

CHAPTER-3 Stamp Duty

3.1 Tax administration

The State Government exercises control over the Registration of instruments through the Inspector General of Registration, who is assisted by the Deputy Commissioner (Collector), Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars (SRs) and Joint Sub-Registrars (JSRs) respectively. The Registrar exercises Superintendence and Control over the SRs and JSRs of the district. For the purpose of levy and collection of Stamp Duty and registration Fee, the State has been divided into five divisions and 22 districts having 22 Registrars, 82 SRs and 85 JSRs.

3.2 Results of audit

Test check of the records of 109 units relating to stamp duty and registration fee during 2012-13 showed irregularities involving ₹ 32.25 crore in 1,674 cases, which fall under the following categories as detailed in table 3.1:

Table 3.1

(₹ in crore)

Sl.No.	Categories	Number of cases	Amount
1.	Non/short levy of stamp duty and registration fee	867	12.79
2.	Misclassification of instruments.	195	16.52
3.	Short levy of stamp duty and registration fees on lease deeds	300	0.92
4.	Other irregularities	312	2.02
	Total	1,674	32.25

During the year 2012-13, the Department accepted audit observations of ₹ 3.12 crore involved in 578 cases and recovered ₹ 3.08 crore in 259 cases pertaining to earlier years.

A few illustrative cases involving ₹ 15.26 crore are discussed in the succeeding paragraphs.

3.3 Short levy of stamp duty and registration fee due to misclassification of properties

Under the Punjab Stamp (Dealing of Under-valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts as defined thereunder, fixes the minimum market value of land/properties locality wise and category wise in the district, for the purpose of levying stamp duty on the instrument of transfer of any property.

(a) Audit noticed from the records of 21 SRs¹ and four JSRs² that 41 instruments of transfer of properties valuing ₹ 18.50 crore were registered at the value set forth in these instruments instead of ₹ 48.50 crore computed on the basis of minimum market value of properties fixed by respective District Collectors for residential/commercial properties during the relevant years. The reason for omission was misclassifying the residential/commercial properties as agriculture property. This resulted in short levy of stamp duty and registration fee of ₹ 1.88 crore.

(b) In the offices of SR-Barnala and JSR Mullanpur Dakha, audit noticed that four instruments were registered after charging stamp duty leviable on the consideration of ₹ 44.80 lakh instead of correct value of ₹ 2.29 crore on the basis of minimum market rates approved by the Collector, as these properties were situated in particular locality/khasra numbers for which separate/higher rates were fixed by the Collector. Application of stamp duty on incorrect value of property resulted into short levy of stamp duty and registration fee of ₹ 10.66 lakh.

The matter was reported to the Government/Department (April, 2010 to March, 2013); their replies were awaited (October 2013).

3.4 Short levy of stamp duty due to application of pre-revised rates of stamp duty

As per the Indian Stamp Act, 1899 (Schedule 1-A), a mortgage deed in respect of a specified property for securing loan, when possession is neither given nor agreed to be given, is chargeable to stamp duty at the rate of two *per cent* of the amount secured. The rate of stamp duty was revised from two *per cent* to four *per cent* vide notification, issued (August 2009) by the Punjab Government.

(a) Audit noticed from the records of 9 SRs/JSRs³ that 11 instruments of mortgage deeds were executed and registered by individuals during 2011-12 for securing loans of ₹ 24.28 crore from the commercial/banking institutions after

¹ SRs: Ajnala, Amritsar-I, Amritsar-II, Batala, Bhawanigarh, Dera Bassi, Fatehgarh Sahib, Faridkot, Ferozpur, Gurdaspur, Jalandhar-II, Kharar, Ludhiana (Central), Malerkotla, Mohali, Moga, Patiala, Rampura Phul, Ropar, Sangrur and Sunam.

² JSRs : Dhanaula, Dehlon, Kum Kalan and Sidhwan Bet.

³ Hoshiapur, Jalandhar-I, Ludhiana (West), Maloud, Mohali, Nakodhar, Patiala, Phagwara and Shahkot.

charging stamp duty of ₹ 48.56 lakh at the pre-revised rate of two *per cent* against the leviable duty of ₹ 97.12 lakh chargeable at the revised rate of four *per cent*. Application of pre revised rate of stamp duty resulted in short levy of stamp duty of ₹ 48.56 lakh.

The matter was reported to the Government/Department (April 2011 to March 2013); their replies were awaited (October 2013).

(b) Audit noticed (August-2011) from the records of Sub Registrar, Khanna for the year 2010-11 that a mortgage deed without possession was executed and registered for securing loan of ₹ 6.95 crore from the bank for construction of building and stamp duty of ₹ 0.74 lakh was paid against the actual leviable duty of ₹ 27.80 lakh. This resulted into short levy of stamp duty amounting to ₹ 27.06 lakh. (27.80 - 0.74).

The matter was reported to the Government/Department (March-2012), their replies were awaited (October 2013).

3.5 Inadmissible remission of stamp duty and registration fee

The Government exempted (June 2001) stamp duty and registration fee leviable on instruments executed by a person for securing loan from a bank, co-operative society or banking institution to meet the expenditure on any of the items specified in connection with agricultural purpose or purposes allied to it.

