.

3.8.9 Accountability, Transparency and Citizen Empowerment

3.8.9.1 Token Module

The objective of the Government was to make the process of registration speedy, simple, transparent and accountable. For this purpose, the SRS stipulated that a token sheet would be generated by the computer using computerised token system for general public. This would reduce unnecessary crowd gathering and waiting for long hours in SROs. However, we found that there was no module for generation of tokens in software. Consequently, tokens could not be generated through the system.

After this was pointed out, the DSR stated that even though the token system was introduced, it was not being followed in some of the SROs due to operational reasons. The contention of the DSR is not correct as these tokens were generated manually. The software does not provide for the module. The IGR stated that there are plans to implement the updated 'Online Token System' as part of the proposed NKSP.

3.8.9.2 Refusal and Withdrawal procedures for documents

Section 71 of the Registration Act, 1908 stipulates that a Sub-Registrar refusing to register a document shall make an order of refusal and record his reasons for such order and endorse the words “registration refused” on the document.

We found that though Section 71 of the Registration Act was mapped into the system, provision for necessary judicial orders required for refusal were not provided in the system. Our test check in six SROs revealed that in 122 cases, registration of documents was refused. But reasons for refusal were recorded

only in nine cases.

After this was pointed out, DSR accepted the fact that the present software does not incorporate the necessary judicial orders required for refusal or withdrawal. However, the observation will be taken note of and attempt will be made to incorporate the same in the proposed NKSP. Recording of reasons for refusal will be made mandatory and action will be taken to incorporate withdrawal related controls in the current software itself.

Similarly, in 52 out of 54 cases, the willingness of the parties withdrawing from the registration process was not found on record.

The above facts indicate that there is a need for constant monitoring to ensure that the system works efficiently and effectively.

3.8.9.3 Online appointment and document presentation

The system in vogue needs physical presence of executants and claimants before the SROs at each and every stage. KAVERI system does not have a provision for presentation of documents online for examination, valuation and determination of duty and fees by the DSR. There was no plan for providing the facility of online presentation/appointment or complaint redressal in the SRS. However, similar facilities are available in the website of the Department of Registration, Government of Maharashtra.

After this lacuna was pointed out, the DSR stated that provisions for implementation of online appointment, speedy completion of registration process without requiring the presence of the parties and online compliant redressal mechanisms would be incorporated in NKSP.

3.8.9.4 KAVERI website

It was envisaged in the SRS that the website will contain updated information about valuation rules, rate charts, guidelines etc. It was required to be an information centre for the masses.

• Non-updation of website

Our scrutiny revealed that though the website contained information about valuation rules, rates etc. open to the public, yet the same was not being updated regularly. A few instances are mentioned below:

1. **Schedule of rates in KS Act:** A few amendments like clause (f) under Article 5⁴ of KS Act were omitted with effect from 1 April 2011. A provision relating to joint development agreement was inserted with effect from 1 April 2012 under Article 41. Both these changes are not updated in the website.
2. Changes in the registration fees of licences, agreements, power of attorney etc. were made vide GoK notification dated 29 March 2011. These changes have not been made in the website.

After this was pointed out, the DSR accepted that there is a need for putting in place a proper mechanism for regular and accurate updating of the website.

- **Non-availability of interface in vernacular**

KAVERI has an interface in both English and the local language Kannada. But the website provided has an interface only in English.

After this was pointed out, the DSR accepted absence of local language in the website and stated that action will be taken to provide an interface in Kannada and all the information would be made available to the masses in Kannada also.

- **Deed writers' fees**

The Karnataka Registration (Deed Writers' Licence) Rules, 1978 framed under the Registration Act, 1908 provides for maximum fees payable to deed writers. This information is not provided in the website. Such information is available in the websites of other states like Kerala.

After this was pointed out, the DSR stated that it will publish the maximum fee to be paid to the deed writers as stipulated by the Deed Writers' Licensing Rules. Other features will be incorporated as part of the proposed NKSP.

We recommend that a token module system may be introduced, the website may be updated regularly and made available in vernacular.

3.8.10 Deficiencies noticed in Information System Security

Access controls in an application system ensure security of data and integrity of the entire system by implementing a partitioning of information resources and processes and restricting privileges of access or modification based on the jurisdictional relations existing in the DSR.

It is observed, however, that the implementation of logical access controls like user names and passwords in the DSR were not in tune with business practices necessary to ensure authorisation requirements and establishment of accountability. The deficiencies are brought out in the following paragraphs.

⁴ Clause (f) under Article 5 deals with agreements relating to construction, development or sale of property stipulating joint possession or sale (Joint Development Agreement).

- **Deactivation of dead accounts:** Deactivation of accounts of transferred/retired officials was not done. We found in the 'UserRights' table that accounts of 25 retired/transferred officials in SROs Tumkur and Varthur were still active.
- **Administrative privileges:** Administrative privileges and authority to finalise registrations was required to be available only with the Sub-Registrars under the KS Act. We noticed in SROs JP Nagar, Tumkur and Varthur that in 15 cases the privilege was given to clerks. This indicates that designation based jurisdictional levels are not incorporated into the design of the system.
- **UserRights table:** We found 11 instances where a single user was utilising more than one account in Mysore (North), Tumkur and Varthur SROs.
- **UserLog table:** Our analysis showed that a total of 44,91,382 separate actions were performed by the users. Of these, the names of the users were not captured in 62.50 *per cent* i.e. 28,08,775 actions. In 13,37,449, 1,38,351 and 60,938 cases, actions were performed under the user names 'SRO', 'USER' and 'TEST' which were general and cannot be traced.

