

# CHAPTER - VI

## CHAPTER-VI STAMPS AND REGISTRATION FEES

### 6.1 Tax administration

Registration and Stamps Department is under the Commercial Tax Department headed by the Principal Secretary. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. Two Joint Inspectors General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts officer (AO) are deployed at the headquarters. There are 48 Registration Districts notified in the State. There is a SDR in 15 Registration districts and a DR in the remaining districts. There are 226 Sub Registrar (SR) offices in the State. Instruments are registered in SR offices. Collector is the head of Registration administration at the district level. There are two major components of receipts of the Registration Department in Madhya Pradesh viz: Stamp duty and Registration fees, the collection of which are regulated under the provisions of the following Acts and Rules and notification issued thereunder:

- Indian Stamp Act, 1899;
- The Registration Act, 1908;
- Indian Stamp (Madhya Pradesh Prevention of Undervaluation of Instruments) Rules, 1975;
- Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000;
- Madhya Pradesh Stamp Rules, 1942;
- Madhya Pradesh Municipal Corporation Act, 1956;
- Madhya Pradesh Municipalities Act, 1961;
- Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993; and
- Madhya Pradesh *Panchayat Upkar Adhiniyam*, 1982

### 6.2 Trend of receipts

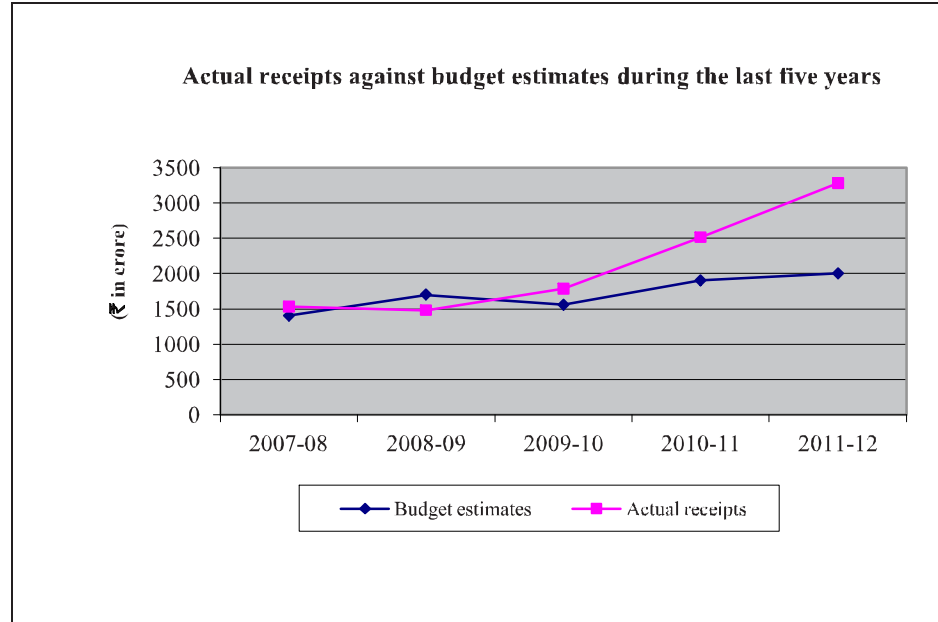
Actual receipts from Stamps and Registration fees during the period 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	1,400	1,531.54	(+) 131.54	(+) 9.40	12,017.64	12.74
2008-09	1,700	1,479.29	(-) 220.71	(-) 12.98	13,613.50	10.87
2009-10	1,560	1,783.15	(+) 223.15	(+) 14.30	17,272.77	10.32

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2010-11	1,900	2,514.27	(+) 614.27	(+) 32.33	21,419.33	11.74
2011-12	2,000	3,284.41	(+) 1284.41	(+) 64.22	26,973.44	12.18

(Source: Budget estimates and Finance Accounts of the Government of Madhya Pradesh)



It may be seen that though there was an increasing trend in receipts during the years from 2009-10 to 2011-12, the percentage of variation between the BEs and the actual receipts ranged between (-) 12.98 per cent and (+) 64.22 per cent. In 2011-12, the collection from Stamps and Registration fees increased by ₹ 770.14 crore (30.63 per cent) over the previous year, which was attributed by the Department to increase in market value of the immovable properties as well as in the number of registered documents.

