

CHAPTER-V STAMPS AND REGISTRATION FEES

5.1 Tax administration

Receipts from Stamps and Registration Fees in the State are regulated under the Indian Stamp Act (IS Act) 1899, Indian Registration Act (IR Act) 1908, the UP Stamp (Valuation of Property) (SVOP) Rules, 1997 and circulars and orders of the Government of Uttar Pradesh, issued from time to time. Stamp duty is leviable on the execution of instruments at the prescribed rates. Evasion of stamp duty is commonly effected through undervaluation of properties, non-presentation of documents in the office of the registering authority and non/short payment of stamp duty by the executants on the documents submitted before the registering authorities.

The determination of policy, monitoring and control at the Government level is done by the Principal Secretary, *Kar evam Nibandhan*. The Inspector General, Registration (IGR) is the head of the Stamps and Registration Department and exercises overall superintendence and control over the working of the Department. He is assisted by an Additional Inspector General (Addl. IG), 24 Deputy Inspector Generals (DIGs) at the divisional level, 96 Assistant Inspector Generals (AIGs) at the district level and 354 Sub-Registrars (SRs) at the district and *tehsil* level.

5.2 Cost of collection

The gross collection from Stamps and Registration Fees, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2009-10, 2010-11 and 2011-12 along with the all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned below:

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
Stamps and registration fees	2009-10	4,562.23	120.73	2.65	2.77
	2010-11	5,974.66	145.46	2.43	2.47
	2011-12	7,694.40	149.10	1.94	1.60

Source: Information provided by the Department and Finance Accounts of respective years

It can be seen from the above table that the cost of collection of Stamps and Registration Fees was below the all India average during 2009-10 and 2010-11 whereas it was higher during the year 2011-12.

5.3 Revenue impact of audit

5.3.1 Position of Inspection Reports

We had reported cases of non/short assessment of stamp duty and registration fees due to misclassification of documents and undervaluation of properties and other irregularities involving ₹ 37.43 crore through Inspection Reports during the period 2008-09 to 2010-11. Of these, as on December 2011, the

Department has accepted observations of ₹ 49.08 lakh and recovered ₹ 41.48 lakh. The details are shown below:

(₹ in lakh)

Year of Inspection Report	Total money value	Accepted money value	Recovery made
2008-09	1074.00	7.73	0.13
2009-10	1496.00	3.56	3.56
2010-11	1173.00	37.79	37.79
Total	3743.00	49.08	41.48

The Department should make efforts so that money value involved in accepted cases is recovered without delay.

5.3.2 Position of Audit Reports

We had reported cases of non/short assessment/realisation of stamp duty and registration fees and other irregularities involving ₹ 15.09 crore in the Audit Reports for the years 2008-09 to 2010-11. Of these, the Department has accepted observations of ₹ 6.67 crore and recovered ₹ 10.13 lakh. The details of cases accepted and recovered are mentioned below:

(₹ in lakh)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2008-09	404.68	0.00	0.00
2009-10	68.61	0.00	0.00
2010-11	1036.00	666.91	10.13
Total	1509.29	666.91	10.13

The Department should make efforts so that money value involved in accepted cases is recovered without delay.

5.4 Results of audit

Our test check of the records of the offices of Stamps and Registration Department, conducted during the year 2011-12 revealed cases of short levy of Stamp duty and registration fees due to misclassification of documents/undervaluation of properties and other irregularities amounting to ₹ 460.01 crore in 881 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1	Working of Stamps and Registration Department (A Performance Audit)	1	415.42
2.	Short levy of stamp duty and registration fees due to misclassification of documents	156	5.01
3.	Short levy of stamp duty and registration fees due to undervaluation of properties	213	14.59
4.	Other irregularities	511	24.99
Total		881	460.01

During the year 2011-12, the Department recovered ₹ 4.64 lakh, involved in 34 cases of short levy of Stamp Duty and Registration Fees due to misclassification of documents/undervaluation of properties and other irregularities, pointed out by us in the earlier years.

A Performance Audit on “**Working of Stamps and Registration Department**” involving an amount of ₹ 415.42 crore is mentioned in the succeeding paragraphs.

5.5 Performance Audit on “Working of Stamps and Registration Department”

Highlights

- Non-levy of Stamp Duty and Registration Fees on sale deeds resulted in non-realisation of revenue of ₹ 23.13 crore.
(Paragraph 5.5.12)
- There was loss of ₹ 12.48 crore of Stamp Duty and Registration Fees on different kinds of leases.
(Paragraph 5.5.16)
- Undervaluation of properties resulted in short levy of stamp duty and registration fees of ₹ 19.69 crore.
(Paragraph 5.5.19)
- Misclassification of documents resulted in short levy of stamp duty of ₹ 44.79 lakh.
(Paragraph 5.5.20)
- Loss of Stamp Duty due to irregular exercise of power by Collector resulted in loss of revenue of ₹ 2.81 crore.

(Paragraph 5.5.22)

5.5.1 Introduction

Stamp Duties other than duties or fees collected by means of judicial stamps is a subject included in the Concurrent List of the Seventh Schedule of the Constitution of India. The Indian Stamp Act, 1899 and the State Acts impose duty on various instruments at the rates specified therein. Such duties are paid by executors of instruments by either using impressed stamp paper of proper denomination or by affixing stamps of proper denomination. The State Governments have made rules for the purpose of the Act by virtue of powers vested in them. These rules lay down the detailed procedure for determination and collection of Stamp Duty. The Indian Registration Act, 1908 and rules made thereunder by the State Governments, broadly outline the system of assessment and collection of Registration Fees. The Sub-Registrar or the registering authority examines the documents presented before them to see that they have been presented within the time allowed and that the instruments have been properly stamped as required under the Indian Stamp Act.

Receipts from Stamps and Registration Fees is the third largest source of revenue for the Government of Uttar Pradesh after Value Added Tax and State Excise. The revenue of the Department has gone up from ₹ 972.70 crore in 1997-98 to ₹ 5974.66 crore in 2010-11. This increase in receipts led to the conducting of this Performance Audit.

5.5.2 Organisational setup

Determination of policy, monitoring and control at the Government level is done by the Principal Secretary, *Kar evam Nibandhan*. The Inspector General of Registration (IGR)/Commissioner of Stamps/Joint Secretary, Board of Revenue (BOR) is the administrative head of Stamps and Registration Department. He is assisted by four Additional Inspector Generals (Addl. IGs), 24 Deputy Inspector General's (DIGs) of Registration/Deputy Commissioner of Stamp at divisional level, 96 Assistant Inspector General's (AIGs) of Registration/Assistant Commissioner of Stamps, 72 District Stamp Officers (DSO)/District Registrars (DRs) at district level and 354 Sub-Registrars Officers (SROs) at sub district (*tehsil*) level. The SROs is the place where all the registration works take place and having the maximum interface with the common public.

5.5.3 Audit objectives

This Performance Audit was conducted with a view to ascertain whether:

- the registering authorities were discharging their functions of levy and collection of Stamp Duty and Registration Fees in accordance with the provisions of the Act, Rules, Circulars, Government and Departmental orders;
- a suitable internal control mechanism exists for levy and realisation of stamp duty and registration fees; and
- a system exists in the Department to check the document not presented in the office of the registering authority.

5.5.4 Audit criteria

We conducted the Performance Audit with reference to the provisions of following:

- Indian Stamp Act (IS Act) 1899;
- Indian Registration Act (IR Act) 1908;
- The UP Stamp (Valuation of Property) Rules, 1997 (SVOP);
- UP Urban Planning and Development Act, 1973 (UP UPD Act);
- UP Industrial Development Act, 1976 (UPID Act);
- UP *Zamindari* Abolition and Land Reforms Act, 1950 (UPZA&LR Act);
- Circulars and orders of the Government of Uttar Pradesh, issued from time to time.

The relevant provisions of the Acts/Rules and orders have been cited in the paragraphs concerned.

5.5.5 Sampling and audit methodology

The Performance Audit was conducted in the offices of 58 Sub Registrars¹ (SRs) of 24 districts² out of 72 districts in the State based on the stratified statistical sampling³ of revenue collection of the District. Besides, information from the offices of Inspector General (Registration) (IGR), Assistant Inspector General (AIG), District Registrar (DR), District Stamp Officer (DSO), *Nagar Nigam/Palika, Awas Vikas Parishads*, Development Authorities, Stations of Uttar Pradesh State Road Transport Corporation (UPSRTC), Railway Stations, Irrigation Department, Audit wing of Indirect Taxes, Banks, Automatic Teller Machines (ATMs), etc. were also collected. Performance audit was conducted from July 2011 to April 2012 and period covered was 2008-09 to 2011-12. Cases detected during local audit and not included in the previous years' reports have also been included in this report.

The Performance Audit on “**Working of Stamps and Registration Department**” revealed a number of system and compliance deficiencies as mentioned in the succeeding paragraphs.

5.5.6 Trend of receipts

5.5.6.1 Revenue position

The tax revenue raised by the Stamps and Registration Department as a part of the total tax revenue of Government of Uttar Pradesh for the period 2008-09 to 2011-12 was as mentioned below:

(₹ in crore)					
Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12
i.	Tax revenue	28,658.97	33,877.60	41,355.00	52,613.43
ii.	Stamp Duty and Registration Fees	4,138.27	4,562.23	5,974.66	7,694.40
iii.	Percentage of increase from previous year	4.06	10.24	30.96	28.78
iv.	Percentage of ii to i	14.44	13.47	14.45	14.62

Source: Finance Accounts of respective years and information provided by the Department

It is seen that although there was gradual increase in Stamp Duty and Registration Fees over previous years, but pace of increase ranged from 4.06 *per cent* in the year 2008-09 to 28.78 *per cent* in the year 2011-12. The percentage of Stamp Duty and Registration Fees to total state revenue showed marginal fluctuations.

¹ Agra (5), Aligarh (3), Allahabad (2), Barabanki (1), Basti (1), Bulandshahar (2), Chitrakoot (1), Etah (1), Etawah (1), Firozabad (2), Gautam Budh Nagar (4), Ghaziabad (5), Gorakhpur (2), Jhansi (2), J P Nagar (1), Kannauj (1), Kanpur Nagar (3), Lucknow (5), Mathura (2), Meerut (4), Moradabad (2), Muzaffarnagar (2), Saharanpur (3) and Varanasi (3).

² Agra, Aligarh, Allahabad, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Firozabad, Gautam Budh Nagar, Ghaziabad, Gorakhpur, Jhansi, J P Nagar, Kannauj, Kanpur Nagar, Lucknow, Mathura, Meerut, Moradabad, Muzaffarnagar, Saharanpur and Varanasi.

³ **High risk : (100 % coverage):** where the revenue collection of the district was above ₹ 125 crore annually.
Medium risk : (30% coverage): where the revenue collection of the district ranged between ₹ 25 and ₹ 125 crore.
Low risk : (10 % coverage): where the revenue collection of the district was below ₹ 25 crore.

5.5.6.2 Variations between budget estimates and actuals

Para 25 of the Uttar Pradesh Budget Manual stipulates that in preparation of the budget, the aim is to achieve as close an approximation to the actual as possible. It is, therefore, essential that not merely should all items of revenue and receipts that can be foreseen be provided but also only so much and no more, should be provided as is expected to be realised, including past arrears in the budget year.

The budget estimates and actual receipts under the head (0030) Stamps and Registration Fees- Receipts from Non-Judicial Stamp are given below:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variance (+/-)	Percentage of variance
2008-09	4,600	4,138.27	(-) 461.73	(-) 10.04
2009-10	4,800	4,562.23	(-) 237.77	(-) 4.95
2010-11	5,000	5,974.66	(+) 974.66	(+) 19.49
2011-12	6,612	7,694.40	(+) 1,082.40	(+) 16.37

Source: Information provided by the Department and Finance Accounts of respective years.

