

CHAPTER - V

Stamp Duty and Registration Fees

EXECUTIVE SUMMARY	
Increase in tax collection	In 2011-12, the collection from Stamp Revenue increased by 20.59 <i>per cent</i> over the previous year which was attributed by the Department to increase in receipts on sale of non-Judicial stamps and collection of Registration fees.
Very low recovery by the Department against observations pointed out by Audit	During 2007-08 to 2011-12, Audit pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 64.18 crore in 10 paragraphs. Of these, the department/Government had accepted audit observations in nine paragraphs involving ₹ 61.33 crore and had since recovered ₹ 2.11 crore which is only 3.44 <i>per cent</i> .
Audit coverage by Internal audit wing	The Directorate of Registration and Stamp Revenue which governs the receipt from stamp duty and registration fees has no internal audit wing of its own. The internal audit branch of the Finance Department which conducts internal audit of various departments also did not conduct any internal audit of the directorate as well as other subordinate offices.
Results of audit conducted in 2011-12	In 2011-12 test check of the records of 58 units relating to stamp duty and registration fees indicated non-realisation/blocking of revenue and other irregularities involving ₹ 31.77 crore in 180 cases. During the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 31.03 crore in 155 cases.
What has been highlighted in this Chapter	In this Chapter illustrative cases of ₹ 3.33 crore selected from the observations noticed during the test check of records of the offices of Registrar of Assurance, Kolkata and Additional District Sub-Registrars (ADSRs) have been presented. In 20 cases the sellers split a piece of land in each case having money value of more than ₹ 25 lakh into two or more plots to limit the value below ₹ 25 lakh. Thus, 82 deeds were executed to sell 20 pieces of land which resulted in avoidance of additional Stamp duty of ₹ 17.53 lakh. Other similar omissions on the part of Registrar of Assurance, ADSRs and District Sub-Registrars were pointed out by Audit repeatedly, but the irregularities persisted and these remained undetected by them till these were detected once again in Audit. These irregularities / omissions were apparent from the records made available to

	Audit by the department; however they were unable to detect these mistakes.
Conclusion	<p>The Directorate has no internal audit wing of its own and the internal audit wing of Finance Department has not conducted any internal audit of the Directorate. The Directorate should create an internal audit wing of its own to ensure that various provisions of Acts and Rules are properly administered for effective tax administration.</p> <p>The Department needs to initiate immediate action to recover the unrealised revenue and check other irregularities pointed out by Audit, more so in cases where Audit contention has been accepted.</p>

CHAPTER V: STAMP DUTY AND REGISTRATION FEES

5.1 Tax administration

Levy and collection of stamp duty and registration fees are regulated under the Indian Stamp (IS) Act, 1899 and the Indian Registration (IR) Act, 1908 and the Rules framed thereunder as applicable in West Bengal. Instruments to be registered under the Acts are chargeable to stamp duty and registration fees at the rates prescribed by the State Government from time to time. West Bengal Finance Act, 2007 provides for levy of additional stamp duty at the rate of one *per cent* if the market value of the property exceeds ₹ 25 lakh.

In West Bengal, there are 239 registration offices (RO) spread over 19 districts. The Directorate of Registration and Stamp Revenue, West Bengal collects stamp duty and registration fees and other fees payable for the registration of the instruments and is responsible for maintaining records of the registered documents. The Directorate has taken up an information technology (IT) project of e-Registration of documents in the year 2000. The State Government approved the Public Private Partnership (PPP) model in 2005 for infrastructure development and initial commissioning of the project. Three agencies¹ were entrusted with the job for three zones² covering all the ROs on the basis of recommendation of the Evaluation Committee. The application software was developed by National Informatics Centre (NIC).

Stamp duty and registration fees are administered by the Finance (Revenue) Department headed by the Secretary. The overall control and superintendence over assessment, levy and collection of stamp duty and registration fees vest with the Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal, who is assisted by 11 Deputy Inspectors General of Registration (DIGR), 20 District Registrars (DR), 25 District Sub-Registrars (DSR), three Additional Registrars of Assurances, 190 Additional District Sub-Registrars (ADSR) and seven Sub-Registrars.