Audit noticed (October, November 2012 and February 2013) from the records of four Sub-Registrars⁴ for the year 2011-12 that five mortgage deeds were executed during June 2011 and March 2012 for securing loans of ₹ 110.18 crore from commercial/banking institutions for the building of Godowns/development of mandis without levying stamp duty and registration fee against security of immovable properties. As the loans were secured for the purposes other than those specified in the notification mentioned, *ibid*, the remission of stamp duty and registration fee as per above cited notification was not admissible. Incorrect grant of remission resulted into non levy of stamp duty and registration fee amounting to ₹ 4.42 crore.

On being pointed out in audit, Sub Registrar Nabha stated that deed was checked and it was found that the loan was taken for agricultural purpose and as per Punjab Government notification (June 2001), no stamp duty and registration fee was leviable. The reply of the Sub Registrar was not convincing because as per records of the concerned bank, the loan was raised for construction of rural godown building for preservation of food grains by the Government procurement agencies and not by the owner of land/farmer.

The matter was brought to the notice of Government/Department (April and May 2013); their replies were awaited (October 2013).

⁴ Bathinda, Nabha, Sangrur and Sunam.

3.6 Short levy of stamp duty and registration fee

Under the Punjab stamp (Dealing of Under –valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts fixes the minimum market value of land/properties locality wise and category wise in the district for the purpose of levying stamp duty. Further, Government of Punjab, Department of Revenue and Rehabilitation clarified (January 2011) that in the case of purchase of land for more than one acre in urban area and 2.5 acre in rural area by a company or a Registered body for Housing Project and other commercial project, a copy of articles of association and a declaration indicating the purpose of purchase of land is required to be obtained from the purchaser. The rates of non agriculture land shall be applied for valuation of the property if the land is being purchased for Housing and other commercial purpose. Additional stamp duty at the rate of three *per cent* is also leviable on the value of the property if it falls within the Municipality or Corporation.

Audit noticed from the records relating to registration for the year 2010-11 and 2011-12 in the offices of 28 Sub Registrars⁵ and eight Joint Sub Registrars⁶ that 74 instruments of transfer of properties were registered during 2010-11 and 2011-12 in favour of Developer/Companies and stamp duty of ₹ 7.90 crore was charged on the consideration of ₹ 115.58 crore treating the land as agricultural land. It was further noticed that although the purchasers were Developers/Companies and the properties valued at ₹ 273.88 crore were located in the cities/villages which came within the limit of municipality yet the Department neither obtained the articles of association/declaration of the companies nor the rates for *gair-mumkin* (other than agriculture category) land were applied for the valuation of the properties. This resulted in short levy of stamp duty and registration fee of ₹ 8.01 crore.

Audit reported the matter to the Government/Department; their replies were awaited (October 2013).

3.7 Irregular remission of stamp duty and registration fee

Punjab Government remitted (February 1981) stamp duty and registration fee chargeable on instruments of conveyance by sale or gift in favour of the charitable institutions for charitable purposes. In order to rule out the mis-utilisation of this exemption by the charitable institutions, the Government issued instructions vide 16/27/08/ST/2/ 8070-90 dated 26.5.10 that it was to be confirmed by the District Collector whether the transfer of immovable property in favour of the charitable institution is eligible for exemption from the levy of

⁵ Abohar, Amlah, Amritsar II, Barnala, Dera Bassi, Dhuri, Fazilka, Ferozepur, Jagraon, Jalandhar-I, Khanna, Kharar, Ludhiana(west), Ludhiana(central), Malerkotla, Malout, Mohali, Nawan Shahar, Nurmahal, Phagwara, Phillour, Raikot, Roop Nagar, Sangrur, Sunam, Talwandi Saboo, Tapa and Tarn-Taran.

⁶ Attari, Bareta, Koom kalan, Majri, Mandi Gobindgarh, Mullanpur Dakha, Sidwan Bet and Tarsika.

stamp duty/registration fee or not. Further, under Section 3C, Social Security Fund in the form of additional stamp duty leviable at the rate of three *per cent* is also chargeable in respect of every instrument of immovable properties falling within the municipal limit.

Audit noticed (August, October and July 2012) from the offices of two Sub-Registrars⁷ and Joint Sub-Registrar Dehlon that three instruments of transfer of immovable property were registered with consideration of ₹ 1.21 crore as set forth in the deeds. These instruments were registered during 2010-12 in favour of charitable institutions without charging stamp duty/registration fee, treating the transfer for charitable purposes. The prior certification of the District Collector required to be obtained in such cases was not obtained, in the absence of which allowance of exemption was irregular. This had resulted in violation of the instructions of the Government and resulted in irregular remission of stamp duty and registration fee of ₹ 7.70 lakh.

The matter was reported to the Government/Department (April 2013). Sub-Registrar, Sangrur in its reply stated (May 2013) that the case has been sent to District Collector under Section 47-A. Reply in the remaining cases was awaited (October 2013).

⁷ Baba bakala and Sangrur.