It will be seen that variation between Budget Estimates and actuals ranged between (-) 10.04 *per cent* and 19.49 *per cent*.

The Department stated that no system existed in the Department to monitor such shortfall or increase.

We recommend that the budget estimates be framed as per provisions of the budget manual and the Department should examine reasons for variations.

5.5.6.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 331.44 crore. The details of arrears outstanding for more than five years were not available with the Department. The following table depicts the position of arrears of revenue during the period 2008-09 to 2011-12.

(₹ in crore)

Year	Opening balance of arrears	Arrears increased during the year	Amount collected during the year	Closing balance of arrears
2008-09	213.24	448.88	109.07	553.05
2009-10	553.05	171.65	129.87	594.83
2010-11	594.83	(-) 3.03	132.16	459.64
2011-12	459.64	(-) 2.33	125.87	331.44

Source: Figures provided by the Department.

We noticed that the arrears of revenue, as on 31 March 2012, in respect of the Stamp Duty and Registration Fees, amounted to ₹ 331.44 crore. Out of this, ₹ 262.46 crore were stayed by the Hon'ble Courts and remaining amount of ₹ 68.98 crore were required to be recovered by the Department. However, the Department could not furnish the data regarding the total number of cases involved in respect to these arrears.

We recommend that the Department may consider taking appropriate steps for early recovery of the arrears.

5.5.7 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Stamps and Registration Department in providing necessary information and records for Audit. An entry conference was held with the Department on 4 August 2011 and the scope and methodology for conducting the Performance Audit were discussed. The Department was represented by the Inspector General (Registration) (IGR) and other officials. Draft Performance audit report was forwarded to the Government and the Department (June 2012). Exit conference was held in two phases with the Government and the Department on 19 July 2012 and 27 July 2012 respectively to discuss the audit findings. The Government was represented by Secretary, *Kar Avam Nibandhan* and Department was represented by the IGR and other officials.

The replies received during the exit conference and at other points of time have been appropriately included in the relevant paragraphs.

Audit findings

System deficiencies

5.5.8 Internal inspection

Inspection is an important part of the internal control mechanism for ensuring proper and effective functioning of a Department and for timely detection of loopholes and to stop their recurrences.

The Special Secretary, Government of Uttar Pradesh vide his instructions dated 20 August 2008 fixed the periodicity of inspection for each SROs to be conducted by the DIG and AIG. The periodicity ranged between four months and six months.

We test checked the records⁴ of 58 SROs⁵ and found that in 47 SROs there was 62 per cent shortfall in inspection by AIG and in 46 SROs there was 69 per cent shortfall in inspection by

DIG with respect to the prescribed number of inspections during the period from 2008-09 (September 2008) to 2011-12. A summarised position is as under:

Sl. No.	Category of Officer	Number of Inspections			Percentage of shortfall
		Due	Carried out	Shortfall	
1	Deputy Inspector General (Registration)	318	97	221	69.49
2	Assistant Inspector General (Registration)	482	184	298	61.83
	Total	800	281	519	64.88

⁴ Inspection records.

⁵ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi (SR 1, 2, 4).

The shortfall in inspections ranged from 62 *per cent* to 69 *per cent* at different levels during these years. The maximum shortfall was recorded at the level of Deputy Inspector General (Registration). Contrary to this, 11 AIGs (R)⁶ and 10 DIGs (R)⁷ have conducted more than their specified quota of inspection and only two DIGs (R)⁸ conducted their specified quota of inspection. No system had been devised at the Government level or at Department level by way of returns, for monitoring the compliance of the prescribed norms and progress of the inspections. We found that no norms have been fixed for inspection by IGR at any level. We further found that no system existed for inspection of office of District Stamp Officer⁹ by any of the officers of Stamps and Registration Department. Due to this, cases of short levy of interest on delayed payment of stamp duty and short levy of penalty on short payment of stamp duty remained undetected. Such cases found by us are discussed in paragraph numbers 5.5.26.1 and 5.5.26.2 of this Report.

After we pointed this out, the Department stated that due to other obligations imposed by the administration over AIGs and DIGs such as supervision of mid day meal, quality checking of construction of *Ambedkar Gram Yojna* etc., inspection could not be carried out as per norms. We do not agree with the reply as inspections are an important aspect of internal control and additional responsibilities of AIGs and DIGs should not adversely affect basic Departmental duties.

5.5.9 Internal audit

The internal audit is a vital component of control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

Internal Audit Wing was established in the Department on 26 April 1991. Work of Internal audit was allotted to Board of Revenue. Internal audit was

however discontinued from 2 March 2009 and a new setup named as Technical Audit Cell (TAC) was established vide Government notification¹⁰ of July 2008.

We noticed that the norms of Internal audit as performed by Board of Revenue and as allocated to TAC differ mainly in two aspects. For TAC the norms of test check is five *per cent* of the instruments registered in the Department and deeds of higher money value. However the number of such high value deeds is left unspecified. As per the norms laid down for the Internal Audit Wing of Board of Revenue all records maintained and 25 *per cent* of instruments registered in the Department were required to be test checked.

The details of overall performance of TAC was as shown in the following table:

⁶ Aligarh (SR 1, 2, 3), Allahabad (SR 1), Etah (SR Sadar), Firozabad (SR 1), Gautam Budh Nagar (Noida 3), Jhansi (SR 1, 2), Meerut (SR 3) and Varanasi (SR 2).

⁷ Aligarh (SR 1, 3), Etah (SR Sadar), Etawah (SR Sadar), Gautam Budh Nagar (Noida 3), Jhansi (SR 1), Kanpur (SR 1, 2), Mathura (SR 2) and Meerut (SR 4).

⁸ Meerut (SR 2) and Saharanpur (SR 1).

⁹ DSO: ADM (F & R) who is also nodal officer regarding stamp cases and control of stamp papers (Sale and refund).

¹⁰ No. 3124/XI-5-2008-312 (27)-2008 dated 11 July 2008.

Period	Number of units due for technical audit ¹¹	Number of units planned for technical audit ¹²	Number of units actually audited	Shortfall in reference to unit due		Shortfall in reference to unit planned	
				Number	Percentage	Number	Percentage
2008-09	498	281	267	231	46.39	14	4.98
2009-10	498	331	299	199	39.96	32	9.67
2010-11	498	237	228	270	54.22	9	3.80
2011-12	498	250	243	255	51.20	7	2.80
Total	1992	1099	1037	955	39.96 to 54.22	62	2.80 to 9.67

Source Column 2 As per norms in GO
Column 3 & 4 Information furnished by the Department.

After we pointed out this shortfall, the Department stated that Technical Audit Cell has been set up in August 2008 through which all the SROs have been inspected yearly. The reply is factually incorrect as during last four years against total number of 1992 offices to be audited, only 1037 SROs were audited and the shortfall ranged between 40 and 54 *per cent*. Internal Control was compromised as is evident from the cases of revenue loss as pointed out during our test check and discussed in the succeeding paragraphs.

5.5.10 Shortfall in spot verification

As per Government order dated August 2008 the following norms have been fixed for spot verification of instruments executed by SRs every month:

Sl. No.	Designation	Kind of Document	Number of documents required to be verified on the spot
1.	ADM (FR)	Important documents with highest money value accordingly	25
2.	Assistant Inspector General (Registration)	Important documents with highest money value accordingly	50

In the scrutiny of records related with spot verification of offices of 58 SRs¹³, 13 AIGs¹⁴ and 10 DSOs¹⁵ we found that against the total 35,075 spot

¹¹ As per norms of GO (No. Ka Ni 5-3271/11-2008-312(127)/2008 dated 28 August 2008.

¹² As per audit plan formulated by the Department.

¹³ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2,3) and Varanasi (SR 1,2, 4).

¹⁴ Agra, Basti, Chitrakoot, Etah, Etawah, Gautam Budh Nagar, Gorakhpur, Jhansi, J P Nagar, Kanpur, Mathura, Meerut and Varanasi.

¹⁵ Agra, Allahabad, Barabanki, Basti, Gautam Budh Nagar, Kanpur, Mathura, Moradabad, Saharanpur and Varanasi.

verifications required to be conducted, only 16,314 spot verifications were carried out by the DSOs/AIG and 18,761 remain unverified. The details are shown in following table:

Sl. No.	Designation	Number of document required to be verified for spot verification	Number of month under objection	Total Number of document required to be spot verified during the period between 2008-09 to 2011-12	Total number of spot verification carried out	Short fall in spot verification	Percentage of Short fall in spot verification
1.	ADM (FR)	25	36-42	9,875	3,131	6,744	68.29
2.	AIG (Registration)	50	36-43	25,200	13,183	12,017	47.69
	Total	25-50	36-43	35,075	16,314	18,761	53.49

Contrary to this, 11 AIG (R)¹⁶ and three DSOs¹⁷ conducted 28.53 and 35.90 *per cent* more than their specified quota of spot verification respectively.

Due to 53.49 *per cent* shortfall in spot verification, the Departmental revenue was compromised. We have discussed some cases related to this aspect under paragraph no. 5.5.19 of this Report.

5.5.11 Non-disposal of Stamp cases within prescribed period of three months

Principal Secretary vide letter no 1943/11-5-2010-500(13)/2010 dated 13 May 2010 addressed to all District Magistrate regarding quick disposal of stamp cases emphasised that all the stamp cases should be disposed off within maximum period of three months from the date of filing of a case. For this purpose a work plan should be chalked out for timely disposal of stamp cases.

In the scrutiny of the records¹⁸ of 10 District Stamp Officers¹⁹, we found that 105 stamp cases were found pending for more than three months against the orders of the Government. The delay in these cases ranged between four and 94 months.

Thus, due to delay on the part of Department in deciding the stamp cases, liability of huge interest comes on the parties. Few specific instances are discussed under paragraph no. 5.5.26.1 of this Report.

After we pointed this out, the Department replied that delay in disposal of stamp cases was due to the fact that this is a quasi judicial procedure wherein lawyers are involved and parties may seek dates/time for reply or presentation of evidence, hence it could not be avoided at all. However, AIG Bulandshahar has promised for early disposal of stamp cases in future.

¹⁶ Aligarh, Allahabad, Barabanki, Bulandshahar, Firozabad, Ghaziabad, Kannauj, Lucknow, Moradabad, Muzaffarnagar and Saharanpur.

¹⁷ Chitrakoot, J P Nagar and Meerut.

¹⁸ *Missil Bund* Register.

¹⁹ Agra, Aligarh, Basti, Firozabad, Ghaziabad, Gautam Budh Nagar, Gorakhpur, Lucknow, Mathura and Moradabad.

5.5.12 Non levy of Stamp duty and registration fees due to non registration of properties

Under the provisions of Section 17 of the Registration Act 1908, transfer of immovable property with or without any consideration is compulsory for registration.

Under the IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of property or on the value of consideration

setforth therein, whichever is higher. As per the SVOP Rules, the Collector of a district after following prescribed procedure fixes the minimum market value of the land/properties locality-wise and category-wise in the district for the purpose of levying stamp duty on instrument of transfer of any property.

In the scrutiny of records²⁰ of Irrigation Department²¹, we noticed that in 18 cases, possession of 8.87 lakh square metre of land involving consideration of ₹ 462.33 crore were handed over to the New Okhla Industrial Development Authority (NOIDA) of Gautam Budh Nagar on 19 January 2009, 29 May 2009 and 17 June 2010 respectively. Against these ₹ 74.76 crore were paid by the NOIDA authorities to the Irrigation Department so far. Though as per Registration Act, registration of the said document was necessary, neither the Irrigation Department nor the registering authority initiated any action to get these documents registered. This resulted in non-levy of stamp duty of ₹ 23.12 crore and registration fees of ₹ 90,000.