## 6.3 Impact of audit

### 6.3.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs we had pointed out non/short levy, non/short realisation, underassessment/loss of Stamp duty and Registration fees due to incorrect determination of market value of properties, misclassification of documents, irregular exemption, inordinate delay in finalisation of cases referred by SRs, etc. with revenue implication of ₹ 162.91 crore in 26,111 cases. Of these, the Department/Government had accepted audit observations in 17,774 cases involving ₹ 77.93 crore and had since recovered ₹ 12.51 crore in 2,059 cases (30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	69	4,980	10.16	1,904	6.91	383	1.49	21.56
2007-08	66	3,021	16.10	1,607	5.40	537	1.49	27.59
2008-09	82	10,113	52.42	8,374	29.96	698	7.87	26.27
2009-10	64	5,809	31.95	4,415	8.05	154	0.85	10.56
2010-11	64	2,188	52.28	1,474	27.61	287	0.81	2.93
<b>Total</b>		<b>26,111</b>	<b>162.91</b>	<b>17,774</b>	<b>77.93</b>	<b>2059</b>	<b>12.51</b>	

The percentage of recovery as compared to the accepted cases has been low over during the last five years. We brought this issue to the notice of the head of the Department as well as the Finance Secretary of the Government (August 2012). Their replies have not been received (March 2013).

### 6.3.2 Position of Audit Reports

In the Audit Reports 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, underassessment/loss of Stamp duty and Registration fees due to incorrect determination of market value of properties, misclassification of documents, irregular exemption, inordinate delay in finalisation of cases referred by SRs, etc. with revenue implication of ₹ 159.77 crore in 40 paragraphs. Of these, the Department/Government had accepted audit observations in 31 paragraphs involving ₹ 82.87 crore and had since recovered ₹ 8.77 crore in 20 paragraphs. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered upto 31.03.12
2006-07	6	2.45	6	1.62	4	0.31
2007-08	1	91.57	1	45.76	1	5.61
2008-09	11	16.81	10	16.35	7	2.15
2009-10	9	14.72	7	7.93	4	0.56
2010-11	13	34.22	7	11.21	4	0.14
<b>Total</b>	<b>40</b>	<b>159.77</b>	<b>31</b>	<b>82.87</b>	<b>20</b>	<b>8.77</b>

The percentage of recovery as compared to the accepted cases has been extremely low during the last five years.

**We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.**

### 6.4 Cost of collection

The gross collection from Stamps and Registration Fees, expenditure incurred on its collection and the percentage of 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 for the previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
2009-10	1,783.15	37.02	2.08	2.77
2010-11	2,514.27	48.98	1.95	2.47
2011-12	3,284.41	63.71	1.94	1.60

(Source : Finance Accounts of the Government of Madhya Pradesh)

The percentage of expenditure on collection was considerably below the all-India average during the years 2009-10 and 2010-11. However, the same was higher than the all-India average during the year 2011-12.

**We recommended that the Department may take steps to maintain the percentage of expenditure on collection below the all-India average.**

### 6.5 Working of internal audit wing

Four posts of Internal Audit Officer and one post of Accounts Officer have been sanctioned for the internal audit wing (IAW) of the Department. At present three Internal Audit Officers and one Accounts Officer are working in the IAW. Internal Audit is conducted in accordance with the roster prepared for each year.

Out of 226 units of the Department, 81 units were planned for internal audit out of which 31 units were inspected by the IAW. Inspection notes were issued by the IAW. The Department issued instructions to the Collector of Stamps to take action for rectification of discrepancies noticed by the IAW.

### 6.6 Results of audit

Test check of the records of 51 units relating to Stamps and Registration fees during the year 2011-12 indicated underassessment of tax and other irregularities involving ₹ 60.16 crore in 1,867 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to inordinate delay in finalisation of cases	361	6.69
2.	Short realisation of Stamp duty and Registration fees due to undervaluation of properties/incorrect exemption	737	15.10
3.	Loss of revenue due to misclassification of instruments	62	0.86
4.	Other observations	707	37.51
<b>Total</b>		<b>1,867</b>	<b>60.16</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 11.57 crore in 868 cases, which were pointed out in

audit during the year 2011-12. An amount of ₹ 7.98 lakh was realised in nine cases during the year 2011-12.