The facts above indicate that accountability provisions are absent in the computerised environment and no trail of actions by individual operators/employees is available.

After this was pointed out, the DSR accepted the audit observations and stated that the policy to restrict single user to single login does not exist and agreed to take appropriate actions in consultation with C-DAC. Deactivation of accounts of retired/transferred employees will be implemented. The DSR also stated that it will put in place clear guidelines to prevent use of same account by many users.

We recommend that the DSR may implement logical access controls like user names and passwords in tune with business practices necessary to ensure authorisation requirements and establishment of accountability.

3.8.11 Non-Mapping of Business Rules

3.8.11.1 Denotation of Duty u/s 16 of the Karnataka Stamp Act

As per Section 16 of the Karnataka Stamp Act 1957, the stamp duty payable on an instrument is adjustable against the duty paid on another instrument executed earlier if the latter is dependent on the former.

As per Explanation II under Article 5(e) (agreement to sell with/without delivery of possession of property or relating to mortgage), 41(e) (GPA for consideration or coupled with interest) and 41(eb) (GPA with consideration), the stamp duty paid on the instrument shall be adjusted towards the total duty leviable on an instrument of conveyance or

mortgage executed subsequently between the same parties. This business requirement has not been mapped in the KAVERI application system. Non-mapping of these rules has resulted in escape of stamp duty and registration fee mentioned in the Comptroller and Auditor General's Audit Reports⁵ from time to time.

3.8.11.2 Deemed delivery of possession of property

As per Explanation I under Article 5, “when a reference of a GPA granted separately by the seller to the purchaser in respect of the property is made in the agreement” then “the possession of the property is deemed to have been delivered” and duty is to be levied at conveyance rate. Thus, it is necessary to draw a reference from the previous registrations of a property in order to prevent possible evasions of stamp duty and other levies.

We found that two instruments pertaining to the same property were executed at two places. One was executed at SRO, Malleswaram as an agreement for sale⁶ while the other instrument in the form of GPA was registered in SRO, Hebbal⁷. The two instruments, if taken together, were liable to stamp duty at the conveyance rate. But stamp duty was levied at the nominal rate prescribed, without invoking the explanation stated above, thus resulting in short levy of stamp duty and registration fee of

₹ 11.65 lakh. This happened because the SROs are not interlinked and mapped accordingly.

The DSR intimated that it has initiated the facility to register a document in any SRO within the jurisdiction of the same DR, (Anywhere Registration), and is contemplating extension of the same facility within the entire State as well. However, the reply was silent about the recovery in this case and mapping of the provision in the software.

3.8.11.3 Non-registrable property

As per Section 22A of the Registration Act, the State Government may, by notification in the Official Gazette, declare that the registration of any document or clause of document is opposed to public policy.

The GoK issues from time to time notices identifying properties, the registration of which is against public interest. The software, however, has no provision to accommodate this data and

the identification of such properties among those brought for registration has to be done manually.

⁵ Para No 5.8.1.1, 5.8.1.2 of Audit Report 2010-11 and Para 3.9.1.1, 3.9.1.3 of this Report

⁶ document No 1542/11-12

⁷ document No 299/10-11

3.8.11.4 Valuation parameters

The KS Act stipulates that for a property involved in a transaction of sale, gift etc, stamp duty should be computed on the market value of the property (which is the higher of the guidance value determined by the Central Valuation Committee (CVC) or the consideration made out in the document). The Guidance Value of the property is determined or revised periodically by the CVC constituted by the department.

The guidance values indicating the value and location of the property were mapped in the KAVERI software. There are additional parameters mentioned in the instructions attached to the guidance values like kind of land, use etc. which were not mapped in the system.

In the test checked SROs, software was not made use of in registration of 2,79,987 cases. It was being done manually due to absence of additional parameters in the system. Further, in 766 cases, the assessments were made through software but the valuations generated were found less than manually calculated. This was again found due to absence of the additional parameters in the system. Thus, it would be seen from above cases that manual intervention was necessary.

After this was pointed out, the DSR stated that the latest patch of the application system has already addressed this deficiency and the valuation made by the system shall be made mandatory.

3.8.11.5 Non-mapping parameters of lease deeds

As per Article 30 of the Schedule to the KS Act 1957, stamp duty on documents relating to lease of moveable or immovable property is dependent on the amount of rent, deposit or advance as well as the purpose (residential/commercial) of lease, the period of lease, whether in pursuance of an original agreement to lease, whether executed in favour of family members etc.

Article 30 of the Schedule to the KS Act has not been mapped in the application. The stamp duty is being worked out manually. Further, since the system does not capture data relating to these determinants, the processing is amenable to administrative oversight.

After this was pointed out, the DSR replied that even though the present system has provision to receive the relevant parameters, these are not saved in the database. This will be

provided in NKSP. The reply furnished by the DSR is not correct, as the rule has not been mapped in the system and operations are being done manually.

3.8.11.6 Fine for delayed presentation of documents

Section 23 of the Registration Act, 1908 stipulates that documents other than 'Wills' should be presented within 4 months from the date of execution and in cases of delay, the same may be registered on approval of the Registrar on collection of a stipulated fine (Section 25).