After we pointed this out in audit, the Department stated that after taking sale letter in favour of NOIDA authority, further action would be taken. We do not agree because the transfer of the said land and possession by NOIDA authorities has already taken place and as per Section 17 of IR Act, the registration is compulsory. The Department has not taken any step to get the same registered despite a lapse of more than two years.

²⁰ Records related with land of Irrigation Department.

²¹ Headwork's Division Agra Canal, Okhla New Delhi and Irrigation Construction Division Ghaziabad.

5.5.13 Non existence of provision for levy of additional stamp duty

UP Urban Planning and Development Act, 1973 (UPUPD Act) extends to the whole of the Uttar Pradesh excluding cantonment areas and lands owned, requisitioned or taken on lease by the Central Government for the purpose of defence. Under the provisions of UPUPD Act, if the transferred property is situated in any development area, additional stamp duty at the rate of two *per cent* on the value of property is leviable in addition to stamp duty chargeable under the provisions of IS Act. Under the provisions of UPUPD Act, if in the opinion of the State Government, any area within the State, requires to be developed according to plan, it may by notification in the gazette, declare the area to be a development area.

The Government had developed certain areas like NOIDA, under the UP Industrial Development Act 1976 (UPID Act). As per dream housing projects about 35.66 *per cent* area of NOIDA is being developed as residential areas. The Government did not declare/notify these areas as development areas under the UPUPD Act, whereas in the same geographical area the residential colonies

developed by the Ghaziabad Development Authority (GDA), Uttar Pradesh *Avas Vikas Parishad* (UPAVP) and Uttar Pradesh State Industrial Development Corporation (UPSIDC) scheme come under the UPUPD Act. In the absence of the enabling notification, the registering authorities could not levy additional stamp duty on the documents registered in these areas.

During scrutiny of records related with book I of three SRs of NOIDA, we noticed that additional stamp duty was not levied on the deeds of transfer of the immovable property situated in the development areas of NOIDA executed between April 2008 and March 2012, whereas additional stamp duty was being levied in two revenue villages²² situated under the purview of above SRs. This resulted in non levy of additional stamp duty of ₹ 1106.53 crore as mentioned below:

Sl. No.	Name of unit	Amount of non-levy of additional stamp duty				Total
		2008-09	2009-10	2010-11	2011-12	
1.	Sub Registrar-I, Noida	53.84	83.21	112.94	185.34	435.33
2.	Sub Registrar-II, Noida	61.39	57.75	121.53	104.10	344.77
3.	Sub Registrar-III, Noida	55.49	35.50	76.82	158.62	326.43
		170.72	176.46	311.29	448.06	1,106.53

Due to this lacuna there is a disparity in the stamp duty paid by the people purchasing/leasing properties in area covered by the NOIDA authority vis a vis the stamp duty paid by persons purchasing/leasing properties in adjoining development areas of the same district/nearby districts which are being developed by other Development Authorities/bodies of the State.

²² Chhajarasi and Mohiuddinpur-Kanvasi.

When we pointed this out the Department has assured that it will make a request to Industrial Development Department for the same.

Government may consider bringing out a notification declaring the areas developed under the UPID Act as development areas for the purpose of levy of additional stamp duty to remove this disparity.

5.5.14 Irregularities in recovery

5.5.14.1 Irregularities in maintenance of Recovery Certificates

Under the provisions of Section 33, 35, 40 and 47 (A) of Indian Stamp Act, 1899, the Collector shall also require, along with the amount of deficit stamp duty required to be paid together with a penalty and a simple interest at the rate of one and half *per cent* per mensem on the amount of deficit stamp duty calculated from the date of execution of the instruments till the date of actual payment. If the required amount was not paid within a month, the same should be realised as arrear of land revenue under the provisions of Section 48 of Indian Stamp Act, 1899.

- In the scrutiny of records²³ of offices of 58 SRs²⁴, we found that except in four offices²⁵ all offices were unaware of their pending cases and amount involved in recovery certificates pending for recovery. Though the dues which were pending against the instruments were registered or presented in these offices, the

Department did not develop a mechanism for maintaining proper record of outstanding dues.

After this was pointed out, the Department stated that these records were not maintained at SROs and required to be maintained at offices of the District Stamp Officer. We do not agree with the reply as the Department cannot abdicate its responsibility regarding lack of control or knowledge of records at the DSO level as the DSO is also a part of the Stamps and Registration setup with defined duties and responsibilities.

- In scrutiny of the records²⁶ of the offices of 20 DSOs²⁷, we found that as on 31 March 2012 total amount and number of cases pending for recovery were not known to seven DSO²⁸. DSO Lucknow and Mathura did not know that how many cases were pending for more than 10 years, five to 10 years

²³ Pending cases register.

²⁴ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi (SR 1, 2, 4).

²⁵ Agra (SR 3), Ghaziabad (SR 1, 2), Meerut (SR 1).

²⁶ Recovery Certificate Register.

²⁷ Agra, Allahabad, Bulandshahar, Barabanki, Basti, Chitrakoot, Etah, Etawah, Gautam Budh Nagar, Gorakhpur, Jhansi, J P Nagar, Kanpur, Lucknow, Mathura, Meerut, Muzaffarnagar, Moradabad, Saharanpur and Varanasi.

²⁸ Agra, Allahabad, Chitrakoot, Etawah, Gorakhpur, Moradabad and Saharanpur.

and less than five years. In Gautam Budh Nagar the Department was unaware of number of cases pending for recovery.

This clearly indicates that the Department has no proper mechanism to follow up the recovery of dues in respect of stamp duty, registration fees, penalty and interest through Recovery Certificates. Though these recoveries were related with stamp cases which were filed against already purchased properties on a given address, the Department failed to develop a mechanism for maintaining proper record of dues and recoveries. The details of unrecovered RCs were available with DSOs, however the Department had no system in place to monitor progress of recovery from details available with the DSOs. We obtained the details of three highest cases of top five districts with arrears pending for recovery. The cases are as below:

(₹ in lakh)

Sl. No.	Name of District	Name of Debtor	Date of Issue of Recovery Certificate	Amount of Recovery Certificate
1	Mathura	Bijendra Singh	02/09/2002	120.22
		Rajendra Kumar Verma	12/02/2010	10.60
		Bansiwala Rialters Pvt Ltd	19/10/2010	5.56
2	Meerut	Lom and Technical Developers Pvt ltd	16/04/2010	93.49
		Manav Chaudhari	01/02/2011	27.40
		Shyam Sundar	17/02/2011	13.78
3	Jhansi	Smt Hema alias Hemlata	15/07/2011	64.23
		Asfan Khan	04/07/2006	26.75
		Smt Raj Kumari	11/12/2008	23.87
4	Gautam Budh Nagar	M/s Mafasis Ltd	08/04/2011	27.00
		Jaspal Singh	19/11/2010	25.53
		Ashok Kumar Verma	25/02/2008	1.56
5	Muzaffarnagar	Zakir Rana	20/08/2011	21.28
		TCMC Developers Ltd	30/07/2011	14.46
		Ravindra Singh	13/09/2011	8.69
Total				484.42

Further, the details of three oldest cases with reference to age wise pendency for recovery of top five districts are also shown in the table below:

(₹ in lakh)

Sl. No.	Name of District	Name of Debtor	Date of Issue of Recovery Certificate	Amount of Recovery Certificate
1	Mathura	Virendra Yadav	06/01/1960	4.98
		Bijendra Singh	02/09/2002	120.22
		Rajendra Kumar Verma	12/02/2010	10.60
2	Barabanki	Munua Ram	25/04/1997	0.07
		Mohd Shariq	21/05/1997	0.19
		Badlu Ram	28/05/1997	0.09
3	Jhansi	Gyan Singh	20/07/1997	0.18
		Anil Kumar	27/07/1998	0.17
		Surendra Kumar Srivastava	22/08/1998	0.18
4	Jyotiba Phule Nagar	Ashutosh Rastogi	08/03/1999	0.44
		Roshan Lal	15/11/1999	0.76
		Amar Singh	11/12/1999	0.79
5	Meerut	Anita Rastogi	12/07/1999	0.60
		Ashok Birmani	30/11/1999	0.54
		Sadanand	03/12/1999	0.58

These instances indicate that stamp cases have been pending since 1960. Similarly, cases with recoverable amount of more than one crore/ 50 lakh were also pending since 2002 along with liability of interest thereupon.

When we pointed these out in audit, the Department replied that instructions have been issued to all the concerned for necessary action.

5.5.14.2 Loss of stamp duty due to return of Recovery Certificates

In the scrutiny of the records²⁹ of the offices of three DSOs³⁰, we found that eight RCs of ₹ 89.44 lakh were issued by the Department for recovery of stamp duties, registration fees, penalty and interest payable thereon through the Collectors during the period between January 2009 and July 2011. But the same were returned back without any recovery with the comments that debtors were not residing on given address/house of debtor could not be traced/*mauza* was not in concerned tehsil/house of debtor has been sold. This indicates that the Department failed to locate the debtor who had already purchased properties on a given address. This shows that addresses which were given in instruments were not correct and the Department has no mechanism for tracing out the correct address of the parties and witnesses executing the instruments.

After we pointed this out the Department stated:

- that address of property will be mentioned in future; or
- process of auction will be done; or
- revised RC will be issued very shortly etc.

We recommend that Government should develop a system ensuring that recovery of stamp dues is affected well in time and property on which stamp cases remain pending should not be allowed to be disposed off without clearance of outstanding dues.

²⁹ Recovery Certificate Register.

³⁰ Etah, Jhansi and Lucknow.

Compliance Deficiencies

5.5.15 Non-levy of stamp duty due to non-registration of properties transferred by Authorities

5.5.15.1 Land transferred by Authorities

Under Section 73 (A) (1) of the IS Act where the Collector has reason to believe that any instrument chargeable to duty has not been charged at all or has been incorrectly charged with duty leviable under this Act, he or any other officer authorised by him in writing in this behalf may enter upon any premise where the Collector has reason to believe that any registers, books, records, papers, maps, documents or proceedings relating to or in connection with any such instrument are kept and inspect them and take such notes, copies and extracts as the Collector or such officer deems necessary.

Further, under the provisions of Section 17 of the Registration Act, 1908, transfer of immovable property with or without any consideration is compulsory for registration.

The IS Act do not provide for levy of interest for delay in registration of document. In the scrutiny of monthly statement of office of the AIG(R), Gautam Budh Nagar, we found that possession of 37,564 properties was handed over to the allottees by Authorities³¹. Though as per Registration Act, registration of these properties was compulsory, neither the Authorities nor the Department had initiated any action to

get these documents registered. This resulted in non-levy of stamp duty and registration fees of ₹ 312.71 crore.

5.5.15.2 Land transferred by *Awas Vikas Parishad*

In the scrutiny of records³² of 11 offices of *Awas Vikas Parishad*³³, we noticed in 844 cases that possession of properties involving consideration of ₹ 9.41 crore were handed over to the allottees between March 1976 and December 2010. Though as per Registration Act, registration of these properties was compulsory, neither the *Awas Vikas Parishad* nor the registering authorities initiated any action to get these documents registered. This resulted in non-levy of stamp duty of ₹ 63.46 lakh and registration fees of ₹ 10.80 lakh as shown in **Appendix-XIV**.

After we pointed this out, the Department replied that due to lack of penal provision for persons violating Section 17 of IR Act, the registration of the said documents could not be executed. However the Department is making their sincere efforts for the execution of these documents. Regarding non levy

³¹ New Okhla Industrial Development Authority (NOIDA), Greater NOIDA, Yamuna Express-way Industrial Development Authority (YEIDA) and Uttar Pradesh Industrial Development Corporation (UPSIDC).

³² Property transfer register.

³³ Agra, Ballia, Bulandshahar, Firozabad, Gazhipur, Gorakhpur, Jhansi, Meerut, Mirzapur, Muzaffarnagar and Varanasi.

of interest, Department stated that interest is not chargeable on delayed registration of document.