5.2 Trend of revenue

Actual receipts from stamp duty and registration fees during the years 2007-08 to 2011-12 along with the budget estimates and the total tax receipts of the state during the same period is exhibited in the following table and chart:

Table 5.1 - Trend of revenue

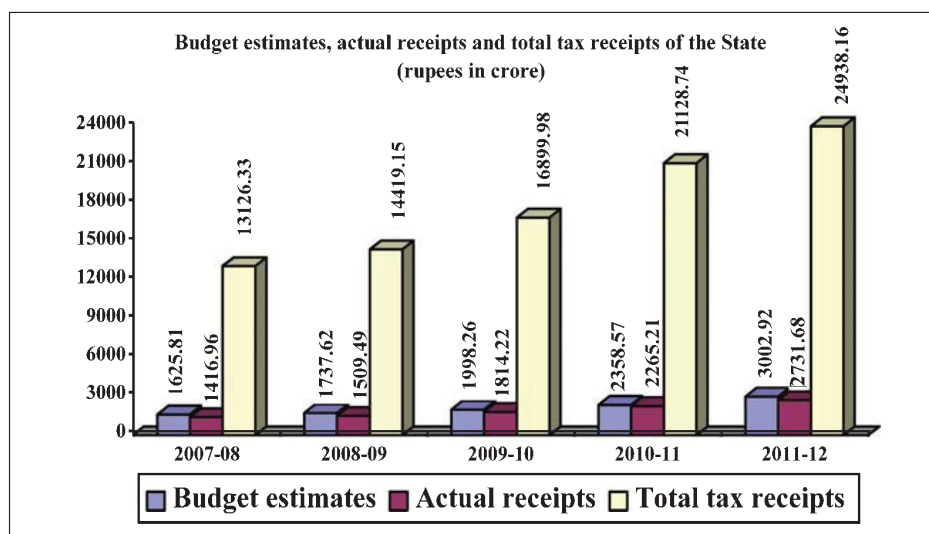
Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	1,625.81	1,416.96	(-)208.85	(-)12.85	13,126.33	10.79
2008-09	1,737.62	1,509.49	(-)228.13	(-)13.13	14,419.15	10.47
2009-10	1,998.26	1,814.22	(-)184.04	(-)9.21	16,899.98	10.74
2010-11	2,358.57	2,265.21	(-)93.36	(-)3.96	21,128.74	10.72
2011-12	3,002.92	2,731.68	(-)271.24	(-)9.03	24,938.16	10.95

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

¹ CMC Ltd, CMS Ltd and WTL.

² Burdwan, Jalpaiguri and Presidency Divisions.

Chart 5.1 – Budget estimates, Actual receipts and Total tax receipts



A study of the budget estimates vis-à-vis actual receipts shows that the actual receipts were less than the budget estimates during the years 2007-08 to 2011-12. The percentage of variation ranged between (-) 3.96 per cent and (-) 13.13 per cent but the pace of growth of stamp revenue is almost identical to that of tax revenue of the State. Further, in 2011-12 the collection from stamp duty and registration fees increased by 20.59 per cent over the previous year which was attributed by the Department to increase in receipts on sale of non-Judicial stamps and collection of registration fees.

5.3 Cost of collection

The gross collection of stamp duty and registration fees and the expenditure incurred on collection during the years 2009-10 to 2011-12 are given in the following table:

Table 5.2 – Cost of collection

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average of expenditure on collection for the preceding year
Stamp duty and registration fees	2009-10	1,814.22	88.46	4.88	2.77
	2010-11	2,265.21	94.31	4.16	2.47
	2011-12	2,731.68	96.62	3.54	1.60

Source: Finance Accounts.

The percentage expenditure on collection of stamp revenue has steadily come down from 4.88 per cent in 2009-10 to 3.54 per cent in 2011-12.

5.4 Revenue impact of audit reports

During the last five years (including current year's report), we pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 64.18 crore in 10 paragraphs. Of these, the department/Government had accepted audit observations in nine paragraphs involving ₹ 61.33 crore and had since recovered ₹ 2.11 crore.

The details are shown in the following table:

Table 5.3 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraph included		Paragraph accepted by the departments		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	2	1.48	2 ³	0.69	NIL	NIL
2008-09	3	52.30	2 ⁴	50.54	NIL	NIL
2009-10	1	1.84	1 ⁵	1.54	1 ⁶	0.20
2010-11	1	5.23	1	5.23	1 ⁷	0.99
2011-12	3	3.33	3	3.33	2	0.92
Total	10	64.18	9	61.33	4	2.11

Thus, against the accepted cases of ₹ 61.33 crore, the department/Government has recovered ₹ 2.11 crore which is only 3.44 per cent.