We found that Section 23 of the Registration Act has not been made mandatory in the system. This could be done by introducing a validation control refusing registration after four months unless approved by the Registrar and inserting the rates of fine in the system.

We found that in 12 cases the instruments were presented after a lapse of four months. These were liable to be rejected but were registered without any approval and collection of fine.

After this was pointed out, the DSR stated that this will be addressed in a proposed enhancement to the system and compliance will be submitted in due course of time.

We recommend that the business rules like denotation of duty, rejection of documents, registration of property notified for non-registration, valuation of lease deeds etc. may be mapped in the system.

3.8.12 Data Integrity

3.8.12.1 Redundant data in 'PropertyMaster'

We observed in the 'PropertyMaster' table that a default entry was created which got repeated along with every correct entry. Thus 50 per cent of the data was redundant. i.e. out of 1,09,373 records, 52,974 were redundant entries. The huge volume of junk records created in the database resulted in unnecessary wastage of data capacity.

After this was pointed out, the DSR accepted the fact of existence of invalid entry and assured to take necessary steps in modifying the application.

3.8.12.2 Mistakes due to duplicate data entry

KAVERI provides for assigning pending status in respect of incomplete/unfinished transactions. This status enables the SRO to retrieve the data presented for registration and thus prevents duplication of data. For this purpose the data entry operators are required to qualify such entry as 'pending'.

In the test checked SROs we noticed that 2,428 out of 15,116 incomplete documents were not qualified as pending. This had resulted in duplication of payment in 764 cases involving ₹ 9.54 crore, each of which

had entry of two demand drafts/pay orders i.e. one Demand Draft was entered twice. One of these was created due to duplication because of

incomplete entry. This contributed to overstatement of revenue collection statement generated by the software by ₹ 4.05 crore.

3.8.12.3 Absence of validation control

In the 'StampDetails' table we found, in one SRO, Pay Order No.936588, dated 6 November 2009, drawn on IDBI, Bangalore, for ₹ 1.30 lakh was recorded as presented in payment for two different documents viz. document nos. JPN-1-03876-2009-10 and JPN-1-03878-2009-10. Subsequent verification in field, however, revealed that this arose due to an error in entry of DD particulars and both the amounts have been separately realised. This could have been prevented had the validation control been installed.

3.8.12.4 Marriage registration module

Our analysis of the 'PersonDetails' table in the marriage registration module revealed the following data entry errors:

- The field for capturing names of brides and grooms in the marriage registration module of KAVERI contains irrelevant entries like 'dsdsdf', 'jhgj', 'rtret' etc.
- Further, in four test checked SROs⁸, essential details like mother's and father's names, permanent address, sex, marital status, date of birth, occupation etc were not captured in 8,479 entries out of the total of 31,029. Recording of data in these fields was essential and the possibility of incorrect issue of marriage certificates could not be ruled out.
- We further noticed several instances of duplication of names of the brides/grooms in the database. On verification, it was found that the system does not provide a facility for party verification and certification. As a result, when the certificate is printed and issued, if the parties notice material errors in the document, there is no option in the system other than making a fresh registration resulting in the same names being entered again.
- Out of 42,849 entries in the database of one SRO⁹ capturing endorsement information, 3,161 did not represent the real name of the officer managing the marriage. This indicates absence of provision to develop trail from login identity of the officer-in-charge.

The DSR in its reply stated that the present system will be upgraded to introduce input controls and validation to mandate entry of essential data, eliminate errors and to automatically record the officiating officer information.

⁸ SROs JP Nagar, Varthur, Tumkur and Mysore North
⁹ SRO Varthur

3.8.12.5 Mistakes noticed in Property number details table

This table is important for conducting search operations of the properties. However, our comparison of the 'PropertyMaster' table with this table revealed that in 99 instances, details of properties were not fed in the table. Thus correct ECs could not be issued by the concerned SROs in these cases. The two tables were also not linked.

After this was pointed out, the DSR stated that necessary action will be taken to incorporate the uniqueness constraint in the system.

Further, we noticed that in 24,288 cases the survey number of the property, one of the important property identifier, was not fed into the computer.

3.8.13 Reconciliation of ECs issued and fee paid

We noticed that 'ReceiptDetails' table (for fee collection) was not integrated with 'ECcertificateMaster' (for issue of ECs) with the result that the certificates issued and fees collected could not be reconciled at the end of the day. We cross verified the details of the two tables and found that 1,66,142 certificates were issued by the test checked SRO. Accordingly, an amount of ₹ 2.61¹⁰ crore should have been collected against ₹ 31.71 lakh mentioned in the 'ReceiptDetails' table.

After this was pointed out, the DSR stated that the anomaly arose due to searches conducted in exempted cases like searches for Government or Court purposes. Further, it added that a new software called "Anywhere EC", for issue of EC was being developed that would address this audit observation.

3.8.14 Collection of service charges on scan archival

The 'KAVERI' software provides for computation of number of pages of the document to be scanned and generates a receipt for service charges. The service charge for each page is ₹ 30 out of which ₹ 15.50 goes to the BOT partner in Bangalore and ₹ 22.50 to the BOT partner at other places. The software generates a receipt for scanning of the documents and permits scanning of up to two extra pages, if required. But no receipt is generated for the extra pages.

We found on cross verification of the data from 'DocumentMaster' (particulars of registered documents) with 'ScanMaster' (details of scanned pages) tables of two SROs JP Nagar and Varthur that 2,841 extra pages were scanned for which no receipt was generated and no payment on this was made into the Government account. The service charges amounting to ₹ 86,310 were liable to be collected which included Government share.