We recommend that the Government may ensure compliance of codal provisions and consider incorporating a provision for levy of interest on delayed registry cases to ensure that such delays are avoided and Government receives the Stamp duty in time.

5.5.16 Loss of Stamp duty on different kind of leases

Under the provisions of Section 17 of the Registration Act, 1908, leases of immovable property from year to year or for any term exceeding one year i.e with period of more than one year is required to be compulsorily registered. Section 18 of the above Act provides that leases of immovable property for any term not exceeding one year is optional for registration. Article 35 of Schedule I B of IS Act defines the rates of Stamp duty to be paid for different types of leases for different periods.

Section 2 (16) of the IS Act defines the different types of leases. Lease means transfer of power of use of immovable property from one person to another person with any definite or indefinite period in lieu of payment of any consideration or promise of payment. Explanation 6 (c) (i)

defines that any instrument by which tolls of any description are let, comes under the purview of lease. But IS Act does not provide any exemption of Stamp duty where registration is optional.

5.5.16.1 Leases executed up to one year

Under the provisions of Article 35 of schedule 1 B of IS Act, Stamp duty on lease upto one year is chargeable as conveyance for a consideration equal to whole amount payable.

In 531 cases of upto one year lease agreements we observed that the leases executed by different organisations³⁴ with

different lessees during the period from April 2008 and March 2012 were on stamp paper of token amounts and the same were neither presented nor registered in the office of Sub Registrars. While as per the Section 18 of the IR Act registration of these deeds was not compulsory, the Stamp duty as defined under Article 35 of Schedule I B of IS Act was to be paid i.e stamp papers of the required amount were to be attached to the lease deeds. Of the defined Stamp duty of ₹ 2.33 crore due to be paid, the lessees paid only ₹ 2.10 lakh. Thus the Government was deprived of Stamp duty of ₹ 2.31 crore as detailed in following table:

³⁴ Airports, Railways, UPSRTC, Nagar Nigam, Varanasi Development Authority, Companies, Bonded Ware houses and model shops.

(₹ in lakh)

Sl. No.	Number/ Name of organisations involved	Number of cases ³⁵	Execution period	Stamp duty levied	Stamp duty leviable	Stamp duty short levied
1.	Two airports ³⁶	6	March 2010 to December 2011	0.01	1.19	1.18
2.	Six railway stations ³⁷	8	May 2008 to June 2011	0.01	12.68	12.67
3.	10 Bus stations ³⁸	32	December 2008 to August 2011	0.03	4.12	4.09
4.	Nine Nagar Nigam/Nagar Palika ³⁹	421	August 2008 to March 2012	2.02	198.47	196.45
5.	Varanasi Development Authority	9	April 2008 to February 2011	0.01	0.98	0.97
6.	Companies of five districts ⁴⁰	22	April 2008 to May 2011	0.02	15.39	15.37
7.	Two Bonded Ware houses ⁴¹	10	April 2008 to April 2011	0.00	0.56	0.56
8.	Model Shops of two districts ⁴²	23	April 2008 to April 2011	0.00	0.09	0.09
	Total	531	April 2008 to March 2012	2.10	233.48	231.38

5.5.16.2 Leases executed for more than one year and upto 30 years

Under the provisions of Article 35 of Schedule 1B of IS Act, Stamp duty on lease of more than one year and upto 30 years is chargeable as conveyance for a consideration equal to three to six times of the Average Annual Rent Reserved, as the case may be.

In 964 cases we observed that the same were executed on leases for initial period of more than one year and upto thirty years executed⁴³ between organisations⁴⁴ and lessees on stamp

paper of less than required denominations and the same were neither presented nor registered in the office of Sub Registrars. As per Registration Act registration of the said documents was compulsory, but Department was unaware of such leases and in these cases Stamp duty of ₹ 9.85 crore and registration fees of ₹ 24.33 lakh was due to be paid. The lessees in these cases have paid only ₹ 1.25 lakh as Stamp duty and no registration fees. Thus the Government was deprived of Stamp duty of ₹ 9.84 crore and registration fees of ₹ 24.33 lakh as detailed in following table:

³⁵ Record related with lease agreement.

³⁶ Lucknow and Varanasi.

³⁷ Hardoi, Jhansi, Kanpur bridge, Lucknow, Shahjahanpur and Senior Divisional Commercial Managers, North Central Railway with Indian Oil Corporation Limited (Only three years calculation of Indian Oil Corporation Limited, but lease was from 1983).

³⁸ Barabanki, Basti, Deoria, Fatehpur (Bindki), Gorakhpur (Gorakhpur and Raptinagar), Kanpur (Chuniganj and Ghatampur) and Lucknow (Alambagh and Kaisarbagh).

³⁹ Agra, Aligarh, Etah, Firozabad, Ghaziabad, Jhansi, Lucknow, Saharanpur and Varanasi.

⁴⁰ Agra, Gautam Budh Nagar, Ghaziabad, Lucknow and Meerut.

⁴¹ Allahabad and Chitrakoot.

⁴² Allahabad and Barabanki.

⁴³ During the period from October 2002 and March 2012.

⁴⁴ Airports, Railways, UPSRTC, Nagar Nigam, Varanasi Development Authority, Companies, Bonded Ware houses, ATM and Banks.

(₹ in lakh)

Sl. No.	Number/ Name of organisations involved	No. of cases ⁴⁵	Execution period	Stamp duty levied	Stamp duty leviable	Registration fees leviable	Stamp duty short levied	Registration fees short levied
1.	Three airports ⁴⁶	58	January 2006 to November 2011	0.05	119.34	3.74	119.29	3.74
2.	57 Railway stations ⁴⁷	259	June 2006 to November 2011	0.36	96.68	4.61	96.32	4.61
3.	24 Bus stations ⁴⁸	145	March 2006 and June 2011	0.15	16.48	1.06	16.33	1.06
4.	Three Nagar Nigam/Nagar Palika ⁴⁹	19	March 2007 to May 2011	0.63	74.30	1.14	73.67	1.14
5.	Companies of five districts ⁵⁰	39	October 2002 to July 2011	0.06	570.36	2.36	570.30	2.36
6.	Bonded Ware House of Excise Department of Basti	2	April 2006 to March 2012	0.00	0.11	0.01	0.11	0.01
7.	Bank branches and ATMs of Banks of 13 districts ⁵¹	442 ⁵²	Five Years ⁵³	0.00	108.00	11.41	108.00	11.41
	Total	964	October 2002 to March 2012	1.25	985.27	24.33	984.02	24.33

5.5.16.3 Leases executed for more than 30 years

Under the provisions of Article 35 of schedule 1 B of IS Act, Stamp duty on lease where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, Stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property.

In the scrutiny of records⁵⁴ of *Nagar Nigam*, Varanasi, we observed that three leases were transferred from one person to another person without any specific period during the period from November 2009 and April 2011 but

neither the documents were executed by the lessees and lessors nor registered in the office of SRs. Though as per Registration Act, registration of the said documents were compulsory and required to be evaluated on market rate, the Department was unaware of such leases and in these cases Stamp duty of ₹ 8.64 lakh and registration fees of ₹ 20,000 was payable. Thus the Government was deprived of Stamp duty of ₹ 8.64 lakh and registration fees of ₹ 20,000.

⁴⁵ Record related with lease agreement.

⁴⁶ Agra, Lucknow and Varanasi.

⁴⁷ Achnera, Agra Cantt, Agra Fort, Raja Ki Mandi, Ajgain, Alam nagar, Allahabad Jn, Amethi, Azamgarh, Bachrawan, Banda, Barabanki, Bareilly, Bhatni Jn., Bhigapur, Bulandshahar, Chauri Chaura, Faizabad, Gauriganj, Gonda, Gorakhpur, Gossaiganj, Hardoi, Jais, Jaunpur, Jhansi, Kanpur Central, Kaptanganj Khajurahat, Kurebhar, Lalganj, Lar Road, Lucknow, Mathura, Mathura Kosi Kala, Mau Jn., Moradabad, Musafirkhana, Phaphamau, Pratapgarh, Prayag, Raghuraj Singh, Raebareilly, Rampur, Rudauli, Saharanpur, Salempur, Sarnath, Shahganj, Shahjahanpur, SLN, Sureman, Suriyavan, Takia, Ugrasenpur, Unchahar and Varanasi City.

⁴⁸ Banda, Basti, Deoria, Fatehpur (Fatehpur and Fatehpur Khan), Gorakhpur (Gorakhpur & Raptinagar), Hameerpur, Kanpur (Chuniganj, Rawatpur, Central Jhakarkati & Pukhrayan), Kushinagar (Kasya and Padrauna), LMPS, Lucknow (Alambagh and Kaisarbagh), Maharajganj (Maharajganj & Nichlaul), Mahoba (Mahobad & Rath), Ramabai Nagar, Sant Kabir Nagar and Siddharthnagar.

⁴⁹ Agra, Aligarh and Saharanpur.

⁵⁰ Gautam Budh Nagar, Ghaziabad, Kanpur Dehat, Lucknow and Varanasi.

⁵¹ Agra, Aligarh, Allahabad, Barabanki, Gautam Budh Nagar, Ghaziabad, J P Nagar, Kanpur, Kannauj, Lucknow, Meerut, Moradabad and Saharanpur.

⁵² Book I of Sub Registrar offices.

⁵³ Stamp duty was calculated on the basis of 9 sq meter minimum covered area for ATM and average 200 sq meters for branches of Bank for a minimum period of five years on the basis of the registered lease deeds of ATM and Branches of PSU Banks.

⁵⁴ Record related with lease agreement.

When we pointed this out, the Department agreed that these cases have escaped attention and stated that action has begun to collect details from the concerned organisations. Further reply has not been received (February 2013).

5.5.17 Short levy of Stamp duty on transfer of leases (Assignment⁵⁵ cum transfer deed)

Under the provisions of Article 35 of Schedule 1 B of IS Act, Stamp duty on lease where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, Stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property.

In the scrutiny of the records⁵⁶ of the offices of three SRs⁵⁷ we observed that four lease deeds not for any definite term were registered between December 2009 and July 2010, as assignment cum transfer deed on which

Stamp duty of ₹ 6.26 lakh was levied. The recital of the deeds confirms that through these documents, rights of use of immovable property was transferred to second party for an undefined period. As such these assignments cum transfer deeds were actually leases without a definite period. These were required to be valued on market value of the property under Art 35 of Schedule IB of IS Act. As such Stamp duty of ₹ 37.79 lakh based on market value of the property of ₹ 5.26 crore was leviable. This resulted in short levy of Stamp duty of ₹ 31.53 lakh.

After we pointed this out, the Department stated that Stamp duty was charged under the provision of Article 63 of Schedule 1 B of Indian Stamp Act, 1899 applicable on assignment deed. We do not agree because there is no defined period in the recital of these documents. Moreover the perusal of the recital of deeds indicated that these were lease deeds for an undefined period and not assignments and Stamp duty on consideration equal to market value is chargeable under Article 35 of IS Act. Further, the Department intimated (July 2012) that the matter have been referred to the Government. Further report has not been received (February 2013).

⁵⁵ The act of transferring an interest in property or a some right (such as contract benefits) to another.

⁵⁶ Assignment cum transfer deed.

⁵⁷ Kanpur Nagar (SR 1), Lucknow (SR 1) and Moradabad (SR 2).

5.5.18 Short levy of Stamp duty and registration fees on different kind of leases

Under the provisions of Article 35 of Schedule 1 B of IS Act, Stamp duty on lease is chargeable as for conveyance for a consideration equal to three to six times of the Average Annual Rent Reserved, as the case may be, for leases up to 30 years. Under the IS Act, on an instrument, where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, Stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property. If recital of deeds emphasised that liability of service tax or any other liabilities vest on lessees then amount of service tax and other liabilities will be treated as part of lease rent.