A few illustrative audit observations involving an amount of ₹ 32.71 crore are mentioned in the following paragraphs:

## 6.7 Incorrect determination of market value/non-finalisation of cases

Under Section 47-A of the Indian Stamp (IS) Act, 1899, if the Registering Officer, while registering any instrument finds that the market value of any property set forth was less than the market value shown in the market value guidelines, he should before registering such instrument, refer the same to the Collector for determination of the correct market value of such property and duty leviable thereon. Further, according to the departmental instructions of July 2004, a maximum period of three months has been prescribed for disposal of cases referred to the Collector by the Sub-registrar (SR) offices for determination of correct market value of properties and duty leviable thereon. Besides, market value of the property is calculated according to rates and provisions prescribed in the market value guidelines.

**6.7.1** We observed in nine Sub Registrar offices<sup>1</sup> between February and December 2011 from the register of cases referred by Sub Registrars that 519 cases were referred by the Sub Registrars to the Collector between September 2008 and March 2011 for determination of the market value of the properties. Out of these, 259 cases had not been finalised, though periods upto 29 months had already elapsed beyond the expiry of the

prescribed period. In these cases, the difference of Stamp duty and Registration fees as worked out by the Sub Registrars was ₹ 4.98 crore.

After we pointed out the cases, the District Registrar (DR), Vidisha stated (September 2011) in respect of 16 cases that the cases would be disposed of early. DR, Betul intimated between March and August 2012 in respect of 12 cases that nine cases were decided between September 2011 and June 2012 and ₹ 7.98 lakh was recovered between September 2011 and June 2012. However, the status of disposal of remaining three cases is awaited. In the remaining 231 cases, the respective SRs stated between February and December 2011 that the Collector of Stamps would be requested for early disposal of the cases. Further progress in the matter has not been received (March 2013).

**6.7.2** We observed in 15 Sub Registrar (SR) offices<sup>2</sup> between June 2011 and February 2012 that in 306 instruments registered between April 2008 and March 2011, the market value according to guidelines was ₹ 129.20 crore against the registered value of ₹ 98.10 crore. The SR did not refer these instruments to the Collector for determination of the correct value of the properties and duty leviable thereon. This resulted in short levy of Stamp duty and Registration fees of ₹ 2.58 crore as mentioned in the following table:

<sup>1</sup> Badnagar (District Ujjain), Betul, Guna, Indore, Jabalpur, Mhow (District Indore), Obedullahganj (District Raisen), Sagar and Vidisha.

<sup>2</sup> Badnagar (Ujjain), Betul, Bhopal, Guna, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Mhow (Indore), Obedullaganj (Raisen), Sagar, Shivpuri, Sirmaur (Rewa) and Vidisha.

(₹ in lakh)

Sl. No.	No. of SR offices/instruments	Period of registration	Nature of irregularities	Stamp duty & Registration fees Leviable/ Levied	Short levy of Stamp duty & Registration fees
1.	<u>12</u> 213	Between 4/2008 and 3/2011	Non-observance of provisions prescribed in guidelines	<u>734.81</u> 563.79	171.02
2.	<u>13</u> 72	----do----	Incorrect application of rates	<u>269.78</u> 198.47	71.31
3.	<u>7</u> 13	-----do-----	Property valued partly	<u>126.96</u> 117.25	9.71
4.	<u>5</u> 8	Between 5/2010 and 3/2011	Other irregularities	<u>50.561</u> 44.96	5.60
<b>Total</b>	<u>15</u> 306			<u>1,182.11</u> 924.47	257.64

After we pointed out the cases, the District Registrar (DR), Shivpuri and Vidisha stated between September 2011 and March 2012 in respect of 15 instruments that cases against the executants had been registered in August 2011 and action was in progress. Five SRs <sup>3</sup> stated between July 2011 and February 2012 in respect of 72 instruments that the market value determined was correct. The reply is contrary to the facts on record and provisions of the market value guidelines. SR Indore stated (November 2011) in respect of one instrument that reply would be given after scrutiny, while in respect of remaining 218 instruments, the respective SRs stated between June 2011 and February 2012 that the cases would be referred to the Collector of Stamps/necessary action would be taken. Further progress has not been received (March 2013).