After this was pointed out, the DSR stated that the discrepancy between service charges collected and amount paid to BOT partner will be examined and suitable solution to eliminate the same will be devised.

¹⁰ The rates for issue of EC are ₹ 30 for the first year and ₹ 15 for every additional year

3.8.15 Maintenance of Service Levels by Designated BOT Vendors

As per the terms and conditions of service level agreement entered between the DSR and BOT operator, the operators were required to provide all the hardware required to meet the desired and specified service standards at the specified locations and regularly maintain the hardware at predetermined standards. However, the predetermined standards were not determined. The BOT partner was also required to install kiosks.

The DSR adopted the BOT (Build Operate Transfer) mode for implementation of computerisation. However, administrative controls necessary to ensure that the third parties maintain service levels appropriate to the service charges collected from the public for this arrangement have not been put in place.

We found that in SRO, Tumkur ten computers were required, seven were supplied by the BOT vendor, two were taken on donations and still there was shortage of one computer. Further, the SRO intimated on 8 August 2012 that three Uninterrupted Power Supply (UPS) machines were not having backup for more than five minutes. Thus, this affected the service delivery in the system adversely.

We also found that, though kiosks were installed in the SROs, these were not found working in any of the offices test checked.

After this was pointed out, the DSR stated that it has embarked on a practice of imposing penalties for service failures from July 2010. As regards kiosks the DSR stated that due to work load, the components of the kiosks had to be used for supporting systems, (i.e. in other computers) involved in registration of documents. Thus, the fact remains that the BOT model has not delivered its desired results.

In the Exit Conference, while expressing his reservations about suitability of the BOT model the Secretary accepted that Service Level Agreements (SLA) for determining standards of performance etc. were not entered into.

We recommend that

- **the DSR may establish a mechanism to monitor and ensure that the service delivery by third party service providers are as per the requirements stated in the contracts and**
- **the existing automated kiosks may be made functional and kiosks installed in every SRO.**

3.8.16 Generation of reports for submission to higher authorities

The SROs submit consolidated reports of every month, every quarter of the year and every year to DR office. The DR office consolidates the reports for the whole district which are further consolidated at IGR's office at the state level.

KAVERI has the provision to generate the reports required to be sent by SROs to the higher authorities. Though the reports were generated, their figures were not found correct, with the result that the SROs prepare the reports manually for submission to higher authorities. We also cross verified the KAVERI reports with manual registers and found that the figures of the two reports did not reconcile as shown in the following tables.

(₹ in crore)

Year	Stamp duty collected						Variation in Amount (percentage)
	As per KAVERI reports		Manual Register		Difference		
	No. of Cases	Amount	No. of Cases	Amount	No. of Cases	Amount	
2007-08	21,888	23.12	20,359	22.23	1,529	0.89	4.00
2008-09	17,749	22.65	16,237	19.92	1,512	2.73	13.70
2009-10	19,126	14.33	17,333	13.80	1,793	0.53	3.84
2010-11	17,238	19.96	14,360	17.50	2,878	2.46	14.06
2011-12	24,484	31.59	22,022	29.37	2,462	2.22	7.56
Total	1,00,485	111.65	90,311	102.82	10,174	8.83	8.59

(₹ in crore)

Year	Registration fee collected						Variation in Amount (percentage)
	As per KAVERI reports		Manual Register		Difference		
	No. of Cases	Amount	No. of Cases	Amount	No. of Cases	Amount	
2007-08	21,888	3.68	20,359	3.33	1,529	0.35	10.51
2008-09	17,749	3.45	16,237	3.25	1,512	0.20	6.15
2009-10	19,126	3.21	17,333	3.03	1,793	0.18	5.94
2010-11	17,238	3.54	14,360	3.44	2,878	0.10	2.91
2011-12	24,484	5.54	22,022	5.35	2,462	0.19	3.55
Total	1,00,485	19.42	90,311	18.40	10,174	1.02	5.54

After this was pointed out, the DSR stated that the discrepancies arose due to issue of manual receipts, which still continue due to shortage of computer systems. However, this is not the only factor as we have noticed other factors like non-segregation of denoted amounts, duplication of stamp duty and registration fee, duplication of stamp duty in cases where registration fee is collected in instalments etc. as discussed in the earlier paragraphs.

We recommend that the DSR may take immediate action for generation of verified reports to be submitted to the higher authorities so that proper monitoring of work is done at each level.

3.8.17 Additional payment over and above the terms of agreement

As per Para 2.1 of the SRS, one of the broad deliverables expected from KAVERI software was encumbrance search certificate generation (ESCG). The DSR had paid ₹ 1.10 crore for development of KAVERI application software which included ESCG.

Scrutiny of the records revealed that C-DAC has made a separate additional charge of ₹ 15 lakh in July 2004 for development of software related to encumbrance certificate. The expenditure incurred was incorrect.

After we pointed out, the DSR replied that the amount paid to C-DAC was for the development of 'EC Data Entry Software', developed separately for entry and digitisation of data in legacy records pertaining to the pre-KAVERI period. The reply furnished is not correct as the ESCG contains EC Data Entry software also. As such no additional payment should have been made.