It is recommended that the Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

5.5 Working of internal audit wing

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

The Internal Audit Branch set up in November 1998 under the Finance Department conducts internal audit in various departments.

We observed that the directorate does not have an internal audit system of its own. Further, the department of internal audit of the State Government is yet to conduct internal audit of the directorate.

³ One paragraph partly accepted.

⁴ Partly accepted.

⁵ Partly accepted.

⁶ Partly realised.

⁷ Partly realised.

5.6 Results of audit

In 2011-12 we test checked the records of 58 units relating to stamp duty and registration fees and found non-realisation/blocking of revenue and other irregularities involving ₹ 31.77 crore in 180 cases which fall under the following categories:

Table 5.4 – Results of audit

(₹ in crore)			
Sl. no	Categories	No of cases	Amount
1	Non-realisation of stamp duty and registration fees	59	24.08
2	Under valuation of properties due to non-implementation of government order	13	3.28
3	Splitting of property during registration	9	0.24
4	Others	99	4.17
Total		180	31.77

During the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 31.03 crore in 155 cases.

A few illustrative cases involving ₹ 3.33 crore are mentioned in the following paragraphs.

5.7 Audit observations

Scrutiny of the records in the offices of the Registrar of Assurance, Additional District Sub-Registrars (ADSR), District Sub-Registrars (DSR) indicated non-raising of demand of deficit stamp duty and registration fees, non-realisation of deficit stamp duty and registration fees and avoidance of additional stamp duty by splitting of property in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions, pointed out by us repeatedly in the past, not only persisted but remained undetected till this audit. There is hence need for the Government to improve the internal control system so that recurrence of such lapses are avoided in future.

5.8 Non-raising of demand and non-realisation of deficit stamp duty and registration fees

Rules 3(8), 4(1) and 5(4) of the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS (PUI)] Rules, 2001 provides that where the registering authority has reason to believe that the market value of the property has not been truly set forth in the instrument of sale, gift etc. presented for registration, he is required to ascertain the market value of the property. If he finds that the market value of the property is more than that has been set forth in the instrument, he shall keep the registration of the document in abeyance and issue notice to the executant directing him to pay the deficit stamp duty and registration fees within 30 days from the date of receipt of such notice. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) for determination of the market value of the property and realisation of stamp duty and registration fees.

(1) During scrutiny of pending instruments of sale and gift in the offices of the Registrar of Assurance, Kolkata and the ADSR, Falta in January and September 2011 we found that 98 instruments presented for registration between January 2007 and March 2011 were kept in abeyance due to undervaluation of properties. We further noticed that the registering authorities subsequently assessed the market value of the properties but did not issue demand notices to the executants for payment of deficit stamp duty and registration fee of ₹ 2.92 crore. The non-raising of demand was due to inaction on

the part of the registering authorities and non-stipulation of any time limit in the Act/Rules for issuing demand notice. This resulted in non-realisation of deficit stamp duty and registration fees of ₹ 2.92 crore.

The age-wise analysis and details of these cases have been mentioned in the following tables:

Table 5.5 – Age-wise analysis of pendency

Pendency of cases	No of cases
4 - 5 years old	53
3 - 4 years old	30
2 - 3 years old	07
1 - 2 years old	04
0 - 1 year old	04
Total	98

Table 5.6 – Non-raising of demand of deficit stamp duty and registration fees

(₹ in crore)

Name of the registering authority	No. of instruments	Market value set forth in the instruments	Market value assessed by registering authorities	Stamp duty and registration fees assessed	Stamp duty and registration fees paid	Deficit stamp duty and registration fees
Registrar of Assurance, Kolkata	28	7.34	39.79	2.92	0.46	2.46
ADSR, Falta	70	1.20	9.09	0.53	0.07	0.46
Total	98	8.54	48.88	3.45	0.53	2.92

After we pointed out the cases, the ADSR, Falta admitted (September 2011) the audit observation and stated that notices were being sent; but did not furnish any report on realisation. The Registrar of Assurance, Kolkata replied (January 2011) that action would be taken at an early date; but did not furnish report on further action taken (December 2012).

