

CHAPTER IV: STAMP DUTY

4.1.1 Tax administration

Receipts from the stamp duty (SD) and registration fee (RF) in the State are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. At the Government level, the Additional Chief Secretary, Revenue and Disaster Management Department, Haryana is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The overall control and superintendence over levy and collection of SD and RF vests with the Inspector General of Registration (IGR), Haryana. The IGR is assisted by the 21 Deputy Commissioners (DCs), 67 tehsildars and 46 naib tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

4.1.2 Results of audit

In 2013-14, test check of the records of 89 units of the Revenue Department showed non/short levy of stamp duty and registration fee etc. and other irregularities involving ₹ 265.01 crore, in 1,209 cases, which fall under the following categories in **Table 4.1**.

Table 4.1

(₹ in crore)			
Sr. No.	Categories	Number of cases	Amount
1.	IT Audit on “Haryana Registration Information System”	1	203.87
2.	Fixation of circle rates by Collector and Determination of market value of property	1	14.75
3.	Short recovery of stamp duty and registration fee due to <ul style="list-style-type: none"> • non-charging of residential rates on purchase of land • undervaluation of immovable property • misclassification of instruments 	405	5.45
		138	5.08
		179	31.39
4.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	92	1.26
5.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	19	0.24
6.	Miscellaneous irregularities	374	2.97
	Total	1,209	265.01

During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 7.19 crore in 346 cases, out of which ₹ 7.00 crore involved in 303 cases were pointed out during the year and the rest in earlier years. The department recovered ₹ 19.47 lakh in 43 cases pointed out in earlier years.

An IT Audit on “Haryana Registration Information System” having money value of ₹ 203.87 crore and few illustrative cases involving ₹ 18.30 crore are discussed in the following paragraphs:

4.2 IT Audit on Haryana Registration Information System

4.2.1 Highlights

- Lack of input controls in HARIS IT application led to misclassification of 254 sale documents resulting in irregular remission of stamp duty of ₹ 70.90 crore.

(Paragraph 4.2.7.1)

- Deficient design of the application to capture details of properties being exchanged resulted in short realisation of stamp duty of ₹ 4.06 crore in 13 cases.

(Paragraph 4.2.7.7)

- Non-mapping of locations falling within MC limits led to non-levy of two *per cent* additional stamp duty of ₹ 31.62 crore in 3,497 cases.

{Paragraph 4.2.8.5 (ii)}

- Non-incorporation of appropriate validation checks in IT application led to wrong remission of stamp duty of ₹ 70.25 crore in 334 documents.

{Paragraph 4.2.8.7 (i)}

- Deficient validation checks on the transactions made within MC limits with area less than 1,000 square yards led to short levy of stamp duty of ₹ 19.90 crore in 1,213 cases.

{Paragraph 4.2.8.8 (i)}

- Failure of the department to reconcile the entries of receipts recorded in the manual cash book with the system generated cash book resulted in shortage of ₹ 74.83 lakh.

{Paragraph 4.2.9.1 (i)}

4.2.2 Introduction

The Government of Haryana initiated a fully sponsored computerised scheme “Haryana Registration Information System (HARIS)” in 1991 through Revenue Department to overcome the inherent problems in the manual system of maintenance and updation of records. The scheme envisaged speed, accuracy, transparency, dispute resolution and online management of data.

A workflow based application package was developed, implemented, standardised and stabilised across the State by National Informatics Centre-Haryana State Unit (NIC - HSU). The HARIS application was intended to provide complete integrated solution for the work relating to property registration. This application has undergone functional and technical upgrades over time and HARIS application version 3.0.92 is running at present since

March 2014. A client server model application with ‘Visual Basic’ at the frontend and SQL server at the backend, designed to work on a ‘Windows’ platform, is presently in use.

4.2.3 Organisational set up

At the Government level, the Additional Chief Secretary to Haryana Government, Revenue and Disaster Management Department is responsible for the administration of the Indian Stamp Act and Registration Act and the rules framed thereunder relating to registration of various documents. He is responsible for formulation of policies, programmes and their implementation by the Department. The work relating to property registration in 21 districts, 71 tehsils and 44 sub-tehsils is looked after by the Deputy Commissioners (DCs) and District Revenue Officers (DROs) at the district level. The Registering Authorities namely Naib-Tehsildars/Tehsildars function as Joint Sub Registrars (JSRs)/Sub Registrars (SRs) while handling the work of property registration with the help of Kanungos and Patwaris at tehsils, sub-tehsils and village levels.

4.2.4 Audit objectives

We conducted the IT audit with a view to ascertain whether adequate input, processing and output controls had been incorporated in HARIS application.

4.2.5 Scope and methodology of audit

The backend data of HARIS application for the period from 2007-08 to 2013-14 was obtained from the concerned District Informatics Officers and analysed between June 2013 and July 2014 by using Computerised Assisted Audit Tools (CAATs) like Interactive Data Extraction and Analysis (IDEA) application. IT audit of randomly selected 21 tehsils/sub-tehsils in eight districts¹ was conducted to assess whether control risks present in input, processing and output stages of the HARIS application led to business impact.

An entry conference to discuss the audit objectives, scope and methodology of audit was held with the Department on 14 August 2013. We had forwarded the IT Audit Report to the Government in July 2014. An exit conference was held on 23 December 2014 with the Additional Chief Secretary to Haryana Government, Revenue and Disaster Management Department. During the exit conference, the findings of the IT Audit were discussed. The replies furnished by the Department during exit conference and at other times have been appropriately incorporated.

¹ Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli, Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

4.2.6 Audit criteria

The audit criteria were derived from the following sources:

- Indian Stamp Act, 1899
- Registration Act, 1908
- IT Audit Manual of IA & AD
- Rules framed under the Acts
- Administrative instructions issued by the Department/Government.

Audit findings

4.2.7 Input controls

Controls over input are vital to the data integrity and incorrect or fraudulent input is the most important source of error or fraud in computerised system. The deficiencies noticed are as under:

4.2.7.1 Misclassification of sale deeds

HARIS application allows the remission of SD in case of transactions captured under “Purchase against compensation” option. The application is required to capture the amount of compensation received by the purchaser enabling application to assess the quantum of remission of SD to be allowed and no other type of transaction should be processed through this option. Due to failure of input control, the sale deeds were wrongly registered under the “Purchase against compensation” option allowing remission of SD when no compensation was received in these cases.