The Market Value Guidelines applicable for the year 2008-09 provides that the value of land situated on any National Highway will be 100 *per cent* higher than arrived at the normal rates prescribed for such land.

**6.7.3** We observed in SR Office, Betul in July 2011 that a gift deed executed in February 2009 was registered in August 2009. The recitals of the instrument revealed that a land measuring 1.822

hectare situated on National Highway (NH-69) in Ambedkar ward was the subject matter of the gift. The value of the property was mentioned by the executant as ₹ 18.21 lakh and the instrument was executed on stamp papers worth ₹ 1.80 lakh. The SR referred the case to the Collector of Stamps (COS) for determination of the market value and Stamp duty leviable on the instrument. He proposed the market value of the land at ₹ 41.12 lakh as against ₹ 92.88 lakh worked out by audit in accordance with the guidelines. We observed that the market value of the land was computed by the SR treating the area of land as 1.687 hectare instead of 1.822 hectare and the fact that the land was situated on NH-69 was also ignored by him,

<sup>3</sup> Bhopal, Indore, Jabalpur, Obedullahganj (Raisen) and Sirmour (Rewa).



which resulted in undervaluation of land. The COS determined (June 2009) the value as proposed by the SR. Thus, the undervaluation of the land resulted in short levy of Stamp duty and Registration fees of ₹ 5.52 lakh.

After we pointed out the case, the DR Betul stated (March 2012) that the case had been registered against the executants and action was in progress. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

## **6.8 Short levy of Stamp duty and Registration fees on lease deeds/lease cum sale deeds**

Article 33 of Schedule 1-A of the IS Act, 1899, provides for levy of stamp duty on lease deeds at the rates prescribed therein. Further, according to Article II of the Registration Table under the Registration Act, 1908, registration fee at three fourths of the stamp duty is chargeable on such instruments.

We observed in five Sub Registrar (SR) Offices<sup>4</sup> between June 2011 and February 2012 that in case of 28 documents of lease/lease cum sale deed<sup>5</sup> registered between August 2009 and March 2011, Stamp duty and Registration fees of ₹ 2.63 crore was

leviable but the registering authority levied ₹ 1.35 crore only by taking a lesser period of lease in four cases and there was under-assessment of duty and fee in 23 cases, while in one case custom built up charges to be paid by the lessee i.e. premium was not considered by the SR for levy of duty. This resulted in short realisation of Stamp duty and Registration fees of ₹ 1.28 crore.

After we pointed out the cases, the DR Sagar stated (March 2012) in respect of one instrument that the case against the executant had been registered and action for disposal was in progress. In respect of the remaining 27 instruments, the respective SRs stated between June 2011 and February 2012 that the cases would be referred to the Collector of Stamps/necessary action would be taken. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

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<sup>4</sup> Bhopal, Gwalior, Indore, Morena and Sagar.

<sup>5</sup> 26 lease deeds and two lease cum sale deed.

## 6.9 Short levy of Stamp duty and Registration fees on instruments of assignment of debt

Article 22 (b) of Schedule 1-A to the IS Act, 1899 provides for levy of stamp duty at the rate of 0.5 *per cent* on the amount of debt assigned on the instruments of assignment of debt. Besides, Government notification dated 7 March 2005 provides for levy of duty on instruments of securitisation of loan or assignment of debt with underlying securities executed in favour of a Securitisation Company or a Reconstruction Company registered under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 at the rate of 0.1 *per cent* of the loan securitised or debt assigned with underlying securities, if the securities are immovable properties. Further, *Panchayat* duty and Municipal duty at the rate of one *per cent* is also leviable on such instruments under section 133(a) of M.P. Municipal Corporation Act, 1956 and section 75 of the M.P. *Panchayat Raj Adhiniyam*, 1993 respectively. Further, *Upkar* is also leviable under M.P. *Panchayat Upkar Adhiniyam*, 1982.