The Government stated (October 2012) that ₹ 88.64 lakh was realised in nine cases and the remaining 89 cases involving ₹ 2.03 crore were referred to the DIGR, Range – I for taking suitable action for realisation; but did not furnish further report on realisation (December 2012).

The Government may consider amending the WBS (PUI) Rules by prescribing a time-limit for issue of demand notice to the executants for payment of deficit stamp duty and registration fees.

(2) On scrutiny of registers of pending deeds in five Registering (ADSR) offices between March and August 2011 we found that 97 instruments presented for registration between January 2005 and August 2008 were kept in abeyance. The registering authorities subsequently assessed the market value of the properties at ₹ 4.69 crore against the set forth value of ₹ 1.06 crore and issued demand notices between July 2009 and February 2010 to the executants for payment of deficit stamp duty and registration fees of ₹ 23.35 lakh within 30 days. Though the executants did not pay the dues within the stipulated period, the registering authorities did not refer the cases to the Collector/DIGR

for determination of the market value of the properties even after lapse ranging between 12 and 23 months from the date of issue of demand notices. This resulted in non-realisation of deficit stamp duty and registration fees of ₹ 23.35 lakh as detailed in the following table:

Table 5.7 – Non/short realisation of deficit stamp duty and registration fees

(₹ in lakh)

Name of the ADSR	No. of instruments	Market value set forth in the instruments	Market value assessed by ADSR	Stamp duty and registration fees assessed by ADSR	Stamp duty and registration fees paid	Deficit stamp duty and registration fees
Amdanga	20	18.00	65.77	4.01	1.10	2.91
Baduria	20	22.09	76.23	4.70	1.35	3.35
Cossipore	08	28.74	167.16	12.81	2.05	10.76
Deganga	12	9.03	47.20	3.35	0.65	2.70
Goghat	37	28.09	112.52	5.02	1.39	3.63
Total	97	105.95	468.88	29.89	6.54	23.35

After we pointed out the cases, four⁸ADSRs stated (between March and August 2011) that the cases would be referred to DIGR; but did not furnish report on further action taken. The ADSR, Goghat did not furnish any specific reply (December 2012).

The Government stated (October 2012) that ₹ 3.30 lakh was realised in 27 cases and the remaining 70 cases involving ₹ 20.05 were referred to the DIGRs of the respective Ranges for taking suitable action for realisation; but did not furnish further report on realisation (December 2012).

5.9 Avoidance of additional stamp duty by splitting of property

The Indian Stamp (IS) Act, 1899 (as applicable in West Bengal) as amended by the West Bengal Finance Act, 2007 provides for levy of additional stamp duty at the rate of one *per cent* if the market value of the property exceeds ₹ 25 lakh.

During scrutiny of data relating to registered instruments and fee book registers in the offices of the Registrar of Assurance, Kolkata and ADSR, Chakdah in January 2012 we found that in 20 cases the sellers split a piece of land

(valuing more than ₹ 25 lakh in each case) into two or more plots limiting the value of each plot within ₹ 25 lakh. Thus 82 deeds were executed to sell 20 pieces of land having total market value of ₹ 21.33 crore. In each case, the seller sold plots of a piece of land to the same purchaser and the deeds were registered on the same date. Hence, the splitting of the plot was

⁸ Amdanga, Baduria, Cossipore and Deganga.

done to avoid payment of additional stamp duty. Absence of suitable provision in the Act and Rules prohibiting such splitting of high value property during registration resulted in avoidance of payment of additional stamp duty of ₹ 17.53 lakh and also defeated the purpose of the amendment for augmentation of revenue.

After we pointed out the cases, both the registering authorities (RAs) stated (January 2012) that there was no provision in the relevant Act and Rules prohibiting splitting of plots for the registration. The reply is not tenable as the IS Act as applicable in WB was amended to augment the revenue and the RAs should have applied the discretion provisions to check such avoidance of additional stamp duty for effective tax administration.

The Government accepted the audit observation and issued a circular in October 2012 to the registering authorities to keep a strict vigil so that properties are not split with the intention to avoid additional stamp duty.

The Government may consider amending the IS Act as applicable in West Bengal to prevent splitting of high value properties during registration to check avoidance of additional stamp duty.