The analysis of HARIS database in the offices of SRs Gurgaon, Manesar and Panipat showed that 254 instruments conveying possession and transfer of property valued at ₹ 1,409.17 crore to the subsidiary companies from whom the holding companies received either actual cash or in the shape of equity shares or partly cash or part promised were misclassified as ‘Purchase against compensation²’ instead of ‘sale’ due to wrong input by the operator charging stamp duty (SD) of ₹ 7.79 lakh, which was incorrect as against duty leviable at ₹ 70.98 crore for conveyance deeds, resulting in short levy of SD of ₹ 70.90 crore.

On this being pointed out between June and August 2014, the Government admitted that the users had either deliberately or by mistake selected the wrong option to provide benefit to the party (November 2014).

4.2.7.2 Critical fields left blank

Any transaction in agricultural and residential/commercial property is identified by the *khewat* number and address of the plot number respectively.

² Land purchased by farmers from the amount of compensation received against agricultural land acquired by the State Government.

Further, the cost of land is calculated on the basis of area, measurement unit³ and Collector's rate.

The analysis of HARIS database in the offices of 21 SRs⁴ showed that out of 5,17,811 transactions, *khewat* column in 13,476 agricultural properties and address column in 91,872 residential and 8,239 commercial properties, constituting 22 *per cent* of the total transactions, and measurement unit field in 1,451 cases were left blank leading to failure in calculating the actual land cost on the basis of prevailing Collector's rate in 1,404 cases by the application. These blank columns in the HARIS application led to short/non-levy of SD, as discussed in the paragraph 4.2.7.3 below.

On this being pointed out between May and August 2014, the Government replied that the software does not allow the entry of blanks in *khewat*/plot number, address and measurement unit fields. However, it was admitted that the blank/junk data in the reported cases may be data input error (November 2014).

4.2.7.3 Measurement units

Input controls require that adequate checks have been incorporated in the application to ensure that the necessary fields are not left blank. HARIS application calculates cost of land on the basis of essential data input i.e. area, measurement unit and rate. In case, any of these fields are left blank, the application fails to calculate the cost of land on the basis of Collector's rate and SD is calculated on the basis of transaction value only.

During analysis of HARIS database in the offices of SRs Gurgaon and Kurukshetra, we noticed that 41 sale deeds were registered on the basis of transaction value without taking into account the cost of land. These sale deeds were required to be assessed for ₹9.21 crore on which SD of ₹95.66 lakh was leviable. Due to lack of input control over the measurement unit field, SD of ₹65.86 lakh was levied, resulting in short levy of SD of ₹29.80 lakh.

On this being pointed out between August and October 2013, the Government admitted that the operator might have filled any value to complete the transaction or might have been using the older version of HARIS (November 2014).

4.2.7.4 Wrong input of construction year

SD, at the rate applicable on a particular date, is levied on either the transaction value or the sum of the land cost calculated on the basis of Collector's rate and the depreciated structure cost of the property, whichever is higher. After allowing appropriate depreciation allowance on the

³ Three types of standard measurement units used are: *acre-kanal-marla* or *bigha-biswa-biswansi* for agricultural land, square yards for residential/commercial plots and square feet for constructed areas.

⁴ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli, Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

residential/commercial properties, the depreciated structure cost can be zero but it cannot be negative.

The analysis of HARIS database in the offices of four SRs⁵ showed that due to insufficient control over input, the structure cost showed unrealistic amounts ranging between minus ₹ 20,211,481,459,077,602,000,000 and minus ₹ one in 1,788 cases and the construction year ranged between one and 1971. We also noticed that in 20 cases, the constructed area was shown as zero but the depreciated structure cost ranged between minus ₹ 16,148,644,851,359.10 and minus ₹ six.

It was further noticed that the land cost of the residential/commercial properties in 109 cases was ₹ 2.15 crore more than the transaction value. But, due to insufficient control over input, the land cost became less than the transaction value and SD was wrongly levied by the system only on transaction value after adjustment of negative value of the depreciated structure cost from the land cost. These sale deeds were required to be assessed for ₹ 7.10 crore, on which SD of ₹ 41.85 lakh was leviable. But, due to insufficient control over input, these sale deeds were assessed at ₹ 4.95 crore and SD of ₹ 30 lakh was levied, resulting in short levy of SD of ₹ 11.85 lakh.

On this being pointed out between October and November 2013, the Government replied that software would not calculate the structure cost in minus. It would set the structure cost to zero if it was coming in minus after applying the depreciation based on the construction year (November 2014). The reply is not tenable as the software did calculate minus structure cost in these cases as well as compensated the land cost by adding the minus structure cost and therefore, software needs suitable validation checks so as to avoid minus values in this field.

4.2.7.5 Incomplete data capturing

The analysis of HARIS database in the office of SR Kurukshetra showed that 39,670 sale deeds were registered as residential properties. The structure details were not captured in these cases, resulting in 'zero' structure cost. When the HARIS data was matched with the HUDA's data available, it was found that plots transacted in 29 sale deeds had constructed areas. In 10 out of 29 sale deeds, the transaction value was higher than the costs of the land and structure, resulting in correct evaluation of SD. But, due to non-capturing of structure details in the database, the remaining 19 sale deeds that were required to be assessed for ₹ 3.72 crore, were erroneously assessed at ₹ 2.95 crore, which led to underassessment of the properties to the extent of ₹ 76.72 lakh, resulting in short levy of SD of ₹ 4.10 lakh.

On this being pointed out in July 2013, the Government admitted that such cases occurred due to input error and lapses on the part of users of the application (November 2014).

⁵ SRs: Mahendergarh at Narnaul and Rohtak (Kalanaur, Sampla).

4.2.7.6 Acceptance of junk data input

In an IT application, it should be ensured that documents contain proper names of the parties instead of junk data so that subsequent extraction of information of any party/ individual can be obtained easily.

We found that 72,277 cases contained junk data in place of party names/ details in 21 SRs⁶. Incomplete/junk input rendered the data unreliable. An illustrative case is given below:

In SR Bahadurgarh, in sale deed No. 1232, dated 05.05.2008, we found that property was purchased by a male but in place of his name, only junk data in the form of '-' was entered in the party name field in the database.

On this being pointed out in June 2014, the Government replied that it was not possible to impose exhaustive checks on name fields and users are required to verify and validate the data before approving the documents (November 2014). The reply is not tenable as the details of party names may be required for subsequent extraction in future. Accordingly, the Government must ensure to capture complete particulars of the transaction.

4.2.7.7 Non-capturing of second property details

In case of exchange of property by two parties, HARIS application was required to capture the details of both the properties being exchanged to assess their values to determine the property having higher value for levy of SD.

In view of the above business rule, it was noticed that HARIS application was not designed to capture the details of all the properties being exchanged, resulting in failure to compare their values to calculate SD on the property having higher value.