3.8.18 Monitoring of staff of C-DAC paid by DSR

The DSR further entered into a maintenance agreement in May 2005 with C-DAC. In the said agreement vide Article 20.3, C-DAC was to provide the services of four engineers; of these, one was to be stationed in the office of the IGR and the remaining three were to be stationed in C-DAC, Pune. It was stipulated that the team assigned to KAVERI should not be assigned any other work. However, the DSR did not have any mechanism to ensure that the team at Pune was utilised exclusively for KAVERI project as envisaged in the agreement.

The DSR stated that it has made mandatory the submission of attendance registers for payment of quarterly invoices. However, we found that no certificate to the effect that the team has been utilised exclusively for KAVERI project has been obtained by the DSR.

3.8.19 Conclusion

We noticed that the DSR had not conducted any IS audit to ascertain the improvements needed in the system. The online presentation of documents, token system and establishment of kiosks to bring transparency and prompt service delivery were not available in the system. A few rules were also not mapped in the software and manual intervention was required at different levels. The validation controls in the system were weak; as a result, a number of data entry errors were noticed.

3.8.20 Summary of Recommendations

We recommend that:

- **The Government/DSR may take necessary steps to ensure that an information audit system is put in place, the SROs are inter-linked and legacy data is entered into the system on top priority to enable fast and efficient EC issue.**
- **A token module system may be introduced, the website may be updated regularly and made available in vernacular.**
- **The DSR may implement logical access controls like user names and passwords in tune with business practices necessary to ensure authorisation requirements and establishment of accountability.**
- **The business rules like denotation of duty, rejection of documents, registration of property notified for non registration, valuation of lease deeds etc. may be mapped in the system.**
- **The DSR may establish a mechanism to monitor and ensure that the service delivery by third party service providers is as per the requirements stated in the contracts and**
The existing automated kiosks may be made functional and kiosks installed in every SRO.
- **The Government may issue instructions for strengthening the internal control so that correct and reliable reports are generated for submission to higher authorities.**

3.9 Non-observance of provisions of the Acts/Rules

The KS Act 1957 provides as under:

- Section 3 for stamping of all instruments chargeable with duty as per the schedule to the Act and executed by any person in the State of Karnataka before or at the time of execution.
- Section 3B for levy of additional stamp duty at the rate of 10 per cent on any instrument of conveyance, exchange, settlement, gift or lease in perpetuity of immovable property chargeable with duty under Section 3 read with articles of the schedule, on such duty chargeable on such instrument of conveyance, exchange, settlement, gift or lease in perpetuity.
- Section 4, where stamp duty payable for several instruments used in single transaction of sale, the duty chargeable on the instrument shall be the highest duty which would be chargeable in respect of the instruments employed.
- Section 17 for stamp duty on all instruments to be levied or paid at the time of execution of instrument.
- Section 28 to set forth in the instrument the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable. Section 61 for punishment with fine which may extend to five times the amount of the deficient duty thereof for any person, who, with an intent to defraud the Government, executes any instrument in which all the facts and circumstances required to be set forth are not fully and truly set forth.
- Section 45A for estimating the market value, if the registering officer, while registering any instrument has reason to believe that the market value of the properties has not been truly set forth and upon payment of duty on such market value, to register the document.
- Section 46 A for issue of notice on any person to show cause as to why the proper duty should not be collected from him in respect of any instrument which has not been duly stamped.
- Section 67B for power to enter and search any premises excluding residential premises and if on such inspection, the authorised officer¹¹ is of opinion that any instrument chargeable with duty is not duly stamped, he shall require the person liable, to pay the proper duty or the amount required to make up the same and also penalty not exceeding five times the amount of the deficient duty thereof, if any leviable.

The Registration Act, 1908 and the Karnataka Registration Rules, 1965 provide as under:

¹¹ Deputy Commissioner or an Assistant Commissioner or any officer not below the rank of a Sub-Registrar authorised by the Deputy Commissioner or Chief Controlling Revenue Authority.

- Section 80 for levy of fees in respect of various documents presented for registration.
- Section 80-A for recovery of registration fee not paid or insufficiently paid on any document as an arrear of land revenue from the person who presented the document for registration based on a certificate of the IGRCS which is granted after giving the person an opportunity of being heard.

The Karnataka Stamp (Payment of duty by means of e-stamping) Rules, 2009 provides as under:

- Rule 19 for remittance of consolidated amount of stamp duty (less the prescribed discount/commission) by the Central Record Keeping Agency (CRA) collected by the branches and its Authorised Collection Centers to the prescribed head of account of the State.
 - i) In case of stamp duty, collected by way of cash/real time gross settlement/electronic clearance system or any other mode of electronic transfer of funds, not later than the closing of the next working day of such collection of the amount of stamp duty.
 - ii) In case of stamp duty, collected by way of pay order/demand draft not later than the closing of the second working day, after the day of such collection of the amount of stamp duty.
- Rule 38 for failure to remit the amount of stamp duty collected within the stipulated period as in Rule 19, the CRA shall be responsible to pay along with stamp duty, an interest amount calculated at 12 per cent per annum on the amount of stamp duty so collected, for the period of delay in days. Any part of the day will be treated as one day for the purpose of such calculation.

We noticed in fifteen SROs, two DROs, office of the IGR&CS and information obtained during audit of two offices of the Income Tax Department that the above provisions were not fully followed by the concerned authorities. This resulted in a number of discrepancies which led to non/short realisation of Government revenue amounting to ₹ 2.39 crore. The Government/Department accepted audit observations in six cases involving ₹ 26.10 lakh and recovered ₹ 3.27 lakh in one case. Final reply in respect of the remaining cases has not been received (December 2012).