We observed in Sub Registrar office, Indore in December 2011 that four instruments of assignment of debt of ₹ 55.88 crore in respect of movable and immovable properties executed in favour of an Asset Reconstruction Company were registered in January 2011. Stamp duty and Registration fees of ₹ 1.62 crore was leviable on these instruments according to the above provisions. We, however, noticed that Stamp duty and Registration fees of ₹ 21.33 lakh only was levied on the amount of consideration instead of amount of

debt assigned. *Panchayat* duty/Municipal duty and *Upkar* was also not levied on these instruments. This resulted in short levy of Stamp duty and Registration fees of ₹ 1.41 crore.

After we pointed out the cases, Sub Registrar stated (December 2011) that cases would be referred to the Collector of Stamps. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

## 6.10 Short levy of Stamp duty and Registration fees due to misclassification

Under the IS Act, 1899, stamp duty is leviable on instruments according to their recital at the rates specified in Schedule 1-A or prescribed by the Government through notifications. Departmental instructions (September 2005) provide that duty on instruments styled as agreement to sell, release and settlement shall be chargeable at the rate of conveyance deed if the conditions specified in the instructions are not fulfilled and prescribed entries are not mentioned in the instruments. Further, Section 2 (15) (iii) of the Act provides that "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property severally. It also includes any instrument signed by the co-owners and recording, whether by way of declaration of such partition or otherwise, the terms of such partition amongst the co-owners.

We observed in six Sub Registrar Offices<sup>6</sup> between July 2011 and January 2012 that there was misclassification of documents in 40 cases resulting in short levy of Stamp duty and Registration fees of ₹ 92.54 lakh as mentioned below:

(₹ in lakh)

Sl. No.	No. of cases Registered between	Nature of irregularity	Stamp duty and registration fee leviable/levied	Stamp duty and Registration fees short levied
1.	14 May 2009 and March 2011	Agreement to sell without mention of possession was treated as agreement to sell without possession.	48.29 5.34	42.95
2.	8 July 2010 and February 2011	Conveyance deed was treated as Co-ownership deed.	11.38 3.32	8.06
3.	2 May 2009 and June 2010	Gift deed was treated as Release deed.	4.50 1.46	3.04
4.	10 April 2009 and March 2011	Conveyance deed was treated as Release deed.	8.38 3.75	4.63
5.	5 May 2010 and February 2011	Instruments relating to several distinct matters were treated as instruments of single matter.	86.09 64.46	21.63
6.	1 March 2011	Gift deed was treated as Partition deed.	14.59 2.36	12.23
Total	40 cases		173.23 80.69	92.54

After we pointed out the cases, the District Registrar, Vidisha stated (September 2011) in respect of 11 instruments that cases had been registered against the executants and action was in progress. SR Sagar stated

<sup>6</sup> Bhopal, Gwalior, Indore, Morena, Sagar and Vidisha.

(August 2011) in respect of one instrument that it was an agreement to sell the property without possession. We do not agree with the reply as it was not mentioned in the documents that possession of the property has not been given or possession would not be given before execution of sale deed. SR Gwalior stated (June 2011) in respect of one instrument that where partition was oral, there was no chargeability of duty on mentioning of partition in the instrument. The reply is contrary to the provisions of section 2 (15) of IS Act. SR Bhopal stated (January 2012) in respect of one instrument that the executants were co-owners having equal share and therefore, duty was charged at the rate applicable to release deed on 5/6<sup>th</sup> share of the property. The reply is contrary to the facts on record as according to the recitals of the instrument, 50 *per cent* share belonged to the father and the remaining portion belonged to the father with other co-owners. As such, the document should have been classified as gift cum release deed. In respect of the remaining 26 instruments, the respective SRs stated between June 2011 and January 2012 that the cases would be referred to the Collector of Stamps/necessary action would be taken. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

## 6.11 Non-registration of instruments

Article 5(d) of Schedule 1-A to the IS Act provides for levy of stamp duty at the rate of two *per cent* of the market value of the land on an agreement if it is related to the construction of a building on the land by a person other than the owner or lessee of such land and having the condition that after construction, such building shall be held jointly or severally by the other person and the owner or that it shall be jointly or severally sold by them. Further, such instruments are to be compulsorily registered under the Registration Act, 1908.