The analysis of HARIS database in the office of the SR, Gurgaon showed that 52 exchange deeds were registered during 2013-14 and leviable SD was assessed by the HARIS application on the lone property details captured in the application. We further noticed that in 13 out of 52 exchange deeds, details of agricultural properties were captured to determine the SD leviable. However, in respect of other property being exchanged, a license to develop a Residential Group Housing colony was obtained from Town and Country Planning Department, Haryana. Thus, consideration value of the land of the other property was required to be assessed on the basis of residential rates, which was much higher than the consideration value of the first property.

These 13 exchange deeds were liable to be assessed for ₹ 135.18 crore, on which SD of ₹ 6.76 crore was leviable. But, these exchange deeds were assessed at ₹ 50.67 crore on the basis of lone property details captured in the application, on which SD of ₹ 2.70 crore was levied, resulting in short levy of SD of ₹ 4.06 crore.

On this being pointed out, the Government admitted that there was no provision in the application to capture the details of second property.

⁶ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli, Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chohta).

However, users are expected to exercise primary checks and verify the details of the properties having the highest transaction amount (November 2014).

4.2.8 Processing controls

Processing controls ensure complete and accurate processing of input and generated data. It ensures that transactions are unique, valid, accurate and complete. Lack of processing controls resulted in non-computation of land cost and short levy of SD as detailed below:

4.2.8.1 Non-conversion of measurement unit

We noticed in the office of SR Kurukshetra that land rates for HUDA plots had been defined in the master tables in square yards. However, while capturing the property details of some HUDA plots, the measurement units were entered in square meters in the database.

The land costs of the area given in square meters in respect of 265 transactions were processed by the application without validating the measurement unit mentioned in the property details and rate master tables. The application failed to convert the rate from per square yard to square meter. Thus, due to inadequate processing controls, the land cost of these transactions was underassessed by ₹ 2.49 crore, resulting in short levy of SD of ₹ 0.14 crore.

On this being pointed out in July 2013, the Government replied that provision in the software was available to convert measurement from square yards to square meters and vice versa. However, the user may have selected the wrong option (November 2014). The fact remains that application did not convert the measurement units and suitable mechanism may be put in place to ensure the correction option.

4.2.8.2 Joint property purchased by man and woman

The Government clarified in November 2008 that if a man and a woman purchase property jointly in equal share/proportion, then SD at the rate of one *per cent* was to be exempted on the total value of consideration on the sale deed. Where their share was not in equal proportion, in such cases, concession by two *per cent* in SD was to be given on the value of consideration of sale deed to the extent of share of woman/women involved.

Data analysis in the offices of 15 SRs⁷ showed that in case of 388 sale deeds executed on joint property purchased between November 2008 and March 2014, SD was not computed accurately on the basis of proportionate shares. In these cases, short levy of SD was noted, resulting in excess remission of SD of ₹ 66.85 lakh.

The data further showed that in 1,083 cases, the sum of proportionate shares was either less or more than 100 *per cent* ranging between one and 200 *per cent*, rendering the data unreliable. An illustrative case is given below:

⁷ SRs: Gurgaon (Farukh Nagar, Manesar), Kurukshetra, Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

In SR Kurukshetra, in sale deed No. 10337, dated 28.01.2013, we found that property was jointly purchased by six males and two females, but in the database, total male and female share was shown as 60 *per cent* and 20 *per cent* respectively leading to combined share of only 80 *per cent*.

On this being pointed out in June 2014, the Government replied that the proposed business logic would be studied and can be incorporated to check the amount of share entered by the user. However, Government admitted that these cases may have occurred due to wrong entry of share/proportion (November 2014).

4.2.8.3 Non-validation of receipts

As per business rule of the department, IT application is required to validate that the SD realised from the purchaser is not less than the SD computed by the application.

(i) In case of 153 sale deeds in 19 SRs⁸, there was short realisation of SD levied by ₹ 49.03 lakh due to lack of validation of the total of stamp paper value and cash received with SD levied by the application.

(ii) Further, in the offices of eight SRs⁹, we noticed that although the system calculated correct registration fees (RF) in 279 sale deeds, the amount realised fell short by ₹ 6.98 lakh. The application gave no prompt on mismatching of demand with receipt.

On this being pointed out, the Government admitted the audit observation and stated that directions needed to be issued to all the SRs to stop the issue of manual receipts (November 2014).

4.2.8.4 Gaps in serial numbers of registered documents

HARIS application was designed to assign sequential numbers in respect of deeds registered on account of sale, exchange, mortgage, gift, release, etc. of immoveable properties.

The analysis of HARIS database in the offices of 21 SRs¹⁰ showed that 11,02,254 documents were registered between the years 2007-08 and 2013-14. We observed that though the registration numbers were assigned in sequential order, there were 28,289 gaps in the assigned registration numbers.

On this being pointed out, the Government admitted that gaps occurred due to abrupt closing of application and electricity failure and stated that infrastructure needed to be strengthened (November 2014).

⁸ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

⁹ SRs: Ateli, Gurgaon, Kurukshetra, Kalka, Rohtak (Kalanaur) and Sirsa (Nathusari Chopta).

¹⁰ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli, Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

4.2.8.5 Non-mapping of locations falling within/outside MC limits

In the application, the operator manually selects the option of sub-deed name: 'Sale outside MC area'/'Sale within MC area' instead of drop down from a master database. The segments falling within/outside MC limits were required to be mapped properly to avoid the manual selection of 'Sale outside MC area'/'Sale within MC area' to enable the application to calculate the SD correctly.

As per instructions issued by the Government, two *per cent* additional SD is leviable in case of sale of land/property falling within the MC limits.

(i) The analysis of HARIS database in the offices of five SRs¹¹ showed that 89 sale deeds were registered as land/property falling outside MC limits by erroneously selecting option of 'Sale outside MC area' whereas these properties were actually within the municipal limits. It was further noticed that agricultural land sold in municipal limits was with an area less than 1,000 square yards or in case where purchasers were more than one, the share of each purchaser was less than 1,000 square yards. Thus, in these cases, the land/property was required to be assessed at the rate fixed for residential property and two *per cent* additional SD was to be levied. These sale deeds were liable to be assessed for ₹ 36.24 crore, on which SD of ₹ 2.17 crore (including additional two *per cent* SD) was leviable. But, these sale deeds were assessed at ₹ 13.84 crore, on which SD of ₹ 55.20 lakh was levied, resulting in short-levy of SD of ₹ 1.61 crore.