3.9.1 Short levy of stamp duty/registration fee due to suppression of facts

As per Article 20 of the Schedule to the KS Act, stamp duty is leviable at 6 per cent on the market value of the property which is the subject matter of conveyance. As per KS Act, market value is guideline market value or consideration stated in the document whichever is higher. Additional stamp duty at 10 per cent is also leviable as per the provisions of the Act. The stamp duty payable for sale agreement and power of attorney is to be in accordance with Article 5(e) and 41(e) respectively.

3.9.1.1 During the test check of 'A¹²' register and the documents of SRO, Malleshwaram in October 2011 and SRO, Devanahalli, in February 2012, we noticed that three sale deeds were registered between 2009-10 and 2011-12. Stamp duty of ₹ 9.83 lakh and registration fee of ₹ 2.23 lakh

were levied on the market value/consideration of ₹ 2.23 crore stated in the sale deed. Scrutiny of sale deed, agreement of sale and GPA revealed that vendors had received consideration of ₹ 6 crore from the purchaser/Attorney holder and the same was acknowledged in the instruments. Suppression of the consideration amount by ₹ 3.77 crore resulted in short levy of stamp duty of ₹ 30.41 lakh and registration fee of ₹ 3.77 lakh. Further, a penalty of ₹ 1.52 crore could have been levied for suppression of facts.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DR had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

As per Article 20, stamp duty on conveyance deeds is leviable on the market value which is the subject matter of conveyance.

3.9.1.2. During test check of the assessment records of the Income Tax Department, we noticed in the assessment orders and information furnished to the Income Tax

Department by the assessee that the persons concerned had acknowledged receipt of money as consideration received for transactions relating to sale of two immovable properties. We cross-verified the details of the transactions of immovable properties as reported to the Income Tax Department with the instruments relating to these properties registered in the office of the SRO, Varthur in July 2011 and SRO, Banaswadi in February 2012. Four sale deeds were registered between January and March 2008, wherein stamp duty of ₹ 1.27 crore and registration fee of ₹ 15.18 lakh were levied on the estimated guideline market value/consideration of ₹ 15.17 crore stated in the documents. The consideration for these transactions as acknowledged by the executants of the documents to the Income Tax Department was ₹ 24.74 crore. Non-disclosure of the actual consideration in the documents resulted in short levy of stamp duty of ₹ 80.22 lakh and registration fee of ₹ 9.55 lakh on

¹² Register to record details of daily transactions of instruments registered along with amount of stamp duty and registration fee collected

the differential market value of ₹ 9.57 crore. Besides, a penalty of ₹ 4.01 crore was leviable for suppression of facts.

After we pointed out the case to Government in July 2012; the Government reported in November 2012 that in respect of SRO, Banaswadi, the DR, Shivajinagar had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act. In respect of SRO, Varthur, it was stated in the order of the DR that extrinsic evidence of transaction cannot be taken for levy of stamp duty and the issue was under review by the IGRCS. Further report has not been received (December 2012).

As per Article 41(e), when GPA is executed for consideration and / or coupled with interest, and authorising the attorney to sell, the stamp duty as applicable to conveyance on consideration or market value of the property, whichever is higher is leviable. Further, stamp duty paid on corresponding power of attorney is adjustable towards the duty payable on the instrument of sale executed between the same parties in respect of the same property.

3.9.1.3 During the test check of documents registered and 'A' Register in SRO, Shidlaghatta and SRO, Devanahalli in February and March 2012, we noticed that four sale agreements and corresponding GPAs (executed on the same day between the same parties) were registered between

February 2009 and February 2011. In respect of the GPAs, stamp duty and registration fee were levied on the estimated guideline market value¹³ of the properties. Cross verification of these GPAs with corresponding agreements of sale revealed suppression of true market value in the GPA being the sale consideration already received vide sale agreement. This resulted in short levy of stamp duty of ₹ 18.58 lakh and registration fee of ₹ 3.22 lakh on the differential market value of ₹ 3.22 crore as detailed below. Besides this, a penalty of ₹ 92.90 lakh could have been levied for suppression of facts.

(₹ in lakh)

SRO/ No. of cases	Date of execution of sale agreement/ GPA	Consideration paid in the sale agreement	Value on which stamp duty was levied on GPA	Under- valuation of property	Short levy	
					Stamp duty	Registration fee
Devanahalli (3)	20.01.2010 (1 case) 19.02.2011(2 cases)	455.80	157.15	298.65	16.92	2.99
Shidlaghatta (1)	18.02.2009	25.00	2.40	22.60	1.66	0.23
Total (4 cases)				321.65	18.58	3.22

Further, we noticed that no clause specifying period for execution of sale deed was made in the sale agreements except in one case where the absolute sale deed was required to be executed within three months from the date of execution of agreement of sale. No such sale deed executed in these cases was made available to audit for verification. In the absence of

¹³ Estimated guideline value is the market value as determined by Central Valuation Committee.

sale deeds for true consideration between the same parties, the short levy of stamp duty and registration fee on the GPAs needs to be recovered.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DRs had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

3.9.2 Short levy of stamp duty due to under valuation

Under Section 28 read with Section 45(A) of the KS Act, 1957, if the registering officer while registering any instrument has reason to believe that the market value of the properties has not been truly set forth, he shall estimate the market value and upon payment of duty on such market value, register the document.

