

CHAPTER-IV
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4.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899, (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed thereunder as applicable in Himachal Pradesh and are administered at the Government level by the Principal Secretary (Revenue). The Inspector General of Registration (IGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by the 12 Deputy Commissioners and 117 *Tehsildars/ Naib-Tehsildars* acting as the Registrars and Sub-Registrars (SR) respectively.

4.2 Results of audit

In 2013-14, test check of the records of 51 units of the Revenue Department, showed non/ short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹6.15 crore in 100 cases, which fall under the categories given in **Table 4.1**:

Table 4.1

Sr. No.	Categories	₹ in crore	
		Number of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	66	5.60
2.	Non / short levy of stamp duty and registration fee	29	0.51
3.	Other irregularities	05	0.04
Total		100	6.15

During the course of the year, the Department had accepted under assessments and other deficiencies of ₹3.50 crore in 94 cases which were pointed out in earlier years out of which an amount of ₹18.56 lakh was realised in 68 cases during the year 2013-14.

A few illustrative cases involving ₹5.08 crore are discussed in the following paragraphs.

4.3 Incorrect preparation of valuation report by *Patwaris*

As per clarifications issued by the Inspector General of Registration (IGR) in July 1997 and June 1998, market value of land is to be worked out on the basis of mutations done during the preceding 12 months. Under the Indian Stamp (IS) Act, the market value of land for levy of stamp duty and registration fee is assessed on the basis of classification of land and is calculated in accordance with the procedure given in Appendix-XXI of the Himachal Pradesh Land Record Manual 1992. The registering officer is also required to verify the consideration shown in the sale deeds with valuation reports prepared by the concerned *patwaris*. In October 2004, the IGR further clarified that the average price should be based on the consideration amount or market value whichever is higher.

4.3.1 Audit test checked the documents of sale deeds of 27 SRs¹ between April 2013 and November 2013 and noticed that the valuation reports prepared by the *patwaris* were incorrect. The *patwaris* while preparing the valuation reports had taken incorrect/ lower value of the land instead of higher value mentioned in the mutations done during preceding 12 months. Consequently, 271 documents were registered for ₹32.33 crore during 2011-12 and 2012-13 at lower rates whereas the actual market value of these properties as per the correct rates was ₹58.34 crore. The Registering officers while registering these documents did not detect the mistake. This resulted in short realisation of stamp duty of ₹1.30 crore and registration fee of ₹10.39 lakh.

On these being pointed out between April 2013 and November 2013, the IGR intimated between March and July 2014 that out of ₹46.57 lakh, an amount of ₹9.62 lakh had been recovered in respect of 13 SRs² and efforts were being made to recover the balance amount. The remaining SRs stated that the cases would be re-examined (December 2014).

4.3.2 Incorrect determination of market value of properties

Audit test checked the records of eight SRs³ between April 2013 and December 2013 and noticed that consideration amount of properties set forth in 50 documents registered between 2011 and 2012 was ₹51.83 crore which was much below the market value of ₹82.15 crore shown in the valuation report prepared by the concerned *patwaris*. While registering these documents, the registering officers were supposed to consider the higher value of properties of ₹82.15 crore for levy of stamp duty and registration fee but they registered the property on the consideration amount of ₹51.83 crore. This resulted in short realisation of stamp duty of ₹135.95 lakh and registration fee of ₹0.57 lakh.

On these being pointed out between April 2013 and December 2013, the IGR intimated in August 2014 that out of ₹3.24 lakh, an amount of ₹0.10 lakh had been recovered in respect of SR Anni and remaining SRs had been directed to take immediate action to recover the amount.

The matter was reported to the Government between May 2013 and January 2014. Replies have not been received (December 2014).

4.4 Registration of document on lower rates of adjoining *mohal*

As per clarification issued by the IGR in July 1997, June 1998 and October 2004, market value of land is to be worked out on the basis of mutations done during the preceding 12 months. If there is no sale in the area for the preceding

¹ Amb, Baddi, Badoh, Bangana, Baijnath, Dehra, Dheera, Galore, Jogindernagar, Kandaghat, Karsog, Kasauli, Mandi, Manali, Multhan, Nadaun, Nauharadhar, Nurpur, Pachhad, Paonta Sahib, Rajgarh, Sainj, Shahpur, Shillai, Sujanpur, Shimla (Rural) and Theog