(ii) Cross verification of data recorded in HARIS application with notifications of Municipal Corporations of different districts with respect to 14 SRs¹² showed that 3,497 sale deeds were registered as land/property falling outside MC limits by erroneously selecting option of 'Sale outside MC area' whereas these properties were actually within the municipal limits. These sale deeds were assessed at ₹ 1,647.64 crore, on which SD of ₹ 108.84 crore (including additional two *per cent* SD) was leviable. But, SD of ₹ 77.22 crore was levied, resulting in short levy of SD of ₹ 31.62 crore due to non-mapping of segments.

On this being pointed out, the Government admitted that the audit suggestion of mapping locations of areas falling in MC limit would be helpful in reducing such cases and if selection is made through a drop down menu users will be more careful while choosing the right option (November 2014).

4.2.8.6 Non-digitisation of prime khasra master

HARIS application has been designed to store the prime khasra numbers of immovable properties having higher value to assess the correct value of these properties on the basis of prime rates and SD leviable thereon. In order to check evasion of SD in sale deeds, Haryana Government issued instructions in November 2000 to identify and digitise the prime khasras. Due to non-digitisation of the prime khasras, the following deficiencies were noticed:

¹¹ SRs: Gurgaon (Farukh Nagar), Kurukshetra, Mahendergarh at Narnaul and Rohtak.

¹² SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar, Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul, Panchkula (Kalka), Panipat (Samalkha), Rohtak and Sirsa.

During data analysis in six SRs¹³, the identified prime khasras were matched with the khasras mentioned in mutations entered in the Haryana Land Records Information System (HALRIS) application. Due to non-digitisation of prime *khasras*, only limited data could be analysed electronically. After matching the analysed data with the manual records, we found that prime *khasras*, having higher land rates, in addition to normal khasras were transacted in 31 sale deeds.

We found that in these sale transactions, the value of land was assessed by applying normal land rates only whereas some portion of the land was situated in prime *khasras* attracting prime land rates, which were much higher than the normal land rates. As such, the value of the land in the test checked cases was liable to be assessed for ₹ 27.87 crore, on which SD of ₹ 1.25 crore was leviable. But, SD of ₹ 60.90 lakh was levied due to non-digitisation of prime *khasras* and its rates, resulting in short levy of SD of ₹ 63.81 lakh.

It was further noticed that five SRs¹⁴ failed to identify prime *khasras* in contravention of above instructions.

On this being pointed out, the Government admitted that prime khasra numbers should be identified by the Circle Revenue Officer and entered in the database (November 2014).

4.2.8.7 Transactions by farmers and minus data in case of land purchased against compensation

Business rules of the department provide remission of SD on the purchase of agricultural land under the “Purchase against compensation” option. As per business rule, a validation check should have been incorporated in the application to allow remission of SD only on purchase of agricultural land under this option. In case residential/commercial property is purchased under this option the application should not allow any remission of SD.

(i) The analysis of HARIS database in the offices of 19 SRs¹⁵ showed that in 334 cases residential/commercial properties were purchased against the amount of compensation received on acquisition of agricultural land. In such cases, no remission in SD is allowed. In these cases, transactions were valued at ₹ 1,070.94 crore and SD of ₹ 70.61 crore was leviable. In the absence of appropriate validation check, the application allowed the remission of SD in these cases. However, SD of ₹ 36.14 lakh was deposited by the purchasers on their own, resulting in short levy of SD of ₹ 70.25 crore.

(ii) It was further noticed in 21 SRs¹⁶ that agricultural land was purchased against the compensation received on account of acquisition of agricultural land in 3,696 sale deeds. Thus, SD was not leviable in these cases. However,

¹³ SRs: Bapoli, Jhajjar (Bahadurgarh), Sampla and Sirsa (Nathusari Chopta).

¹⁴ SRs: Gurgaon (Farukh Nagar, Manesar) and Panchkula (Kalka).

¹⁵ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

¹⁶ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli, Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

in 499 cases out of the above sale deeds, the HARIS application computed and stored minus data valuing ₹ 3.84 crore in respect of SD in the database, which rendered it unreliable.

On this being pointed out (June 2014), the Government replied that in the absence of backend database of compensation awarded by the Government it was not possible to validate the amount of compensation entered by the user. Government while admitting the audit observation stated that cases of minus stamp duty were not reported to the software development team to check the exact position (November 2014).

4.2.8.8 Transactions on agricultural land within municipal limits

Business rules of the department provide that agricultural land sold within municipal limits, with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, be valued at the rate fixed for the residential property of that locality for the purpose of levying SD.

As per the above business rule, a check should have been incorporated in the application to validate the share of each purchaser in the agricultural land purchased. In case, such share is less than 1,000 square yards, the application should calculate the value of the land on the basis of residential rates fixed by the Collector.

(i) The analysis of HARIS database in the offices of 16 SRs¹⁷ showed that 1,213 sale deeds for purchase of agricultural land within the MC limits were registered wherein the share of each purchaser was less than 1,000 square yards. These deeds were liable to be assessed for ₹ 505.94 crore based on the rates fixed for residential areas and SD of ₹ 30.48 crore was leviable. However, due to absence of appropriate validation check in the application, these deeds were assessed at ₹ 172.01 crore based on the rates fixed for agricultural land and levied SD of ₹ 10.58 crore. This resulted in short levy of SD of ₹ 19.90 crore.

(ii) Further analysis of HARIS database in the offices of eight SRs¹⁸ showed that 39 sale deeds were registered for purchase of agricultural land against the compensation received on account of acquisition of agricultural land, within MC limit. In these cases, the area was less than 1,000 square yards or in case where purchasers were more than one and the share of each purchaser was less than 1,000 square yards. These sale deeds were liable to be assessed for ₹ 20.29 crore on the basis of residential rates but were assessed at ₹ 7.60 crore, resulting in wrong benefit of compensation to the purchasers to the extent of ₹ 12.69 crore.

On this being pointed out in June 2014, the Government admitted that these cases occurred due to wrong selection of option by the user (November 2014).

¹⁷ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul, Panchkula, Panipat (Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa.

¹⁸ SRs: Gurgaon (Farukh Nagar, Manesar), Pehowa, Panchkula, Rohtak (Sampla) and Sirsa.

4.2.8.9 HUDA plots having preferential number 'P'

Business rules of the Collector, Kurukshetra provide that cost of land of Haryana Urban Development Authority (HUDA) 'P' plots would be 25 *per cent* higher than the rates fixed for that locality whereas Collector, Gurgaon approved levy of 10 *per cent* extra SD on HUDA 'P' plots.

The IT application should have been suitably modified to include the above business rule to assess the correct value of the properties transacted and SD leviable thereon.