**6.11.1** We observed in Sub Registrar office, Obedullahganj (District Raisen) in August 2011 that in a sale deed registered in April 2010, the constructed property was sold jointly by the builder and the landowner. During scrutiny of the recitals of the document, it was noticed that there was an agreement between the builder and the landholder that the constructed property would be held and sold jointly by them. This agreement is a compulsorily registerable

document under Section 17 of the Registration Act, 1908. However, the agreement involving land measuring 3.051 acres, valued at ₹ 3.95 crore in accordance with market value guidelines, was not got registered. This resulted in non-realisation of Stamp duty and Registration fees of ₹ 11.07 lakh.

After we pointed out the case in August 2011, the Sub Registrar, Obedullahganj stated (August 2011) that the matter would be referred to the District Registrar, Raisen to take appropriate action for getting the agreement registered. Further progress in the matter has not been received (March 2013).

Article 38(b) of Schedule 1-A to the IS Act, 1899 read with Government notification dated 24.09.2007 and section 75 of the Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993 provides for levy of duty on a mortgage deed without possession at the rate of 1 *per cent* of the amount secured by such deed. Further, rule 12 of Madhya Pradesh Nagar Palika (*Coloniser ka Registrakaran Nirvandhan tatha sharten*) Niyam, 1998 provides that a coloniser has to develop the land in accordance with the norms prescribed therein and has to mortgage 25 *per cent* of the land/plot in favour of competent authority as a security against the expenditure on development of the land. According to Section 17 of the Registration Act, 1908, the instruments of mortgage deeds are to be compulsorily registered.

**6.11.2** We observed from the records in Sub Registrar office, Jabalpur and on the basis of information collected from the Municipal Corporation, Jabalpur in September 2011 that permission for development of land was granted by the Corporation to the colonisers in 28 cases between April 2010 and June 2011, according to which land measuring 30.608 hectare involving estimated development expenditure of ₹ 13.47 crore<sup>7</sup> was to be developed by the

colonisers. Though the colonisers had mortgaged 25 *per cent* of plots during this period, neither was any duty paid by the colonisers nor did they get these instruments registered. This resulted in non levy/realisation of Stamp duty and Registration fees of ₹ 24.29 lakh.

After we pointed out the cases in September 2011, the Sub Registrar, Jabalpur stated in September 2011 that the Municipal Corporation would be contacted through the District Registrar and appropriate action would be taken. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

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<sup>7</sup> Furnished by Municipal Corporation, Jabalpur

## 6.12 Short levy of Stamp duty and Registration fees on instruments of power of attorney

Article 45 (d) of Schedule 1-A to the IS Act provides that when Power of Attorney (POA) is given without consideration authorising the agent to sell, gift, exchange or permanently alienate any immovable property situated in Madhya Pradesh for a period not exceeding one year, duty of ₹ 100 is chargeable on such instruments. Further, when such rights are given with or without consideration for a period exceeding one year or when it is irrevocable or when it does not purport to be for any definite term, the same duty as a conveyance on the market value of the property is chargeable on such instruments.

We observed in eight Sub Registrar offices<sup>8</sup> between February and September 2011 that out of 27 instruments of POA registered between April 2008 and February 2011, in 16 documents, though the power to sell, gift, exchange or permanent alienation of immovable property was given, there was no mention in the documents to show whether the

POA was given without consideration for a period not exceeding one year, while in eight instruments, the POA was irrevocable and in three instruments the rights were given for a period of more than one year. In these cases, Stamp duty and Registration fees of ₹ 24.52 lakh was leviable in accordance with the above provision. We, however, noticed that in all these cases, the instruments were treated as POA to sell without consideration for a period not exceeding one year and duty was levied at the rate of ₹ 100 in each case. This resulted in short levy of Stamp duty and Registration fees of ₹ 24.47 lakh.