² Amb: 17 cases: ₹1.61 lakh, Bagana: 12 cases: ₹1.40 lakh, Dehra: eight cases: ₹1.57 lakh, Dheera: six cases: ₹36,165, Galore: three cases: ₹13,120, Jogindernagar: six cases: ₹45,095, Karsog: three cases: ₹16,870, Manali: six cases: ₹61,870, Nauradhar: two cases: ₹31,290, Sainj: five cases: ₹1.98 lakh, Shillai: three cases: ₹13,135, Sujanpur: six cases: ₹72,455 and Theog: one case: ₹16,000

³ Anni, Baddi, Dharamshala, Kasauli, Nurpur, Paonta Sahib, Rajgarh and Rampur

twelve months, the market value is to be worked out on the basis of sale deeds registered in the adjoining revenue village.

4.4.1 Audit test check the records of SR Paonta Sahib in April 2013 and noticed that seven deeds were registered during 2011 and 2012 for sale of land located in Jagatpur *mohal* for a consideration of ₹10.39 crore on the basis of the valuation report of adjoining Melion *mohal* as there was no valuation of land available for preceding 12 months in this *mohal* as per the remarks recorded by the *patwari* in the valuation report. Audit further noticed from the mutation register that a mutation (No. 579 dated 19.02.2011) had been done and recorded in the mutation register of Jagatpur *mohal*. Therefore, market value of land had to be worked out on the basis of mutation done during the preceding 12 months in *mohal* Jagatpur and these documents have to be registered for ₹50.44 crore instead of ₹10.39 crore. SR while registering the documents, treated the fact recorded in the valuation report of the *patwari* as correct, which resulted in short realisation of stamp duty of ₹200.01 lakh including registration fee of ₹0.11 lakh.

On this being pointed out in April 2013, the SR Paonta Sahib stated that disciplinary action was being initiated against *Patwari hulka* and all the cases were being sent to the Collector for evaluation under Section 47-A.

4.4.2 Audit test checked the records of SR Pachhad in August 2013 and found that Deed No. 68/2012 was registered for a consideration of ₹28.46 lakh in Durang *mohal* in April 2012. Though the valuation report of Durang *mohal* was available on the record but the market value of the land was assessed on the basis of valuation report of adjoining Habbi *mohal* which was on lower side as compared to the rates of Durang *mohal*. The market value of land as per rates of relevant *mohal* Durang was ₹2.60 crore. SR while registering the document overlooked this aspect which resulted in short realisation of stamp duty of ₹16.21 lakh including registration fee of ₹4.63 lakh.

4.5 Short realisation of stamp duty and registration fee on lease deed

Article 35 of schedule-I of IS Act, 1899, provides that where a lease is granted for a fine or premium or for money advanced in addition to rent received, the same duty as applicable to conveyance (No. 23), is chargeable. As per the Indian Stamp (Himachal Pradesh Amendment) Act 1970, where lease purports to be for a term exceeding 30 years but not exceeding 100 years, stamp duty is chargeable at the rate of three *per cent*. Besides, registration fee at the rate of two *per cent* subject to maximum of ₹25,000 is also leviable in terms of Government of Himachal Pradesh, Department of Revenue notification dated 18 March 2002. The Revenue Department vide notification dated 12 January 2012 has further revised the rates of stamp duty from three to five *per cent* and registration fee of two *per cent* of the market value of the property or consideration amount as the case may be, whichever is higher. The Industries Department had fixed (June 2009 & April 2011) the rates of premium (per square meter) of plots falling in the industrial area of the respective districts in the State.

Audit test checked the documents of lease deeds of four Sub Registrars⁴ between April 2013 and September 2013 and found that in 24 cases, land measuring 49,332.03 square meters falling in the industrial area of four districts was allotted/ leased out to the parties during 2011 and 2012 for the period ranging from 45 to 95 years. SRs while registering the documents did not levy the stamp duty and registration fee on the prevailing consideration amount of premium, fixed by the Industries Department for the years in which the cases were leased out. Consequently, 24 lease deeds executed during 2011 and 2012 were registered at the consideration of premium of ₹8.76 crore instead of ₹12.26 crore. This resulted in short realisation of stamp duty and registration fee of ₹14.90 lakh.

On this being pointed out between April 2013 and September 2013, SRs intimated (between May 2013 and September 2013) that cases would be reviewed and information in respect of action taken would be intimated to audit accordingly.

The matter was reported to the Government between June and October 2013; their replies have not been received (December 2014).

⁴ SR Baddi, Kasauli, Sri Naina Devi and Paonta Sahib