In the scrutiny of the lease deeds registered in the offices of eight SRs, we observed that 11 deeds of transfer of property for initial period of three to 20 years one month by way of lease were registered between August 2008 and January 2012 for a consideration of ₹ 11.32 crore on which Stamp duty of ₹ 30.06 lakh was levied. The stamp duty was under

charged as many of the details which were relevant for calculation of stamp duty were ignored. The details are as under:

Sl. No.	Name of Office	No. of cases	Details on which basis Stamp duty was charged by the Department/Remarks	Details on which basis Stamp duty was required to be charged
1.	Sub Registrar, Sadar Gautam Budh Nagar	1	20 years lease	20 years one month lease
2.	Sub Registrar-I, Lucknow	1	Lease rent, security and premium amount only were taken for valuation	Lease rent, security, premium amount, annual maintenance charge, rent for dish antenna & service tax were required to be taken for valuation.
3.	Sub Registrar-IV Lucknow	2	Only lease rent were taken into consideration of levy of Stamp duty	There is an extension clause of two year with escalation of 25 per cent and service tax liability on lessees which were required to be taken for valuation.
4.	Sub Registrar-I, Noida	1	Amount of Service Tax was not taken into consideration for levy of Stamp duty.	Service tax liability on lessees was required to be taken for valuation.
5.	Sub Registrar-II, Noida	1		
6.	Sub Registrar-III, Noida	2		
7.	Sub Registrar-III, Ghaziabad	2		
8.	Sub Registrar-IV, Ghaziabad	1		

Hence, these deeds were required to be registered with consideration of ₹ 12.55 crore on which Stamp duty of ₹ 36.44 lakh was chargeable against ₹ 30.06 lakh charged. This resulted in short levy of Stamp duty of ₹ 6.38 lakh.

After we pointed this out, the Department stated (July 2012) that Stamp duty was levied according to lease rent mentioned in the lease deed. We do not agree because other clauses mentioned in the lease deed such as escalation of lease rent, security, premium amount, annual maintenance charge, rent for dish antenna and service tax were also required to be taken for valuation.

5.5.19 Undervaluation of property

5.5.19.1 Short levy of stamp duty and registration fees in execution of sale deed

Under the IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of property or on the value of consideration set forth therein, whichever is higher. As per the SVOP Rules, the collector of a district after following prescribed procedure, as defined thereunder fixes the minimum market value of the land/properties locality-wise and category-wise in the district for the purpose of levying stamp duty on instrument of transfer of any property.

- In the scrutiny of the records of the offices of seven SRs⁵⁸, we noticed that eight deeds of conveyance were registered between July 2009 and November 2011 on valuation of ₹ 5.19 crore at residential rates, on which stamp duty of ₹ 34.34 lakh and registration fees of

₹ 67000 was levied. The boundary location, area, photo and purpose of property, shown in deeds, revealed that the properties were of commercial nature and the rates prescribed for these kinds of properties should have been adopted. Stamp duty of ₹ 78.98 lakh and registration fees of ₹ 70,000 on market rate of ₹ 12.14 crore at commercial rates were leviable. Valuation of commercial properties as residential properties resulted in short levy of stamp duty of ₹ 44.63 lakh and registration fees of ₹ 2880.

In two cases of Bulandshahar and Mathura the Department stated that the property was correctly classified. We do not agree with reply of the Department, as in case of SR Bulandshahar, the godowns were situated on two sides of the property and hence it should have been treated as commercial. In case of SR I Mathura the Department itself has agreed that it was a godown. Hence it should have been treated as commercial. Further reply has not been received (February 2013).

- In the scrutiny of the records of the offices of 30 SRs⁵⁹, we noticed that in cases of 74 deeds of conveyance, registered between April 2008 and February 2012, stamp duty of ₹ 1.81 crore and registration fees of ₹ 5.77 lakh on account of sale of land and buildings, was levied on consideration of ₹ 27.05 crore as set forth in the instruments instead of stamp duty of ₹ 4.30 crore and registration fees of ₹ 6.30 lakh on ₹ 64.04 crore being the actual value of land and buildings determinable on the basis of market value fixed by the respective collectors. This resulted in short levy of stamp duty of ₹ 2.49 crore and registration fees of ₹ 52840 as shown in **Appendix-XV**.

⁵⁸ Bulandshahar (SR 2), G.B.Nagar (SR Noida 1, 3), Ghaziabad (SR 3), Kanpur Nagar (SR 1) Mathura (SR 1) and Meerut (SR 3).

⁵⁹ Agra (SR 2, 5), Aligarh (SR 1), Allahabad (SR 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), G.B.Nagar (SR Noida 1, 3), Ghaziabad (SR 1, 3, 4), Gorakhpur (SR 2), Kanauj (SR Sadar), Kanpur Nagar (SR 1), Lucknow (SR 1, 3, 4), Meerut (SR 1, 3, 4), Moradabad (SR 1) Muzaffarnagar (SR 2) and Saharanpur (SR 2, 3).

The Department replied that unless and until land was declared non agricultural under Section 143 of UPZALR Act, agriculture rates were to be charged. We do not agree with the reply of the Department because in SR Sadar Etawah as per rate list the *arazi* numbers were declared as *abadi* hence residential rates were to be charged and in other cases houses were found in the boundary of land such as case of SR I Kanpur.

- In the scrutiny of the records of the offices of four SRs⁶⁰, we noticed that in cases of 13 deeds of conveyance, registered between August 2008 and April 2011, stamp duty of ₹ 5.67 lakh and registration fees of ₹ 89000 on account of sale of land by more than one purchaser, was levied on consideration of ₹ 87.61 lakh as set forth in the instruments. As per Collector rate list, if area of land under sale is less than certain limit, land should be valued at residential rate. In these cases there were two to five purchasers and though the purchaser were of different nuclear families, they purchased land of this area jointly to avoid certain limits defined by the collector for valuation of land at agriculture rate. Thus these lands were required to be valued at ₹ 2.18 crore and stamp duty of ₹ 14.09 lakh and registration fees of ₹ 1.33 lakh was leviable on the basis of market value fixed by the respective collectors at residential rate. This resulted in short levy of stamp duty of ₹ 8.42 lakh and registration fees of ₹ 44200.

The Department replied that unless the division among the purchaser was mentioned in the document, properties cannot be valued by dividing the sold properties. We do not agree with the reply of the Department because as per rate list issued by collector Gorakhpur, if purchaser/purchasers were of different nuclear families⁶¹, properties were required to be valued after dividing their due share.

- In the scrutiny of records of Irrigation Department, Khurja, Bulandshahar, we noticed that possession of 3,30,338 square metre of land involving consideration of ₹ 28.08 crore at the rate ₹ 850 per square metre were handed over to the NTPC on 7 July 2011 through registered deed and stamp duty of ₹ 1.40 crore was paid. The market rate of land as per collector rate list was ₹ 2000 per square metre. As per provisions of IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of property or on the value of consideration set forth therein, whichever is higher. Since the market rate of land as per Collector rate list was ₹ 2000 per square metre, the Stamp duty of ₹ 3.30 crore was leviable. Charging Stamp duty on consideration amount resulted in short levy of stamp duty of ₹ 1.90 crore.

The Department replied that land was not declared *abadi* under Section 143 of UPZALR Act and situated far behind of residential land. We do not agree because as per document land was valued at ₹ 850 per square metre against the rate provided in the rate list of ₹ 2000 per square metre.

⁶⁰ Firozabad (SR 2), Gorakhpur (SR 2), Mathura (SR 1, 2).

⁶¹ Nuclear family includes spouses, their children and parents.

- In the scrutiny of records of offices of 37 SRs⁶² conducted between August 2011 and March 2012 we found that 103 deeds of conveyance relating to non-agricultural land/property were registered between April 2008 and February 2012 for a consideration of ₹ 14.53 crore at agricultural rates and paid stamp duty of ₹ 98.24 lakh and registration fees of ₹ 7.61 lakh as shown in documents, though part of land of same *arazi* number were earlier sold and valued at residential rate. Thus, properties were required to be valued for a consideration of ₹ 62.96 crore and stamp duty of ₹ 4.09 crore and registration fees of ₹ 8.86 lakh at residential rate were required to be levied. This resulted in short levy of stamp duty of ₹ 3.11 crore and registration fees of ₹ 1.25 lakh as shown in **Appendix-XVI**.

The Department stated that two cases of Meerut District were referred to Collector Stamp for valuation.

5.5.19.2 Short levy of stamp duty due to non declaration of land as of residential nature under Section 143

Section 143 of the UPZA&LR Act provides that where a *bhumidhar* with transferable rights used his holding or part thereof for a purpose not connected with agriculture, horticulture or animal husbandry, the Assistant Collector/SDM in charge of the sub-division may, *suo motu* or on an application after making such enquiry as may be prescribed, make a declaration to that effect. Further the Chief Secretary vide his letter no. Ka Ni-5-2208/11-5-2010-500(18)/ 2010 dated 11 June 2010 addressed to all the Commissioners and District Magistrates emphasised that if the land is used fully or partially for residential purposes, the concerned SDM should *suo motu* declare the whole land as *abadi* under the Act.

Under the provisions of IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. As per SVOP, market rates of various categories of land situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering

Authorities.

- In our scrutiny of the records⁶³ of offices of 44 SRs⁶⁴ during the period from May 2008 to February 2012, we noticed that 160 deeds of conveyance relating to 7.06 lakh square metre of land were registered for

⁶² Agra (SR 1, 2, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 2), Basti (SR Sadar), Bulandshahar (SR 1, SR 2), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), G.B.Nagar (SR Sadar, SR Noida 1, 3), Ghaziabad (SR 4), Gorakhpur (SR 1, 2), J P Nagar (SR Sadar), Jhansi (SR 1, 2), Kanpur (SR 2), Lucknow (SR 1, 2, 4), Mathura (SR 1, 2) Meerut, (SR 2 & 3) Muzaffarnagar(SR 1, 2) and Varanasi (SR 1,2 and 4).

⁶³ Sale Deed.

⁶⁴ Agra (SR 2, 3, 4, 5), Aligarh (SR 1, 2), Allahabad (SR 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), G.B.Nagar (SR Sadar, Noida 1, 2), Ghaziabad (SR 1, 3), Gorakhpur (SR 1, 2), J P Nagar (SR Sadar), Jhansi (SR 1, 2), Kanpur (SR 2, 3), Lucknow (SR 1, 2, 3, 4 & 5), Mathura (SR 2), Meerut, (SR 1, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1), Saharanpur (SR 2, 3) and Varanasi (SR 1, 2, 4).

consideration of ₹ 37.75 crore at agriculture rate and stamp duty of ₹ 2.55 crore and registration fees of ₹ 13.53 lakh was levied. The properties were surrounded by residential properties which were registered as residential earlier but this fact was not brought to the notice of the SDM concerned for action under section 143 of UPZA&LR Act and correct valuation of properties at ₹ 159.28 crore. On this stamp duty ₹ 10.54 crore and registration fees of ₹ 14.63 lakh were leviable. The incorrect valuation of the property resulted in short levy of stamp duty of ₹ 7.99 crore and registration fees of ₹ 1.10 lakh.

- In our scrutiny of the records⁶⁵ of offices of three SRs⁶⁶ of Gautam Budh Nagar during the period between September 2008 and April 2011, we noticed that 10 deeds of conveyance were registered for consideration of ₹ 3.22 crore at agriculture rate and stamp duty of ₹ 15.83 lakh was levied. The area in which land was situated was a fast developing residential area and the *Arazi's* were converted as residential properties which were registered residential earlier. However, the fact was not brought to the notice of the SDM concerned for action under section 143 of UPZA&LR Act for correct valuation of the properties at residential rate which works out ₹ 18.48 crore. On this, stamp duty of ₹ 92.12 lakh was leviable. The incorrect valuation of the property due to non conversion of nature of land from agriculture to residential resulted in short levy of stamp duty of ₹ 76.29 lakh.