During the test check of documents registered and 'A' Register in ten¹⁴ SROs between April 2011 and March 2012 we noticed that in respect of thirteen

documents (nine sale deeds, three GPAs and one exchange deed) registered between 2007-08 and 2010-11, stamp duty of ₹ 51.42 lakh and registration fee of ₹ 7.81 lakh were levied as against stamp duty of ₹ 81.36 lakh and registration fee of ₹ 12.37 lakh leviable due to incorrect computation of market value which was on account of incorrect adoption of market value guideline, omission to compute for part of the property, non-consideration of conversion of land, etc. This resulted in short levy of stamp duty of ₹ 29.94 lakh and registration fee of ₹ 4.56 lakh. A few illustrative cases are given below:

		(₹ in lakh)
SRO/No. of documents	Nature of observation	Short levy of stamp duty/ registration fee
Dharwad/1	Area of the property conveyed was 8055 square meters of land, 4,000 square feet of office/guest house and an industrial shed measuring 21,000 square feet. The guideline market value worked out to ₹ 1.18 crore instead of ₹ 76 lakh stated in the document. Stamp duty was levied on ₹ 76 lakh resulting in undervaluation of ₹ 42.10 lakh and consequent short levy of stamp duty and registration fee.	2.85/0.42
After we pointed out the case in June 2012, the Government reported in November 2012 that the deficit stamp duty and registration fee had since been recovered.		
Jamkhandi/1	The property conveyed was an industrial land. The guideline market value worked out to ₹ 39.89 lakh. However, the market value of ₹ 15 lakh was computed at rates applicable to residential purpose instead of at rates applicable for commercial purpose. This resulted in short levy of stamp duty and registration fee.	2.09/0.25

¹⁴ Nagarabhavi, Indiranagar, Kuderu, Dharwad, Banashankari, Jigani, Soraba, Tarikere, Hosanagara and Jamakhandi.

		(₹ in lakh)
SRO/No. of documents	Nature of observation	Short levy of stamp duty/ registration fee
After we pointed out the case in June 2012, the Government reported in November 2012 that action had been initiated under Section 46A of the KS Act.		
Soraba/1	The land measuring 40 acres 10 guntas conveyed was used for rubber plantation. As per the guideline market value, the rate of land used for rubber plantation was to be enhanced by ₹ 75,000 per acre of the guideline market value of ₹ 52,000 per acre applicable for kushki (dry) land. Accordingly, the guideline market value of the property worked out to ₹ 51.12 lakh. However, stamp duty and registration fee were levied on the consideration of ₹ 23.30 lakh stated in the document. This resulted in short levy of stamp duty and registration fee.	1.89/0.28
After we pointed out the case in June 2012, the Government reported in November 2012 that action had been initiated under Section 46A of the KS Act.		
Jigani/1	The land exchanged had road on two sides. As per the guidelines, the market value should have been enhanced by 10 <i>per cent</i> . Thus, market value worked out to ₹ 1.64 crore instead of ₹ 1.49 crore considered by the SRO. This resulted in undervaluation of ₹ 14.96 lakh and consequent short levy of stamp duty and registration fee.	0.91/0.15
After we pointed out the case in June 2012, the Government reported in November 2012 that action had been initiated under Section 46A of the KS Act.		
Kuderu/1	A GPA to sell property was registered in August 2010. Stamp duty and registration fee was levied on guideline market value of ₹ 1.60 lakh at ₹ 40/square feet as against the actual guideline market value of ₹ 16 lakh at ₹ 400/square feet.	0.86/0.14
After we pointed out this in June 2012, the Government stated that action had been initiated under Section 46A of the KS Act.		

After we pointed out these cases to the Government in July 2012; the Government reported in November 2012 that demand for ₹ 16 lakh was created in four cases and recovered ₹ 3.27 lakh in one case and the concerned DRs were instructed to initiate action under Section 46(A) of the KS Act and Section 80-A of Registration Act in the remaining cases.

3.9.3 Short levy of stamp duty due to incorrect denotation

Under the KS Act, 1957, stamp duty is levied on instrument as per the various articles mentioned in the Schedule. As per Article 41(e) of KS Act 1957, when General Power of Attorney (GPA) is given for consideration and / or when coupled with interest and authorising the attorney to sell the immovable property, stamp duty is payable as conveyance deed. Further, stamp duty paid on such GPA is adjustable towards the duty payable on the instrument of sale or transfer executed subsequently only between the same parties and in respect of the same property with effect from 1st April 2010.

During test check of the registered documents and 'A' Register in SRO, Jigani conducted in July 2011, we noticed that eight sale deeds were registered during 2010-11. Against the stamp duty of ₹ 23.83 lakh payable on the sale deeds, stamp duty of ₹ 19.65 lakh paid on GPAs executed earlier in respect of those properties was denoted/adjusted. On cross-verification of the concerned GPAs, we noticed that the parties involved in the GPAs were not the same as those involved in the sale deeds and hence denotation of stamp duty was not admissible in

respect of subsequent sale deeds executed. This incorrect denotation resulted in short levy of stamp duty of ₹ 19.65 lakh.