The analysis of HARIS database in the offices of SRs Gurgaon, Kurukshetra and Panchkula showed that sale deeds of 860 plots (Gurgaon: 2007-08 to 2010-11, Kurukshetra: 2007-08 to 2012-13 and Panchkula: 2013-14) with preferential number 'P' were registered, which were liable to be assessed for ₹ 395.22 crore, on which SD of ₹ 25.82 crore was leviable. But we found that SD of ₹ 23.51 crore was levied due to non-incorporation of suitable changes in the application, resulting in short levy of SD of ₹ 2.31 crore.

On this being pointed out, the Government admitted that the request to add such business rule in the application was not made by the concerned SRs (November 2014).

4.2.9 Output controls

The IT application should be designed to implement all the business rules of the department and it should be updated regularly on the basis of instructions issued by the Government from time to time in order to plug-in leakage of revenue. The following deficiencies were noticed due to non-mapping of business rules:

4.2.9.1 Non-reconciliation of cash collected with manual cash receipts and system generated cash receipts

The deficient SD collected in cash is entered daily in the cash book by the Registering clerk and credited into the treasury through challan under the provisions contained in Rule 2.4 of the Punjab Financial Rules (PFR). Further, Rule 2.2 (v) of PFR provides that head of the office should obtain a consolidated receipt from the treasury for all remittances made during the previous month by 15th of every month and satisfy himself that the amounts entered in the cash book have actually been credited into treasury.

HARIS application is capable of generating 'B' book in case deficient SD is received in cash. The department failed to reconcile the receipts in the manual system with the computerised generated receipts and actual cash on daily basis as discussed below:

(i) During data analysis on 'B' book collections in the offices of SRs Bapoli, Kalka and Panipat showed that differential SD of ₹ 80.52 lakh was to be recovered in 94 cases through 'B' book, whereas only ₹ 5.69 lakh was taken in the manual cash book. The failure of the department to reconcile the entries of receipts recorded in the manual cash book with the system generated cash book resulted in shortage of ₹ 74.83 lakh.

(ii) It was noticed during data analysis in the offices of 21 SRs¹⁹ that SD of ₹ 66.55 crore was leviable in 3,212 sale deeds. An amount of ₹ 51.08 crore was realised through stamp papers and deficient SD of ₹ 15.47 crore was required to be realised through 'B' book. But, the HARIS database showed that deficient SD of ₹ 23.22 crore was realised, resulting in excess realisation of SD of ₹ 7.75 crore ranging between ₹ 53 and ₹ 9,69,310.

On this being pointed out, the Government replied that such cases can be resolved by stopping the manual issuance of 'B' book receipts by SRs/JSRs (November 2014). The reply is not tenable as the department should have reconciliation on daily basis of cash collected with manual cash receipts and system generated cash receipts.

(iii) As per business rule of the department, IT application is required to validate that the SD realised from the purchaser by means of stamp paper and by cash, if any, is not less than the SD computed by the application. The application is capable of generating the 'B' book receipt in case of SD received in cash.

We found that in place of using system generated receipt numbers, the operators were entering the receipt numbers from manual 'B' book. Due to absence of any uniqueness condition designed in the receipt number field, we found that the same 'B' book receipt number on the same date was recorded twice or more than twice in 4,327 cases in 19 SRs²⁰, which showed that these fictitious numbers were inserted in the system only to let it proceed further.

On this being pointed out, the Government replied that it was not possible to check the uniqueness in manual system of issuance of cash receipts and SRs must use system generated 'B' book receipts only (November 2014). The reply is not tenable as the manual system has not been discontinued and Government has to put suitable mechanism in place to ensure unique numbers for each transaction.

4.2.9.2 Continued dependence on manual procedures

HARIS application is designed to capture and store the processed financial figures of SD due and realised through stamp paper/'B' book, RF and pasting fee. Application is also capable of generating certain reports (Endorsement, Cash Book, Statements No.1 and 3, 'B' book details, etc.) based on these data.

We noticed that RF and 'B' book receipts were continued to be maintained and issued manually, which showed that there was lack of dependency on the IT application.

On this being pointed out, the Government replied that strict instructions to ban the use of manual receipts needs to be issued. (November 2014).

¹⁹ SRs: Gurgaon (Farukh Nagar, Manesar), Jhajjar (Bahadurgarh), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli, Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa (Nathusari Chopta).

²⁰ SRs: Bahadurgarh, Gurgaon (Farukh Nagar, Manesar), Kurukshetra (Ladwa, Pehowa), Mahendergarh at Narnaul (Ateli), Panchkula (Kalka), Panipat (Bapoli, Madlauda, Samalkha), Rohtak (Kalanaur, Sampla) and Sirsa.

During the exit conference, the findings of the IT audit were discussed. The Government while admitting the system deficiencies such as selection of wrong option, incorrect data entry by operators, misclassification of sales deed, non capturing of details of second property, non conversion of measurement units, transfer of agricultural land within Municipal limits and purchase of land against compensation etc., requested (January 2015) NIC to rectify the shortcomings in the software and to apply suitable checks. Further the Government issued instructions to all the Deputy Commissioners to make recovery of the amount as pointed out by audit. Regarding non-reconciliation of cash collected with manual cash receipts and system generated cash receipts, the Government issued instructions that no amount should be deposited through B book in future and all the shortages of stamp duty be deposited in Government treasury through Challan only. However, the action taken by the assessing authorities and NIC in this regard is awaited.

4.2.10 Conclusion

Inadequate input controls resulted in misclassification of sale deeds, critical fields left blank, wrong input of construction year, acceptance of junk data and non-capturing of second property details. Lack of processing controls resulted in non-conversion of measurement unit, non-computation of proper share in case of purchase of joint property, non-validation of receipts, gaps in serial numbers of registered documents, non-mapping of location, non-digitisation of prime khasras, transaction of residential/commercial properties against compensation received by farmers, storage of minus values, non-levy of additional stamp duty within MC limits and non-computation of correct value of property in case of preferential plots in HUDA areas. Absence of adequate output controls led to non-generation of exceptional reports in case of acceptance of duplicate receipt numbers and SD realised in excess/short of the value of SD computed by the system. Cash receipts and daily cash books are still being maintained manually and receipts maintained manually are not reconciled regularly with system generated cash book. The deficient controls and design of the application necessitated manual intervention at certain levels and created scope for human errors resulting in revenue loss to the Government.

The IT application lacked input, process and output controls resulting in incomplete and inconsistent data, which resulted in cases of short/non-levy of SD and RF.