After we pointed this out, for Ghaziabad district, the Department stated that the reports from the SROs were sought for reference of cases to concerned Sub District Magistrate. For Aligarh district the Department stated that it is the power of the Collector. We do not agree with reply for Aligarh and reiterate that despite having knowledge about development of the areas as residential the Department did not pursue the matter with the concerned SDM for conversion of nature of land which led to the short levy of Stamp duty and Registration fees. No replies were furnished for other districts.

⁶⁵ Sale Deed.

⁶⁶ Gautam Buddha Nagar (SR Sadar, SR 1, SR 3).

5.5.19.3 Undervaluation of land by concealing the facts required under Section 27 of Indian Stamp Act

Under Section 27 of the Indian Stamp Act, all facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, shall be fully and truly set forth in instrument. Under Section 64 of the IS Act any person who with intent to defraud the Government:

- executes any instrument in which all the facts and circumstances required by Section 27 of IS Act to be set forth in such instrument are not fully and truly set forth; or
- being employed or concerned in or about the preparation of any instrument neglects or omits fully and truly to set forth therein all such facts and circumstances; or
- does any other Act, calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees, or with both.

Under Section 64-B of IS Act where any person liable to pay duty under this Act, is convicted of an offence under Section 64 of IS Act in respect of any instrument, the Magistrate shall, in addition to any punishment which may be imposed for such offence, direct recovery of the amount of duty and penalty, if any, due under this Act from such person in respect of that instrument and such amount shall also be recoverable as if it were a fine imposed by the Magistrate.

In our scrutiny of the records⁶⁷ of offices of 23 SRs⁶⁸ between June 2008 and January 2012, we noticed that 51 deeds of conveyance pertaining to purchase/sale of land by the persons/*Avas Samiti*/Developers/Builders were registered. But by concealing the facts⁶⁹ in *chauhaddi*⁷⁰, the nature of land was left vague. The valuation of land mentioned in these deeds was considered as ₹ 14.52 crore at agricultural rates instead of the prescribed non-agricultural rates of ₹ 56.38 crore. Accordingly stamp duty of ₹ 3.81 crore and registration fees of ₹ 4.40 lakh was chargeable whereas stamp duty of ₹ 94.11 lakh and registration fees of ₹ 3.97 lakh was paid. Thus, under valuation of land has resulted in short levy of stamp duty of ₹ 2.87 crore and registration fees of ₹ 43000 as shown in **Appendix-XVII**.

After we pointed this out, the Department did not furnish specific reply.

⁶⁷ Sale Deed.

⁶⁸ Agra (SR 1,3), Aligarh (SR 1, 2), Allahabad (SR 1, 2), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1), Gautam Budh Nagar (SR Sadar, Noida 1, Noida 3), Ghaziabad (SR 5), Jhansi (SR 2), Kanpur Nagar (SR 1,2,3), Lucknow (SR 1,4), Mathura (SR 2), Meerut, (SR 3), Muzaffarnagar (SR 1) and Varanasi (Sadar 2).

⁶⁹ *Arazi* number, owner of land, nature of land, *chauhadi* of the sold land, nature of property within the radius of 200 metre/*nazri naksha* (Details of properties situated nearby to land in question) and true complete information has not been mentioned.

⁷⁰ *Chauhaddi*: Properties situated in the boundary of the land in question.

5.5.20 Short levy of stamp duty and registration fees due to misclassification of documents

Article 34 'A' of Schedule 1 B of IS Act, provides for correction of purely clerical error in an instrument, chargeable with duty and in respect of which the proper duty has been paid. Under the provision of IS Act, every instrument mentioned in the schedule shall be chargeable to stamp duty at the rates prescribed therein. An instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

A document in which there was a change in *arazi* number/plot number/ name of seller or purchaser/area of land/nature of land/deed of the land earlier registered with different *arazi* number/plot number/ name of seller or purchaser/area of land/nature of land/deed could not be treated as

Correction deed and these documents were required to be treated as sale deed.

In our scrutiny of the records⁷¹ of offices of SROs between April 2008 and March 2012, we noticed that 60 instruments registered between May 2008 and August 2011 were classified on the basis of their titles as Correction deed and stamp duty was levied accordingly. Scrutiny of the recitals of these documents, however, revealed that these documents were misclassified as corrections were made in *arazi*/plot number, name of seller/purchaser, area of land, nature of land/deed. Thus, these documents were required to be treated as sale deed and required to be valued at ₹ 6.26 crore on which stamp duty and registration fees of ₹ 39.94 lakh was chargeable against which stamp duty and registration fees of ₹ 6300 each only was levied. This resulted in short levy of stamp duty of ₹ 39.88 lakh and registration fees of ₹ 4.91 lakh. The details are as under:

(₹ in lakh)												
Sl. No.	Nature of correction	Number of offices involved	Number of instruments	Area of property (In Sq.m.)	Execution period of correction deed	Total value of property	Stamp duty leviable	Registration fees leviable	Stamp duty levied	Registration fees levied	Stamp duty short levied	Registration fees short levied
1.	Change in <i>Arazi</i> and Plot number	27 ⁷²	50	23,429.80	May 2008 to August 2011	352.75	22.10	4.10	0.050	0.050	22.05	4.05
2.	Change in Name of Seller / Purchaser	4 ⁷³	7	5,970.20	July 2009 to April 2011	102.66	6.74	0.57	0.010	0.010	6.73	0.56
3.	Change in Area	1 ⁷⁴	1	130.12	July 2011	6.90	0.41	0.10	0.001	0.001	0.41	0.10
4.	Change in Nature of Land	1 ⁷⁵	1	4,046.00	October 2010	89.02	6.23	0.10	0.001	0.001	6.23	0.10
5.	Change in	1 ⁷⁶	1	297.29	February	74.33	4.46	0.10	0.001	0.001	4.46	0.10

⁷¹ Correction Deed.

⁷² Agra (SR 1, 3, 5), Allahabad (SR 1), Aligarh (SR 1), Basti (SR Sadar), Chitrakoot (SR Sadar), Etah (SR Sadar), Gautam Budh Nagar (SR1, 3), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), Kannauj (SR Sadar), Kanpur (SR 2), Lucknow (SR 1, 2, 4, 5), Mathura (SR 1, 2), Meerut, (SR 2 3), Muzaffarnagar (SR 2) and Varanasi (SR 1, 4).

⁷³ Gautam Budh Nagar (SR1), Ghaziabad (SR 2), Kanpur (SR 1) and Lucknow (SR 4).

⁷⁴ Varanasi (SR 1).

⁷⁵ Bulandshahar (SR 1).

Sl. No.	Nature of correction	Number of offices involved	Number of instruments	Area of property (In Sq.m.)	Execution period of correction deed	Total value of property	Stamp duty leviable	Registration fees leviable	Stamp duty levied	Registration fees levied	Stamp duty short levied	Registration fees short levied
	Nature of Deed				2010							
	Total	31⁷⁷	60	33,873.41	May 2008 to August 2011	625.66	39.94	4.97	0.063	0.063	39.88	4.91

When we pointed this out, in one district (Basti), the Department replied that it required detailed legal scrutiny of the cases and in remaining cases the Department replied that these were only corrections of clerical error. We do not agree with reply of the Department because *arazi*/plot number, name of seller/purchaser, area of land, nature of land/deed were basic details and corrections of these basic details do not come under purview of correction of clerical error.

5.5.21 Revision of rate list

5.5.21.1 Late revision

Rule 4 of the Uttar Pradesh Stamp (Valuation of Property), Rules 1997 (SVOP), provides that market rates of various categories of land/property situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering Authorities. He shall revise it within a period of two years from the date of fixation of value or rent. The Department has no system to provide input to the Collector. Vide Para-8 of Government order no. Ni-5-2208/11-5-2010-500(18)/2010 dated 11 June 2010 the Chief Secretary of Government of UP instructed that collector of the district should revise the rate list latest by 30 June 2010 and intimate accordingly to Commissioner Stamp Uttar Pradesh upto 10 July 2010.

During scrutiny of the rate list of offices of 58 SRs for the period from August 2010 to March 2012 we found that in nine SRs⁷⁸ rate list were revised in time. In remaining 49 SRs⁷⁹ rates list of properties were revised by the Collector concerned in August 2010. Thus due to late revision of rate list by one month, SRs had to evaluate the property in the month of July 2010 at pre revised

rate. In the month of July 2010, 44,546 documents were registered at pre revised rate. We test checked 405 documents. The delay in revision caused

⁷⁶ Ghaziabad (SR 3).

⁷⁷ Agra (SR 1, 3, 5), Allahabad (SR 1), Aligarh (SR 1), Basti (SR Sadar), Bulandshahar (SR 1), Chitrakoot (SR Sadar) Etah (SR Sadar), G.B.Nagar (SR 1, 3), Ghaziabad (SR 2,3) Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), Kannauj (SR Sadar), Kanpur (SR 1, 2), Lucknow (SR 1, 2, 4, 5), Mathura (SR 1, 2), Meerut, (SR.2 3), Muzaffarnagar (SR 2) and Varanasi (SR 1, 4).

⁷⁸ Allahabad (SR 1, 2), Basti (SR Sadar), Bulandshahar (SR 1, 2), Etah (SR Sadar), Jhansi (SR 1, 2) and J P Nagar (SR Sadar).

⁷⁹ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Barabanki (SR Sadar), Chitrakoot (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Kannauj (SR Sadar), Kanpur Nagar (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Ghaziabad (SR 1, 2, 3, 4, 5) G.B.Nagar (SR Sadar, Noida-1, 2, 3), Gorakhpur (SR 1, 2), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi(SR 1, 2, 4).

loss of stamp duty of ₹ 1.83 crore⁸⁰ and registration fees ₹ 53,000 in these test checked cases alone. As we test checked only one *per cent* of the cases registered in the sample and since there are 354 SROs in the state, the loss will be much higher if calculated for the remaining SROs. Though the responsibility of revision of rate list vests in the District Magistrate, but AIG(R)s and DIG(R)s are posted at district and Commissionerate level respectively for proper monitoring of Departmental activities and safeguard Departmental revenue. We noticed that at District/Commissionerate level and HOD/Government level no efforts were made to ensure implementation of the Government Order regarding revision of rate list latest by 30 June 2010. No system exists in the Department to collect information for revision of rate list.

5.5.21.2 Non-revision of rate list after lapse of every three months

Para 6 of Government order no. Kar Ni-5-2208/11-5-2010-500(18)/2010 dated 11 June 2010 provides that Collector of the district should revise the rate list after lapse of every three months and intimate accordingly to Commissioner Stamp, Uttar Pradesh. In this regard Hon'ble Supreme Court's Judgment (Para No. 11 of AIR 2010 Supreme Court 1754 of Haridwar Development Authority vs. Raghuvir Singh) directs that, it is well settled that an increase in market value by about 10 to 12 *per cent* per year can be provided in regard, to land situated near urban areas having potential for non-agricultural development. Thus rate list was required to revise after lapse of every three months at least at 2.5 *per cent* increase.

Scrutiny of the rate list of offices of 58 SRs⁸¹ covering 24 districts out of 72 districts for the period between November 2010 and February 2012, we noticed that rate list of properties were fixed by the District Magistrate (who is also Collector Stamp) between June and August 2010. As per the orders, these rates were to be revised every three months, but in 22 districts the rates were revised in the

months of August 2011 and September 2011 i.e. after lapse of 10 to 13 months. In case of Allahabad and Gautam Budh Nagar, the concerned Collectors did not revise the rate list up to the date of audit. This is in violation of the Government order dated 10.06.2010 for revising the rate list quarterly by the concerned District Magistrates. During the said period ₹ 4002.37 crore of stamp duty was deposited in 4.53 lakh documents registered in our sample.