After we pointed out the cases to the Government in July 2012; the Government reported in November 2012 that the concerned DRs had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

3.9.4 Short levy of stamp duty on lease deed

Under the KS Act 1957, the stamp duty leviable on leases for a term exceeding thirty years is the same duty as a conveyance for the amount or value of such fine or premium or advance as set forth in the lease in addition to duty which would have been payable on such lease or for an amount equal to the market value of the property whichever is higher.

During the test check of documents in the office of District Registrar, Bangalore Rural conducted in June 2011, we noticed that a lease deed was executed in respect of 14 acres and 13 guntas of land situated at Sadahalli village, Devanahalli Taluk for a term of 60

years. As per the recitals of the document, the term of 60 years of lease commenced from 1st April 2009. As per the terms of lease, the lease rent payable was fixed at ₹ 5 lakh per month from April 2009 and thereafter escalation by 15 *per cent* every three years up to March 2030 and from April 2030 escalation at the rate of 8.75 *per cent* for every three years besides payment of advance of ₹ one crore. The lease deed was presented to the District Registrar for adjudication of stamp duty payable. The

District Registrar determined the stamp duty of ₹ 13.43 lakh on the market value of the property of ₹ 1.79 crore as the market value of the property was higher than advance amount of ₹ one crore paid by the lessee.

The determination of the stamp duty by the DR was incorrect as the stamp duty was to be levied on the average annual rent of ₹ 2.04 crore and advance of ₹ one crore paid by the lessee. Thus, stamp duty was payable on ₹ 3.03 crore instead of ₹ 1.79 crore. This resulted in undervaluation of lease deed by ₹ 1.25 crore involving stamp duty of ₹ 9.34 lakh.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DRs had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

3.9.5 Short levy of stamp duty and additional stamp duty

As per Article 28(a) to the Schedule of the KS Act, in respect of a gift deed, stamp duty of ₹ 1,000 is leviable if the donee is a family member of the donor and at the rate of conveyance (Article 20) for market value if the donee is not a family member of the donor.

and a trust and hence stamp duty of ₹ 4.61 lakh was leviable at the rate of 6.78 per cent on the market value of ₹ 68 lakh. Misclassification of the gift deed as between family members resulted in short levy of stamp duty of ₹ 4.60 lakh.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DR had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

As per clause (i) to first proviso of Article 20(4), in respect of amalgamation of companies, stamp duty is leviable at the rate of 5 per cent of the market value. As per the provisions in the KS Act, additional stamp duty at the rate of 10 per cent is chargeable on such duty chargeable on instrument of conveyance, exchange, gift, settlement or lease in perpetuity.

with mosaic flooring/industrial flooring. However, in the calculation report of the DR, we noticed that the DR had computed the value of the

3.9.5.1 During the test check of 'A' Register and the registered documents in SRO, Jigani in July 2011, we noticed that in respect of a gift deed registered during 2010-11, stamp duty of ₹ 1,000 was levied. We noticed that the gift deed was executed between donor

3.9.5.2 During the test check of records of DR, Jayanagar in October 2011, we noticed that the DR had intimated the High Court in August 2010 that stamp duty of ₹ 1.43 crore was determined in a case of amalgamation of companies. As per the valuation report enclosed to the High Court order of amalgamation, the property consisted of an RCC building of 17,638 square feet

building for 17,368 sq ft at ₹ 550/sqft applicable to red oxide flooring instead of ₹ 650/sqft applicable to mosaic flooring. Further, in the order determining the stamp duty, the amount of depreciation was taken as the value of building instead of the written down value. These resulted in incorrect determination of market value of the property at ₹ 28.62 crore instead of ₹ 29.38 crore and determination of stamp duty of ₹ 1.43 crore as against ₹ 1.47 crore leviable. This resulted in short levy of stamp duty of ₹ 3.81 lakh. Further, additional stamp duty amounting to ₹ 14.69 lakh at the rate of 10 *per cent* on the stamp duty amount of ₹ 1.47 crore was not computed. Thus, total short levy of stamp duty and additional stamp duty amounted to ₹ 18.50 lakh.

After we pointed out, the Government stated in November 2012 that the correct stamp duty of ₹ 1.47 crore was assessed on the revised estimation valuation and intimated to the High Court. Reply in respect of additional stamp duty has not been received (December 2012).

3.9.6 Non-levy of interest in the form of penalty for delay in remittances to Government

As per Rule 38 of the Karnataka Stamp (Payment of Duty by means of e-stamping) Rules, interest at 12 *per cent* per annum is leviable in case the CRA fails to remit the amount of stamp duty collected within the period stipulated in Rule 19.

During the test check of records of IGR conducted during July 2011, we noticed that the State Government/ Chief Controlling Revenue Authority (CCRA), entered into an agreement with the Central Record Keeping

Agency (Stock Holding Corporation of India Limited) in January 2010, to provide for a system for payment of stamp duty of client/ ultimate user through the approved Authorised Collection Centers (ACCs). Review of such collection details and remittance of the same through State Bank of Mysore Treasury Branch challans as furnished by the department for the year 2010-11 revealed that there was delay in remitting the Government receipts ranging from one to nine days. The department has not furnished the reconciliation statement of remittances of e-stamping though called for. In the absence of breakup of cash and DD remittances to Government, the delay was reckoned after two working days. Interest leviable under Rule 38 of the Karnataka e-stamping Rules, 2009 was not levied for delay in remittance. The non-levy of interest amounted to ₹ 6.29 lakh.

After we pointed out the case, the Government reported that notice was issued to SHICL to remit the interest.