4.2.11 Recommendations

Government may consider that:

- (i) Strengthening of the internal controls by adding appropriate checks in the application to ensure the registration of documents under appropriate option, avoid leaving blank fields, capture structure and second property details completely and accurately;
- (ii) Incorporating suitable checks on processing of transactions in the application to ensure that processing is accurate, complete and unique such as synchronisation of measurement units, validation of total

shares of purchasers, mapping of areas falling within/outside MC limits and avoidance of duplicate records;

- (iii) Incorporating appropriate output controls in the application to ensure that errors and exceptions such as generation of duplicate records, inconsistency between SD computed and realised are properly reported for investigation enabling the management to take appropriate action to obtain the desired output; and
- (iv) Looking on priority the cash collection system as there are cases of short/ excess realisation of SD in cash with reference to system.

4.3 Fixation of circle rates by Collector and Determination of market value of property

SD is leviable on the execution of instruments as per Schedule I-A of the IS Act and RF is payable at the prescribed rates fixed by the State Government. SD is paid by the executors of instruments by using impressed stamps or by affixing non-judicial stamps of proper denomination. Collector rates are fixed by Evaluation Committees constituted and headed by Deputy Commissioner in each district every year under the instructions/guidelines issued by the State Government from time to time to avoid undervaluation.

Audit was conducted during March to June 2014 for the period 2008-09 to 2012-13 and covered seven²¹ out of 21 districts selected on random sample selection basis by applying probability proportional to size method (without replacement). The important findings are as under:

4.3.1 Non recording of khasra numbers in the Collector rate list

(i) Prime land/Colonies/Wards/Sectors

As per Government instructions issued in November 2000 and various other instructions issued from time to time, the “Evaluation Committee” has to fix separate rates for prime land i.e land situated on National Highways, State Highways, link roads up to 2-3 acres of depth, developed Colonies/Wards/Sectors and record the khasra numbers in the Collector’s rate list to avoid evasion of stamp duty. Thereafter, these rates are sent to the registering authority for their guidance. No guidelines for fixation of circle rates has been issued by the Government.

During test check of records of Collector rates and records relating to sale deeds registered during the years 2008-09 to 2013-14 in the offices of the Collector-cum-District Revenue Officer and Sub/Joint sub registrars of six districts²² between March and June 2014, we noticed that the rates of prime land/colonies/wards had been fixed by the “Evaluation Committee” but the Department did not identify and record the khasra numbers of prime land and Colonies/Wards/Sectors in the Collector rate list. In the absence of prime khasra numbers, proper valuation of immovable properties could not be made for the purpose of levy of SD and RF. Scrutiny of records showed that such an

²¹ Ambala, Fatehabad, Gurgaon, Hisar, Karnal, Panipat and Yamunanagar.

²² Ambala, Gurgaon, Hisar, Karnal, Panipat and Yamunanagar.

exercise of identification and recording of the khasra numbers was undertaken only in Fatehabad and Hisar district (except in colonies/wards/sectors). In the remaining four districts no such exercise was ever undertaken.

(ii) Land falling within MC limits

The registering authority was required to collect the latest Municipal Committee khasra numbers list from concerned Municipal Committee and to record the same in Collector rate list.

During test check of records of Collector rates and sale deeds registered during the years from 2008-09 to 2013-14 in the offices of the Collector cum District Revenue Officer (DRO) and Sub/Joint sub registrars of five districts²³ between March to June 2014, we noticed that the rates of MC area land had been fixed by the "Evaluation Committee" but the department did not identify and record the khasra numbers of MC land in the Collector rate list. In the absence of MC khasra number, proper valuation of immovable properties could not be verified for the purpose of levy of SD & RF and thus additional stamp duty and short levy of SD and RF could not be checked in audit.

On this being pointed the Government admitted the facts (August 2014) and stated that all the Collectors in the State had been instructed to provide the khasra numbers of the land falling on such roads.

4.3.2 Short receipt of stamp duty due to late fixation of Collector rates

As per instructions issued by the Government of Haryana in November 1990, Collector rates would be reviewed after a period of one year instead of two years. The rates so fixed would be applicable from the 1st April of the concerned year.

During test check of records of Collector rates and other records for the years 2008-09 to 2013-14 of the offices of the Collector cum District Revenue Officer (DRO) and Sub/Joint sub registrars of five districts²⁴ between March to June 2014, we noticed that Collector rates were fixed and made applicable between 15 April/25 September of the respective year instead of 1st April (except Ambala and Hisar) and these rates were increased by 10 to 30 *per cent*. Timely fixation of Collector rates as per instructions *ibid*, by the Government could have earned additional revenue on account of stamp duty of ₹ 23.73 crore.

On this being pointed out the Government stated (August 2014) that there is no hard and fast rule for implementing the rates on 1st of April each year. The reply is not tenable as per the instructions *ibid*.

4.3.3 Non recording of Minutes of meetings

Scrutiny of records of Collector rates and other connected records for the years from 2008-09 to 2013-14 of the offices of the Collector cum District Revenue Officer of seven districts between March and June 2014, we noticed that in six districts²⁵ minutes of meeting regarding fixation of circle rates were not

²³ Ambala, Gurgaon, Hisar, Karnal and Panipat.

²⁴ Fatehabad, Gurgaon, Karnal, Panipat and Yamunanagar.

²⁵ Ambala, Fatehabad, Gurgaon, Karnal, Panipat and Yamunanagar.

recorded by the Collectorate Office so it was not possible to ascertain the rates fixed in such meetings.

On this being pointed out between March to June 2014, concerned DROs admitted the facts.

4.3.4 Non-disposal/recovery of pending cases of under-valuation referred to the Collectors

(i) The Collector, after issue of notice to the concerned person, is required to conduct summary enquiry, as he may deem proper and assess the amount of deficient duty recoverable from the person concerned after determining the value of property. After finalisation of case, the documents are returned to the concerned registering officer. The Additional Chief Secretary to Government of Haryana, Revenue and Disaster Management Department had issued instructions in April 2013 for disposal/decision of pending cases referred to the collectors under section 47-A within six months. Further, instructions were also issued November 2013 for disposal of similar cases received after issue of these orders within two months from the date of their receipt.

During test check of records of offices of 19 Collectors²⁶ (SDMs cum collector and DROs who have delegated powers to decide the cases referred u/s 47-A) in six districts, we noticed that 9,802 cases of undervaluation were referred to the Collectors for decision between March 2009 and March 2014, out of which 7,227 cases were disposed of and balance 2,575 cases involving ₹ 35.77 crore were pending adjudication despite issuance of above said instructions.

On this being pointed out the Government admitted the facts and stated in August 2014 that the necessary directions had been to all the Collectors to finalise the cases under Section 47-A of the IS Act.

(ii) During test check of records of offices of 18 SRs, we noticed that out of 7,227 decided cases by the respective Collectors between 2009-10 to 2013-14, recovery amounting to ₹ 13.93 crore²⁷ in 757 cases had not been made yet.