After we pointed out the cases between May 2011 and September 2011, District Registrars, Sagar, Shivpuri and Vidisha stated between August 2011 and March 2012 in respect of nine instruments that cases had been registered against the executants and action was in progress. SR Badnagar stated (February 2011) in respect of two instruments that necessary action would be taken after scrutiny. In respect of the remaining 16 instruments, the respective Sub Registrars<sup>9</sup> stated between May and July 2011 that the cases would be referred to Collector of Stamps. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

<sup>8</sup> Badnagar (Ujjain), Betul, Guna, Gwalior, Morena, Sagar, Shivpuri and Vidisha.

<sup>9</sup> Betul, Guna, Gwalior and Morena.



### 6.13 Short levy of Stamp duty and Registration fees due to non-mentioning of facts affecting duty in instruments

Under Section 47-A of the IS Act, 1899, if the registering officer, while registering any instrument finds that the market value of any property set forth was less than the market value shown in the market value guidelines, he should, before registering such instrument, refer the same to the Collector for determination of the correct market value of such property and duty leviable thereon. Further, Section 27 of the IS Act, 1899 provides that the market value of the property 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, shall be fully and truly set forth therein.

We observed in Sub Registrar office, Morena in July 2011 that in two instruments registered between October and November 2010, the location of the property was not fully and truly mentioned in the instruments. In document No. 5817 dated 27.10.2010, it was stated that the property was a half furlong<sup>10</sup> away from the main road. Scrutiny of the sale deed however revealed that the property sold through this document was adjoining the property sold through

document No. 5815 dated 27.10.2010, according to which the property was situated within six meters of the main road. As such, the plot was required to be valued at the rates applicable for plots situated on the main road which worked out to ₹ 59.30 lakh, as against the registered value of ₹ 5.93 lakh. In the other case, in document No. 6515 dated 26.11.10, it was mentioned that the property sold was situated at 'Bansi Rahees ka Kharanja' in ward No. 12 whereas the boundaries of the property mentioned in the document revealed that the property was situated on 'Nala No. 2 road of 40 feet'. The market value guidelines indicated that this location was in ward No. 13, according to which the value of the property worked out to ₹ 1.17 crore, as against the registered value of ₹ 24 lakh. Thus, the Government was deprived of Stamp duty and Registration fees of ₹ 15.22 lakh due to non-mentioning of correct facts regarding the location of the property/incorrect determination of market value of the property.

After we pointed out the cases in July 2011, Sub Registrar Morena stated in July 2011 that the cases would be referred to the Collector of Stamps. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

<sup>10</sup> Half furlong = 100.584 meter

## 6.14 Incorrect rebate of Stamp duty on sale deeds

Article 22 (g) of Schedule 1-A of the IS Act provides that where by an instrument, a property is conveyed fully or partially to a female transferee or transferees, the rate of stamp duty applicable shall be two *per cent* less than the rate of stamp duty payable under this Article on the share of property transferred and described clearly in the instrument in favour of the transferee or the transferees, as the case may be.

We observed in three SR offices<sup>11</sup>, between June and November 2011, that two *per cent* exemption from payment of Stamp duty as applicable in case of female transferees was granted to companies/firms on 18 sale deeds registered between August 2009 and March 2011 for reasons not on

record. Besides, in one case in SR Gwalior, the property was jointly purchased by a man and a woman. The female purchaser held a share of 50 *per cent* share in the property. As such, the prescribed rebate for the female purchaser was to be granted only on 50 *per cent* of the property. However, rebate was irregularly granted on the whole property. This resulted in short levy of Stamp duty of ₹ 13.93 lakh.

After we pointed out the cases between June 2011 and November 2011, the District Registrar, Vidisha stated (September 2011) in respect of five instruments that the cases were registered against the executants under Section 48 (b) and action was in progress. Sub Registrar, Gwalior accepted (June and July 2011) the audit observation in respect of 12 instruments. SR Indore stated (November 2011) in respect of the remaining two instruments that the cases would be referred to the Collector of Stamps for recovery. Further report in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

<sup>11</sup> Gwalior, Indore and Vidisha.