⁸⁰ Value of the property as per revised rate list ₹ 127.32 crore,
Value of the property as per pre-revised rate list ₹ 101.07 crore,
Stamp Duty leviable on revised rate ₹ 8.31 crore,
Stamp Duty levied ₹ 6.48 crore.

⁸¹ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2) Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5) Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur Nagar (SR 1, 2, 3) Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut, (SR 1, 2, 3, 4), Moradabad (SR 1,2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi (SR 1, 2 4).

We noticed that at District/Commissionerate level and HOD/Government level no efforts were made to ensure implementation of the Government Order dated 11 June 2010 and subsequent orders regarding revision of rate list latest by 30 June 2010 as a result the Department lost stamp duty of ₹ 289.85 crore in these 58 SRs alone. The amount of loss will be much higher as we test checked only 58 out of 354 SROs in the State.

After we pointed this out, the Department has forwarded the unit wise replies, which stated that it is the responsibility and power of the District Magistrate. We are of the opinion that this shows an overall failure of the Department at all levels to ensure that the revisions are made as per schedule specified in the GO of June 2010. We found no evidence to show that this aspect was monitored at the AIG, DIG and IGR and Government despite the fact that the implementation of said GO was initiated by the Department itself in revenue interest.

We recommend that the Government may, therefore, consider fixing of responsibility to make the losses good and to avoid recurrence of such instances.

5.5.22 Loss of Stamp Duty due to irregular exercise of power by Collector

Under the provisions of Section 9 of IS Act, only the Government may, by rule or order published in the official Gazette, reduce or remit, whether prospectively or retrospectively, in the whole or any part of the territories under its administration, the duties with which any instruments are chargeable.

As per SVOP Rules, the Collector of a district after following prescribed procedure, as defined thereunder, fixes the minimum market value of the land/properties locality-wise and category-wise

in the district for the purpose of levying stamp duty on instrument of transfer of any property. But the above provision does not allow the Collector to remit or reduce the stamp duty.

During the scrutiny of the records⁸² of the offices of three SRs⁸³ of Gautam Budh Nagar, we observed that 21 deeds of conveyance were registered between November 2008 and August 2011 on which stamp duty of ₹ 47.83 lakh was levied on value of ₹ 9.57 crore as per rate of the NOIDA. We noticed that these lands which were purchased by NOIDA (an authority registered under UPID Act) were stamped at lower rate in contrast to all other lands purchased by individuals/societies/colonisers which were registered at higher rates. According to the provisions made in the collector rate list if land is purchased by NOIDA, Stamp duty will be levied as per authority rate and not as per Collector rate list. By this provision, the Collector was remitting the Stamp duty paid by NOIDA. The power to remit/reduce the Stamp duty under Section 9 of IS Act vests with the Government. The Collector, without taking the approval of the Government, exercised the power to remit the Stamp duty on purchases made by NOIDA. This resulted in loss of Stamp duty of ₹ 2.81 crore⁸⁴.

After we pointed this out, the Department has agreed with our contention and also agreed to issue direction to District Magistrate, Gautam Budh Nagar, to delete this clause from the rate list.

We recommend that the Government may consider issuing instructions to all the District Magistrates to delete such clause from the rate list.

⁸² Rate List and Book-I.

⁸³ Gautam Budh Nagar (SR Noida 1, 2, 3).

⁸⁴ Value of property at Collectors rate list comes to ₹ 65.76 crore.
Value of property in which stamp duty levied ₹ 9.57 crore.
Stamp duty leviable ₹ 3.29 crore.
Stamp duty levied ₹ 0.48 crore.

5.5.23 Reference of cases by the SRs to Chief Controlling Revenue Authority (CCRA)

Under the Indian Stamp (IS) Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. As per Uttar Pradesh Stamp (Valuation of Property), Rules 1997 (SVOP), market rates of various categories of land/property situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering Authorities. Under the provisions of Section 56 of IS Act, if any person including the Government, aggrieved by an order of the Collector under Chapter-IV, Chapter-V or under clause (a) of the first proviso to Section 26 may within sixty days from the date of receipt of such order, prefer an appeal against such order to the CCRA, who shall, after giving the parties a reasonable opportunity of being heard consider the case and pass such order thereon as he thinks just and proper and the order so passed shall be final.

As per Rule 332 A (2) of Uttar Pradesh Stamp (Forty Six Amendment) Rules, 2002, Collector levies duty and penalty on deficiently stamped documents. Collector (Stamps) who decides the cases should give intimation thereof to the SRs in whose offices the documents were presented for registration. After receipts of such order, the Registering Authority will match it with his report. If it will not match, then he, by concluding that stamp duty was not sufficiently paid, he is to refer it to Government Counsel under Section 56 of IS

Act, with a copy of rate list and collectors decision for taking opinion whether appeal against the collectors decision is required to be filed or not. After taking views of the Government counsel, it should be sent to AIG/DIG for sending it to CCRA through Commissioner Stamps.

During the scrutiny of records⁸⁵ of offices of 50 SRs⁸⁶ for the period from 2008-09 to 2011-12, we found that 508 cases were referred under Section 47(A) (i) to Collector (Stamps) for direction and decision. Out of these in 269 cases, stamps were found deficit, in 80 cases documents were found duly stamped and in the remaining cases Department has no proper information about the fate of these cases. Only in 18 cases SRs had taken opinion of the Government counsel.

Further, we found that out of 80 cases found duly stamped, the Department referred only eight cases to CCRA.

Thus, due to non reference of cases, the Department suffered a revenue loss. Few instances of such losses are discussed below:

⁸⁵ Register related with reference cases.

⁸⁶ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 2, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 2) and Varanasi (SR 1, 2, 4).

Under the Indian Stamp (IS) Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher.

5.5.23.1 The Principle Secretary of the Government of Uttar Pradesh vide his letter⁸⁷ dated 31 December 1999 addressed to all the Commissioners, Additional Secretary

Board of Revenue, District Magistrate, ADM (F&R) and SRs emphasised that while adjudicating the case in the capacity of Collector under Section 31 of the IS Act, reports of concerned SRs must invariably be sought and decision must be taken in the light of such report.

During the scrutiny of records⁸⁸ of office of SR-II Kanpur conducted in March 2012 we found that deed of conveyance having 1.01 lakh square metre of land with 271 square metre of covered area, boundary wall, steel gate and trees situated in mohalla Swaroop Nagar on Kanpur Bithur road (60 feet wide) was registered⁸⁹ on 13.12.2010. The property was sold at the consideration value of ₹ 182 crore. Before registration, the document was brought for adjudication under Section 31 and value of the property was assessed at ₹ 182.51 crore (on the basis of sale value of property paid by the purchaser and depreciated value of constructed area, boundary wall, steel gate and trees) keeping in view the recommendation of the Committee of two members constituted by the Collector (Stamps). We noticed that the composition of committee and its report had the following deficiencies:

- SR-II Kanpur was not a member though the property comes under the purview of SR-II Kanpur.
- The actual value of land⁹⁰ ₹ 342.88 crore was taken as ₹ 182 crore .
- There were deficiencies in calculating the depreciated value of the construction which led to undervaluation by ₹ 4.87 lakh.
- The basis of valuation of land taken in the adjudication order was the consideration offered by the bidder and not the market value of land as per the prescribed circle rate.

Thus, due to deficiencies in the valuation process, the value of the properties worked out to ₹ 343.44 crore. Stamp duty of ₹ 24.04 crore was leviable against which only ₹ 12.78 crore was levied. This resulted in short levy of stamp duty of ₹ 11.26 crore.

⁸⁷ No. Ka Ni-5-335/11-99-500(98)/99.

⁸⁸ Sale Deed.

⁸⁹ Sub Registrar-II, Kanpur (Khand No. 4691, Document No. 5078, Page No. 153 to 206).

⁹⁰ Due to revised circle rate of ₹ 34,000 per square metre after land use was changed on 23.03.2010 by the Kanpur Development Authority.

Section 143 of the UPZA&LR Act provides that where a *bhumidhar* with transferable rights used his holding or part thereof for a purpose not connected with agriculture, horticulture or animal husbandry, the Assistant Collector in charge of the sub-division may, *suo moto* or on an application after making such enquiry as may be prescribed, make a declaration to that effect. Further, the Chief Secretary vide his Letter dated 11 June 2010 addressed to all the Commissioners and District Magistrates emphasised that if the land is used fully or partially for residential purposes, the concerned SDM should *suo moto* declare the whole land as *abadi* under Section 143 of UPZA&LR Act. If the land was declared non-agriculture under Section 143 of the above Act, the same should be valued at residential rate for the purpose of levy of Stamp duty.

5.5.23.2 During the scrutiny of records⁹¹ of office of SR-II, Agra conducted in October 2011, we found that deed of conveyance relating to non-agricultural land of *Arazi* number 370 declared as non agriculture property in the month of October 2007, was registered on 25 May 2011⁹² for a consideration of ₹ 54.06 lakh at agricultural rates as shown in documents and paid stamp duty of ₹ 4.33 lakh and the same was declared duly stamped under Section 32 of IS Act. Since *Arazi* number 370 was declared as non

agriculture in the month of October 2007, the property was required to be valued for a consideration of ₹ 1.24 crore and stamp duty of ₹ 8.65 lakh was leviable at residential rate. However SR did not consider these aspects while registering the documents. This resulted in short levy of stamp duty of ₹ 4.32 lakh.

After we pointed this out, the Department stated that instrument was declared duly stamped under section 32 of Indian Stamp Act. We do not agree as the Department did not consider referring the case to the next higher authority (CCRA) since the use of land was changed almost four years prior to this registration.

⁹¹ Sale Deed.

⁹² Sub Registrar-II, Agra (Khand No. 7782, Document No. 5657, Page No. 265 to 310).

5.5.24 Non-levy of additional stamp duty due to delay in implementation of Government orders

Under the provisions of UPUPD Act, if in the opinion of the State Government, any area within the State, requires to be developed according to plan, it may by notification in the gazette, declare the area to be a development area.

During the scrutiny of records⁹³ of offices of three SRs⁹⁴, we noticed that in 78 cases additional stamp duty was not levied on the deeds of transfer of the immovable property

situated in the areas which were declared as a development area by the Government vide Gazette notifications⁹⁵. The documents valued at ₹ 5.69 crore were registered between August 2008 and November 2011 i.e. after the issue of notifications regarding declaration these area as development area but the Department failed to levy additional stamp duty on the value of these instruments. This resulted in non-levy of additional stamp duty of ₹ 11.38 lakh.

After we pointed this out, the Department stated that due to delay in receipt of such requests from the concerned local authorities, the additional stamp duty could not be realised in Allahabad and Jaunpur and notice will be issued for levy of additional stamp duty in Aligarh. We do not agree with the response on Allahabad and Jaunpur as additional stamp duty is realisable from the date of issue of notification.

⁹³ Sale Deeds.

⁹⁴ Aligarh (SR 3), Allahabad (SR Bara) and Jaunpur (SR Mariyahaun).

⁹⁵ Aligarh (Kol-Dated 08.02.2008) Allahabad (Bara-Dated 16.08.2008) and Jaunpur (SR Mariyahaun dated 09.01.2010).

5.5.25 Irregular exemption of additional stamp duty

Section 53 of UPUPD Act, provides that notwithstanding anything contained in this Act, the State Government may by notification in the Gazette exempt, subject to such conditions and restrictions, if any, as may be specified in such notification any land or building or class of lands or buildings from all or any of the provisions of this Act or rules or regulations made thereunder. Section 9 of IS Act provides that the Government can reduce, remit stamp duty whether prospectively or retrospectively in the whole or any part of the territories under its administration, the duties with which any instrument or any particular class of instruments or any of the instruments belonging to such class or any instruments, when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable.