On this being pointed out, the Government stated in July 2014 that efforts would be made to recover the outstanding amount.

²⁶ SDOs: Ballabgarh, Faridabad, Gurgaon, Hathin, Hodel, Kurukeshtra, Palwal, Panipat, Pataudi, Pehowa, Ratia, Samalkha, Shahbad, Sohna, and Tohana. DROs: Faridabad, Fatehabad, Kurukeshtra and Panipat.

²⁷ SRs : Ballabgarh: ₹ 1.57 crore (120 cases), Bhattu Kalan: ₹ 0.04 crore (20 cases), Bhuna: ₹ 0.01 crore (5 cases), Faridabad: ₹ 1.50 crore (78 cases), Fatehabad: ₹ 0.31 crore (89 cases), Gurgaon: ₹ 6.37 crore (66 cases), Hathin: ₹ 0.20 crore (75 cases), Hodel: ₹ 0.28 crore (43 cases), Jakhal: ₹ 1.17 crore (24 cases), Ladwa: ₹ 0.02 crore (6 cases), Manesar: ₹ 0.89 crore (67 cases), Palwal: ₹ 0.07 crore (17 cases), Panipat: ₹ 0.06 crore (14 cases), Pataudi: ₹ 0.16 crore (10 cases), Pehowa: ₹ 0.51 crore (52 cases), Shahbad: ₹ 0.02 crore (8 cases), Thanesar: ₹ 0.54 crore (35 Cases), Tohana: ₹ 0.20 crore (28 cases).

4.3.5 Short levy of stamp duty due to undervaluation of immovable property

As per Government order issued in May 2010, stamp duty shall be levied on the market value of land to be sold and not on the basis of value agreed between the buyer and the seller. If the Registering Authority has reason to believe that the value of the property or the consideration, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.

During test check of records of 17 offices²⁸ of SRs/JSRs, between April 2011 to November 2013 for the years 2010-11 to 2012-13, we noticed that in 25 cases, the registering authorities assessed the value of land at ₹ 1.25 crore on the basis of rates agreed to between the parties earlier and levied SD of ₹ 9.34 lakh, but the actual value of the immovable property was ₹ 16.07 crore as per Collector rate applicable at the time of registration of documents and SD of ₹ 91.23 lakh was leviable resulting in short levy of SD of ₹ 81.89 lakh.

On this being pointed out between June 2011 and December 2013, 13 SRs/JSRs²⁹ stated between May 2011 and December 2013 that the cases had been referred to the Collector for assessment of correct value of property mentioned in sale deeds. SRs Hisar and Balsmand stated in February 2014 that cases would be referred to Collector. We had not received reply from SRs Hathin and Radaur and further progress report on recovery (November 2014).

The matter was reported to the Government; their reply has not been received (November 2014).

4.3.6 Improper maintenance of record

Rule 6 of Haryana Stamp Prevention of Undervaluation of Instruments Rules 1978, provides that cases under Section 47A of the IS Act shall be entered by the Collectors in a register in prescribed Proforma 3 so that full particulars of the cases are recorded in the register. Adjudication orders are also entered in this register. A copy of final orders passed by the Collector shall be forwarded to the Registering Officer (SRs/JSRs) concerned in order to enable him to make necessary entries in prescribed Proforma 4 to be kept in his office and to communicate the same to the person concerned.

During test check of records of Collectors/JSRs/SRs in Kurukshetra, Panipat, Faridabad, Palwal, Gurgaon and Fatehabad districts, we noticed that these registers were not maintained in the prescribed proforma by the Collectors as well as by the JSRs/SRs. Due to non-maintenance of these registers in prescribed proforma, the information regarding the decided cases could not be monitored and also the recovery cases could not be watched properly. We also noticed that due to non recording of disposal of cases in the registers by SRs/JSRs, there was difference of pending cases between the offices of

²⁸ Assandh, Ballabgarh, Bass, Balsmand, Bilaspur, Chhachhrauli, Faridabad, Fatehabad, Hathin, Hisar, Karnal, Kalka, Kurukshetra, Nillokheri, Radaur, Ratia, and Raipur Rani.

²⁹ Assandh, Ballabgarh, Bass, Bilaspur, Chhachhrauli, Faridabad, Fatehabad, Kalka, Karnal, Kurukshetra, Nillokheri, Raipur Rani and Ratia.

Collectors and SRs/JSRs. As per Collectors record, 2,575 cases amounting to ₹ 35.77 crore were pending as on 31 March 2014 whereas as per records of SRs/JSRs, there were 5,380 cases amounting to ₹ 70.47 crore pending as on 31 March 2014. Thus, there was huge difference of 2,805 cases involving an amount of ₹ 34.71 crore.

On this being pointed the Government admitted the facts and stated in August 2014 that all the Collectors had already been instructed to maintain the register for cases under Section 47-A.

Thus, the Department failed to identify and record khasra number of prime land/colonies/wards/sectors and land falling within MC limit in the Collector rate list and also did not follow the instructions for cases decided by the Collectors within two months resulting in short realisation of revenue of ₹ 14.75 crore in 782 cases.

4.4 Short levy of stamp duty due to misclassification of sale deeds into collaboration agreement

Section 2 (10) of the Indian Stamp Act, 1899 (IS Act), provides that 'conveyance' includes conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by schedule 1-A of the Act. Further, Section 54 of the Transfer of Property Act, 1882 defines "sale" as transfer of ownership in exchange for a price paid or promised or part paid and part promised. The classification of an instrument depends upon the nature of the transaction recorded therein.

During test check of records, we noticed that 10 Collaboration Agreements relating to four districts³⁰ were registered between January 2011 and November 2012 in respect of land on which Stamp Duty (SD) of ₹ 1,300 was levied as applicable in the case of agreement, not involving sale of land. Scrutiny of these agreements further showed that the owners of land authorised the developers to take possession of the land with the right to construct, built-up shop-cum-flats and residential houses in exchange for a share of the developed land and/or receive part payments. The developers were entitled to dispose of their shares of developed land in such a manner as they deemed fit without requiring any consent from the owners. Hence, the development right/collaboration agreements were conveyance deeds and were liable to pay SD on sale of property in respect of the developers' share of land. As per rates fixed by the Collector, total value of agricultural land transferred to the developers worked out to ₹ 45.89 crore on which SD of ₹ 2.32 crore was leviable. However, the registering authorities misclassified these documents as agreement to sell charging SD of ₹ 1,300 instead of ₹ 2.32 crore, resulting in short levy of SD of ₹ 2.32 crore.