### 6.15 Short levy of Stamp duty/incorrect exemption from payment of Stamp duty on agreement/memorandum relating to deposit of title deed

The stamp duty on an agreement relating to deposit of title deed is levied at the rate prescribed from time to time under Article 6(a) of Schedule I-A of the IS Act. *Panchayat* duty equal to stamp duty is also leviable on such deeds. Further, according to explanation below Article 6(a), any letter, note, memorandum or writing relating to deposit of title deed, whether it is in respect of first or any additional loan, is deemed to be an instrument evidencing an agreement relating to the deposit of title deed. Further, duty is chargeable on additional amount only if the duty was paid on the previous loan. The Government in its notification dated 20 October 2004 provided for remission/reduction in Stamp duty chargeable on instruments of mortgage without possession executed by the industrialists in connection with obtaining term loan for the purpose of setting up a new industry or for the expansion of an existing industry.

We observed in four Sub Registrar (SR) offices<sup>12</sup> between June and December 2011 that in 20 cases, memorandum or writings related to deposit of title deeds securing an amount of ₹ 28.75 crore were registered between August 2008 and December 2010 on which Stamp duty of ₹ 15.56 lakh was leviable. However, we noticed that Stamp duty of ₹ 6.52 lakh only was levied on 18 instruments by applying incorrect rates/by charging duty only on the additional amount of agreement though there was no mention in the instrument that duty was paid on the previous loan taken. In the remaining two instruments in

SR office, Betul payment of duty was incorrectly exempted under the notification dated 20 October 2004 though the document of deposit statement of title deeds were not covered in the notification. Thus, the Government was deprived of revenue of ₹ 9.04 lakh due to short levy of/incorrect exemption from payment of Stamp duty.

After we pointed out the cases between June 2011 and December 2011, the District Registrar Vidisha stated (September 2011) in respect of nine instruments that cases had been registered against the executants and action was in progress. Sub Registrar, Betul and Obedullahganj stated (between July and August 2011) in respect of eight instruments that cases would be referred to the Collector of Stamps. The Sub Registrar, Indore stated (between November and December 2011) in respect of the remaining three instruments that necessary action would be taken after verification from banks. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

<sup>12</sup> Betul, Indore, Obedullahganj (Dist. Raisen) and Vidisha.

## 6.16 Non realisation of Stamp duty on amalgamation of companies

Government notification No. (17) B-4-58/2005/2/five dated 13 March 2006 provides that the Stamp duty chargeable on a conveyance deed of an industrial unit as a going concern will be one *per cent* of the value of plant, machinery and other movable assets transferred through the instrument. The maximum limit of Stamp duty levied will be ₹ 10 crore on a single instrument. Further, according to section 75 of *Madhya Pradesh Panchayat Raj Adhiniyam* 1993 and *Madhya Pradesh Upkar Adhiniyam*, 1982, *Panchayat* duty and *panchayat upkar* respectively are also leviable on such instruments at the rates prescribed therein.

During scrutiny of a mining lease registered in December 2010 and information collected from the Sub Registrar office, Neemuch in December 2011, we observed that Grasim Industries Limited was merged with Samriddhi Cement Limited according to order of the Honorable High Court, Indore Bench (March 2010). The Collector of Stamps levied ₹ 20.50 crore<sup>13</sup> on the transferor company on the basis of

this order and the same was deposited in September 2011. We further observed that Samriddhi Cement Limited was merged with Ultratech Cement Limited according to the order of Honorable High Court, Gujarat, Ahmedabad (July 2010) and the same plant, machinery, movable assets, shares, immovable assets etc. were transferred (July 2010) to Ultratech Cement Limited as in the case of merger of Grasim Industries in Samriddhi Cement Limited (March 2010). We, however, noticed that Stamp duty was not levied and realised on the order of the High Court Gujarat regarding merger of Samriddhi Cement Limited with Ultratech Cement Limited. This resulted in non-realisation of Stamp duty of ₹ 20.50 crore.

After we pointed out the case in December 2011, the DR, Neemuch registered a case against the Company in March 2012. Further, the DR intimated (March 2013) that the disposal of the case was in progress.

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

<sup>13</sup> Stamp duty (₹ 10 crore), *panchayat* duty (₹ 10 crore) and *panchayat upkar* (₹ 0.50 crore).