During the scrutiny of records⁹⁶ of the three offices and office of IGR, we found that additional stamp duty of ₹ 6.70 crore was not levied on 185 deeds of transfer of the immovable property in favour of two purchasers situated in the development areas under the jurisdiction of the above SRs, though they were entitled only for exemption in stamp duty. Details of additional stamp duty leviable is as under:

(₹ in lakh)

Sl. No.	Gazette Notification number by which exemption of stamp duty were provided	No. of SROs	No. of Deeds	Name of Purchaser whom remission was provided to	Amount of consideration	Amount of stamp duty remitted	Additional Stamp Duty leviable
1.	Ka. Ni. 5-305/11-2005-500(136)-2003 Lucknow dated 19.01.2005	Two ⁹⁷	9	Tirthankar Mahaveer Institute of Management and Technology, Delhi Road Moradabad	3,704.60	185.23	74.09
2.	K. N. 5-893/11-2010-500(83)-2005 Lucknow dated 06.05.2010	One ⁹⁸	176	M/s Uppal Chaddha Hi Tech Developers	29,813.60	1,490.68	596.27
	Total	3	185		33,518.20	1,675.91	670.36

After we pointed this out, the Department stated that as per Section 39 of UPUDD Act, the duty imposed by the Indian Stamp Act, 1899, on any deed of transfer of immovable property shall, in the case of an immovable property situated within a development area, be increased by two *per cent* on the amount of value of the consideration with reference to which the duty is calculated under the said Act, so as stamp duty is nil hence increase in that will also be nil.

⁹⁶ Sale Deeds in SROs and Government Orders in SROs and IGR.

⁹⁷ Moradabad (SR I & II).

⁹⁸ SR-V Ghaziabad.

We do not agree with the reply as the said notifications of exemption of Stamp duty were made under Section 9 of IS Act and the notification has no mention regarding remittance of Additional Stamp Duty levied under the UPUPD Act⁹⁹. Also as per AIR 1996, Supreme Court 616 mentioned in annotation 5(iii) of Section 9 of IS Act, additional stamp duty cannot be waived off.

We recommend that the Government should develop a monitoring system to check the correctness of exemption and remission claimed by the parties and awarded by the Department.

5.5.26 Irregularities in Stamp cases

5.5.26.1 Short levy of interest on delayed payment of stamp duty

Under the provisions of Section 33, 35, 40 and 47 (A) of Indian Stamp Act, 1899, a simple interest at the rate of one and half *per cent* per mensem is chargeable on the amount of deficit stamp duty calculated from the date of execution of the instruments till the date of actual payment.

During the scrutiny of the records¹⁰⁰ of the offices of 18 District Stamp Officers (DSOs)¹⁰¹, we found that dates of execution of the registered documents were not mentioned in the

concerned Recovery Certificate (RC) Registers. Due to this the actual interest leviable could not be calculated as the interest is chargeable from the date of execution of the document. When we cross checked with files of 66 such cases¹⁰² we found that the interest due on belated payment of stamp duty found short worked out to ₹ 5.70 lakh. However, only ₹ 53,205 was actually recovered. Thus, Government was deprived of interest amounting to ₹ 5.17 lakh in these cases.

After we pointed this out the Department assured that recovery will be made by issuing fresh Recovery Certificates.

We recommend that the Government may consider mentioning of date of execution of the registered document in RC's to enable recovery of interest due.

⁹⁹ Section 39 of UPUPD for levy of Additional Stamp Duty and Section 53 of UPUPD for remittance.

¹⁰⁰ Recovery Certificate (RC) Registers.

¹⁰¹ Agra, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Gautam Budh Nagar, Gorakhpur, Jhansi, JP Nagar, Kanpur, Lucknow, Mathura, Meerut, Moradabad, Saharanpur and Varanasi.

¹⁰² Agra, Etah, Etawah, Jhansi, Kanpur and Lucknow.

5.5.26.2 Short levy of penalty in short payment cases of stamp duty

As per directions of June 2002 of the Principal Secretary, Uttar Pradesh Government to Commissioner Stamp Uttar Pradesh, if stamp duty was found short due to concealment of facts under Section 27 of Indian Stamp Act 1899, minimum penalty should not be less than stamp duty found short in addition to interest levied.

Under the provisions of Section 33, of IS Act, if Collector stamp is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall impose proper duty or the amount required to make up the deficiency, together with a penalty of an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof. Further, under the provision of Section 47(4)(ii) of IS Act if the instruments was not found duly stamped, he shall impose the proper duty or the amount required to make up the deficiency in the same, together with a penalty of an amount not exceeding four times the amount of the proper duty or the deficient portion thereof.

During the scrutiny of the records¹⁰³ of the offices of 24 DSOs¹⁰⁴, we found that during the period between May 2008 and March 2012 in 294 cases stamp duty of ₹ 26.75 crore was paid short and ₹ 2.80 crore was imposed as penalty. In these cases, a maximum of four to 10 times and minimum of equal to duty found short was required to be imposed as penalty. Thus ₹ 26.75 crore of penalty was required to be imposed against which only ₹ 2.80 crore of penalty was imposed. This resulted in short levy of penalty of ₹ 23.95 crore as shown in **Appendix-XVIII**.

After we pointed this out, the Department stated that cases are being reviewed and action will be taken accordingly.

¹⁰³ Missil Bund Register.

¹⁰⁴ Agra, Aligarh, Allahabad, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Firozabad, Gautam Budh Nagar, Ghaziabad, Gorakhpur, Jhansi, J P Nagar, Kannauj, Kanpur, Lucknow, Mathura, Meerut, Moradabad, Muzaffarnagar Saharanpur and Varanasi.

5.5.27 Deduction and remittance of incidental and collection charges from Additional Stamp Duty

5.5.27.1 Loss of revenue due to irregular transfer of incidental and collection charges

Under the notification of September 1993 the whole amount of additional stamp duty is required to be transferred to *Nagar Mahapalika/NagarPalika/Awas Vikas Parishad* or authorities after deducting four *per cent* incidental charges and four *per cent* collection charges. Where *Awas Vikas Parishad* or authorities are not under operation the amount of additional stamp duty will be transferred to *Nagar Maha Palika/Nagar Palika* after deducting the incidental and collection charges. Receipts from Non-Judicial Stamps were required to be deposited into Head 0030 Stamps and Registration Fees-02 Stamps-Non-Judicial 102-Sale of Stamps. Receipts of Registration Fees other than Fees for registering documents were required to be deposited into Head 0030 Stamps and Registration Fees-03-Registration Fees-800-Other Receipts.

During the scrutiny of records related with additional stamp duty of the three AIG¹⁰⁵ we found that additional stamp duty of ₹ 449.76 crore for the period between 2008-09 and 2011-12 was collected by the Department and the entire amount was transferred between 2008-09 and 2011-12 to local bodies without deducting the collection and incidental charges of ₹ 35.98 crore.

Thus, the Department suffered a loss of ₹ 35.98 crore due to irregular transfer of part of collection and incidental charges in the additional stamp duty to the local bodies.

After we pointed this out, the Department stated that after deducting eight *per cent*, the rest amount was transferred to local bodies. We do not agree with the reply because information provided by the concerned units clearly indicates that incidental and collection charges were not deducted.

5.5.27.2 Misclassification of incidental and collection charges

In the scrutiny of records related with additional stamp duty of the 22 AIGs¹⁰⁶ we found that additional stamp duty of ₹ 1744.36 crore for the period between 2008-09 and 2011-12 were collected by the Department and the same was deposited in the Head 0030 Stamps and Registration Fees-02 Stamps-Non-Judicial 102-Sale of Stamps. Against which ₹ 1359.33 crore were transferred to local bodies after deducting the collection and incidental charges of ₹ 118.20 crore, eight *per cent* of 1477.53 crore. Collection and incidental charges were the part of the additional stamp duty and this should be the receipts of Registration Department and were required to be transferred to the

¹⁰⁵ Allahabad, Lucknow and Meerut.

¹⁰⁶ Agra, Aligarh, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Firozabad Gautam Budh Nagar, Ghaziabad, Gorakhpur, Jhansi, JP Nagar, Kannauj, Kanpur, Mathura, Meerut, Moradabad, Muzaffarnagar, Saharanpur and Varanasi.

Head 0030 Stamps and Registration Fees-03-Registration Fees-800- Other Receipts.

Thus, due to misclassification of incidental charges of ₹ 118.20 crore the receipts were over stated in the head 0030 Stamps and Registration Fees-02 Stamps-Non-Judicial 102-Sale of Stamps and same was understated in 0030 Stamps and Registration Fees-03-Registration Fees-800- Other Receipts.

After we pointed this out the Department stated that matter will be referred to Finance Department of the Government for examination of the case.

5.5.27.3 Irregular transfer of additional stamp duty

In the scrutiny of records related with additional stamp duty of the AIG, Etawah, we found that additional stamp duty of ₹ 2.90 crore after deducting incidental and collection charges for the period between April 2009 and March 2011 were paid to Uttar Pradesh *Awas Vikas Parishad*, Lucknow though the unit of Uttar Pradesh *Awas Vikas Parishad* or authorities were not under operation during the said period in Etawah.

After we pointed this out, the Department stated that unless and until the notification of the *Awas Vikas Parishad* is denotified, it remains in existence. We do not agree with the reply of the Department because the word used in the order is '*Karyarat*' means operating and not notified. Hence the amount transferred to *Awas Vikas Parishad* is irregular and the same was required to be transferred to *Nagar Palika* after deducting incidental and collection charges.

5.5.27.4 Non transfer of additional stamp duty

In the scrutiny of records¹⁰⁷ of the AIG, Etah, we found that additional stamp duty of ₹ 7.52 crore for the period between April 2008 and August 2011 were collected by the Department. Uttar Pradesh *Awas Vikas Parishad* unit or authorities were not under operation in the district during the said period, so the entire amount collected as additional stamp duty after deducting the collection and incidental charges were required to be transferred to *Nagar Palika*. However, only ₹ 3.78 crore was transferred to *Nagar Palika* and balance of ₹ 3.19 crore after deducting ₹ 55.70 lakh as collection and incidental charges was found lying in the head of stamp duty.

After we pointed this out, the Department stated that directions were sought from the headquarters which were not yet received. We do not agree as notification of 1993 already provided for remittances in such cases to *Nagar Palika*, etc. and as the *Awas Vikas Parishad* unit was not operational in the district, the additional stamp duty collected after deducting the incidental and collection charges should have been transferred to the *Nagar Palika*.

¹⁰⁷ Records related with Additional stamp duties realised and transferred to local authorities.

5.5.28 Conclusion

Stamp duty and registration fees is important tax revenue of the State. Due to non registration of documents in sub registrar offices though their registration was compulsory in some cases and optional in some cases Department suffered a revenue loss. Lack of monitoring mechanism or submission of documents like *khasra* along with the map of the land/property and declaration in form VI by the executants, specifying the area covered under agricultural, residential, industrial and commercial, in rate list circulated by the Collectors of the districts in cases of undervaluation of properties which were settled at the level of SRs resulted in short levy of stamp duty. But Department did not exercise its powers and detect evasion of stamp duty. Despite the order of the Government and the Department, collector concerned in many cases did not revise the rate list in time leading to loss of revenues.

5.5.29 Summary of recommendations

The Government may consider for:

- ensuring compliance of codal provisions and consider incorporating a provision for levy of interest on delayed registry cases to ensure that such delays are avoided and Government receives the Stamp duty in time;
- bringing out a notification declaring the areas developed under the UPID Act as development areas for the purpose of levy of additional stamp duty to remove this disparity;
- developing a system to ensure recovery of stamp dues well in time and property on which stamp cases remain pending should not be allowed to be disposed off without clearance of outstanding dues.