On this being pointed out between December 2011 and October 2013, SRs Assandh (Karnal) and Jhajjar stated in March 2012 and February 2014 respectively that cases had been sent to Collector under Section 47A of the

³⁰ SRs: Assandh (Karnal), Gurgaon, Jhajjar and Panipat.

IS Act. Further progress report on recovery and reply in remaining cases (November 2014).

The matter was reported to the Government; their reply has not been received (November 2014).

4.5 Evasion of stamp duty due to undervaluation of immovable property

Section 27 of the Indian Stamp Act, 1899 (IS Act), provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, should be fully or truly set forth therein. Further, Section 64 of the IS Act provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to ₹ 5,000 per instrument.

During test check of the records of 15 registering offices, we noticed that 42 conveyance deeds were registered between February 2010 and October 2013 on account of sale of immovable properties worth ₹ 6.58 crore. Cross verification of these deeds with the agreements executed between the concerned parties noticed that the total sale value of agreements worked out to ₹ 12.36 crore resulting in undervaluation of immovable properties. This resulted in evasion of stamp duty and registration fee of ₹ 22.91 lakh. In addition, penalty not exceeding ₹ 2.05 lakh was also leviable for incorrect information in the documents.

On this being pointed between July 2011 and November 2013, SR Hodel stated in June 2014 that an amount of ₹ 73,833 had been recovered and all other JSRs/SRs stated between February 2013 and June 2014 that the cases had been sent to the Collector for decision between December 2011 and February 2014 and efforts would be made to recover the outstanding amount. We had not received further progress report on recovery and action taken to levy penalty (November 2014).

The matter was reported to the Government; their reply has not been received (November 2014).

4.6 Short levy of stamp duty due to application of incorrect rates of immovable property

In order to check evasion of stamp duty (SD) in sale deeds, the Government issued instructions in November 2000 to all registering authorities in the State to the effect that agricultural land sold within municipal limits, with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, be valued at the rate fixed for residential property of that locality for the purpose of levying SD.

During test check of the records of 18 registering offices³¹ between May 2011 and February 2013, we noticed that 77 sale deeds of plots falling within the parameter of above notification were registered between March 2010 and March 2012. The deeds were liable to be assessed for ₹ 15.28 crore based on the rates fixed for residential areas and SD of ₹ 91.45 lakh was chargeable. However, the Registering Authorities assessed the deeds for ₹ 4.70 crore based on the rates fixed for agricultural land and levied SD of ₹ 29.48 lakh. This resulted in short levy of SD of ₹ 61.97 lakh.

After we pointed out these cases between May 2011 and February 2013, all the JSRs/SRs stated between August 2011 and June 2014 that the cases had been referred to the Collector and action would be taken as per rules.

The matter was reported to the Government; their reply has not been received (November 2014).

4.7 Undue benefit through reduction in stamp duty

As per notification issued on November 2010, under the Indian Stamp Act, 1899 (IS Act), the Government reduced the Stamp Duty (SD) by one *per cent* in respect of instrument of transfer of self acquired immovable property executed in favour of son or daughter or father or mother or spouse of the executants.

During test check of records of registered documents of gift deeds in nine offices³² of Sub Registrars (SRs) between June and November 2013 for the year 2012-13, we noticed that 83 instruments of gift deeds were executed in respect of persons other than those allowed in the above notification of Government. The registering authorities allowed the exemption of SD by one *per cent* to donees which was in contravention of above orders of the Government. Thus, undue benefit through reduction in SD resulted in loss of revenue to State exchequer to the extent of ₹ 19.93 lakh.

On this being pointed out between June and November 2013, SRs Panchkula and Uklana stated in February 2014 that an amount of ₹ 34,250 had been recovered in five cases between August 2013 and January 2014 and efforts would be made to recover the balance amount. Seven SRs³³ stated in February 2014 that cases had been sent to Collector for decision under Section 47A of the IS Act. The reply of the registering authorities did not explain why these cases had been referred to the Collector since there was no need to refer the cases to the Collector for decision as it had been clearly specified in the notification regarding reduction in SD for execution of transfer of self acquired immovable property. We had not received further progress report on recovery (November 2014).

³¹ Ambala Cantt., Ambala City, Bhiwani, Ellanabad, Fatehabad, Julana, Loharu, Mahendergarh, Naraingarh, Nilokheri, Panipat, Safidon, Samalkha, Sampla, Sonapat, Sirsa, Tohana, and Uchana.

³² SRs: Ballabgarh, Barwala, Gurgaon, Hisar, Manesar, Panchkula, Raipur Rani, Sohna and Uklana.

³³ SRs: Ballabgarh, Barwala, Gurgaon, Hisar, Manesar, Raipur Rani and Sohna.

The matter was reported to the Government; their reply has not been received (November 2014).

4.8 Exemption of stamp duty on collusive decrees³⁴

Under Section 17 of the Registration Act, 1908 non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future any right, title or interest, whether vested or contingent, of the value of ₹ 100 and upwards, to or in immovable property are compulsory registrable documents. Thus, a compromise decree³⁵ which is not bonafide³⁶ is liable to be charged as an instrument of conveyance. The Financial Commissioner and Secretary to Haryana Government, Revenue Department had issued instructions in September 1996 to all the registering authorities that mutated property registered on the basis of a compromise decree which is not bonafide is liable to be charged as an instrument of conveyance as per Schedule 1-A of the Indian Stamp Act, 1899. The Sub Registrars (SRs) were asked to carefully examine each document so as to ensure that there is no deliberate attempt for evasion of stamp duty (SD) and the same is properly stamped under the Act.

During test check of the records of offices of four SRs/JSRs³⁷, we noticed that six compromise decrees which were not bonafide were registered between May 2010 and January 2012 without charging stamp duty on total consideration of ₹ 3.57 crore. These parties obtained collusive decrees to evade SD. The registering authorities did not comply with the above instructions and allowed exemptions from payment of SD without confirming the facts that properties mutated were executed between blood relations. This resulted in irregular exemption of SD of ₹ 18.06 lakh.

On this being pointed out between July 2011 and January 2013, SRs Pehowa, Pundri and Thanesar stated between January 2012 and February 2014 that cases had been sent to the Collector for decision between October 2011 and January 2012. JSR Pillukhera stated in October 2012 that efforts would be made to recover the outstanding amount. We had not received further progress report on recovery (November 2014).

The matter was reported to the Government; their reply has not been received (November 2014).

³⁴ Collusive decree means the decree obtained by the parties by fraudulent secret understanding.

³⁵ Settlement of property by mutual consent.

³⁶ Which is related by blood relation.

³⁷ SRs: Pehowa (Kurukshehra), Pundri, Thanesar and JSR: Pillukhera.