CHAPTER IV: STAMP DUTY

4.1.1 Tax administration

Receipts from the Stamp Duty (SD) and Registration Fees (RF) are regulated under the Indian Stamp Act, 1899 (IS Act), the 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. The Additional Chief Secretary, Revenue and Disaster Management Department, Haryana, is responsible for the administration of 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 Deputy Commissioners (DCs), Tehsildars and Naib Tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

4.1.2 Results of audit

In 2015-16, test check of the records of 90 units of the Revenue Department revealed non/short levy of stamp duty and registration fee and other irregularities involving ₹ 61.12 crore in 1,949 cases which fall under the following categories as depicted in **Table 4.1.**

Table 4.1: Results of audit

Sr. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Non/short recovery of stamp duty and registration fee due to		
	 undervaluation of immovable property 	529	31.06
	 misclassification of sale deeds into collaboration agreement/instruments 	246	17.93
	non-charging of residential rates on purchase of land	413	7.77
2.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	59	0.66
3.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	86	0.72
4.	Miscellaneous irregularities ¹	616	2.98
	Total	1,949	61.12

Cases relating to short recovery of SD and RF on dwelling units, "Preferential" category plots, Lease agreements, Mortgage documents etc.

During the year, the Department accepted under-assessment and other deficiencies amounting to ₹ 58.98 crore involved in 244 cases which were pointed out during the year.

Some significant cases involving ₹ 42.33 crore are discussed in the following paragraphs.

4.2 Short levy of stamp duty due to under-valuation of immovable property

Section 27 of the IS Act stipulates 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 1S 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. Audit of conveyance deeds registered by JSRs/SRs revealed under-valuation of immovable property resulting in short levy of stamp duty amounting to ₹ 35.69 crore, as detailed below.

4.2.1 Audit scrutiny of records (January to November 2015) of 12 offices² of SRs/JSRs for the years 2012-13 to 2014-15 revealed that 92 deeds were registered for sale at normal Khasras rates for agricultural land during the period between April 2012 and February 2015. The Khasras transacted in these deeds matched with Khasras on which change of land use (CLU) were issued from April 2006 to February 2014 to develop residential colonies, which were prior to the date of registration of the conveyance deeds in each of the 92 cases. As such, the value of land were liable to be assessed on the basis of residential rates for ₹ 748.78 crore, on which SD of ₹ 53.93 crore was leviable. But, these deeds were assessed at the rates fixed for agricultural land for ₹ 351.32 crore on which SD of ₹ 19.09 crore was levied. This resulted in short levy of SD of ₹ 34.84 crore (₹ 53.93 crore - ₹ 19.09 crore).

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Ballabgarh, Dharuhera, Faridabad, Ganaur, Gurgaon, Kalka, Manesar, Nillokheri, Rai, Rewari, Sohna and Sonepat.

On this being pointed out, 11 SRs/JSRs³ stated (between February 2015 and May 2016) that 90 cases had been sent to the Collector u/s 47-A of IS Act for decision. Further progress report on recovery and reply from SR Ganaur was awaited (October 2016).

4.2.2 Audit scrutiny of records (November 2014 and September 2015) of deed writers/agreements executed in SRs/JSRs office of 14 registering offices⁴ revealed that SD of ₹ 1.78 crore was levied on 57 conveyance deeds that were registered (between April 2013 and August 2015) for sale of immovable properties worth ₹ 41.30 crore. Cross verification of these deeds with the agreements executed between the concerned parties between January 2012 and February 2015 showed that the total sale value as shown in the agreements was ₹ 60.09 crore on which SD of ₹ 2.63 crore was leviable. Thus, the conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties. Under-valuation of immoveable properties in conveyance deeds resulted in short levy of SD of ₹ 85.10 lakh.

On this being pointed out, 10 SRs/JSRs⁵ stated between November 2015 and April 2016 that 48 cases had been sent to the Collector under Section 47-A of the IS Act for decision. Reply from the remaining four SRs/JSRs⁶ had not been received (October 2016).

The matter was reported to the Government in May/June 2016; its reply was awaited (October 2016).

4.3 Short levy of stamp duty due to misclassification of collaboration agreement

As per Haryana Government notification issued in October 2013 any agreement that relates to giving authority or power to a promoter or a developer, by whatever name called, for construction on, development of or, sale or transfer (in any manner whatsoever) of, any immovable property shall be liable to SD as is leviable on a conveyance for sale of immoveable property.

Ballabgarh, Dharuhera, Faridabad, Gurgaon, Kalka, Manesar, Nillokheri, Rai, Rewari, Sohna and Sonepat.

Ballabgarh, Bawal, Faridabad, Farukhnagar, Ganaur, Gurgaon, Hathin, Kaithal, Khanpurkalan, Mohana, Palwal, Pundri, Sohna and Tohana.

Ballabgarh, Bawal, Faridabad, Ganaur, Gurgaon, Hathin, Khanpurkalan, Palwal, Pundri and Tohana.

⁶ Farukhnagar, Sohna, Kaithal and Mohana.

Audit scrutiny of records (between January 2014 and October 2015) of six SRs^7 revealed that 14 collaboration agreements were registered between October 2013 and November 2014 in respect of land on which total SD was levied as applicable in the case of agreement not involving sale of land. Scrutiny of these agreements revealed that the owners of land had authorised the developers to take possession of the land with the right to construct, built-up shop-cum-flats and residential houses and these fell within the ambit of the notification of October 2013. As per rates fixed by the Collector, value of agricultural land transferred to the developers worked out to ₹47.45 crore on which SD of ₹2.46 crore was leviable. Thus, misclassification of these documents as agreements to develop resulted in short levy of SD of ₹2.46 crore.

On this being pointed out, four SRs⁸ stated (between October 2015 and May 2016) that eight cases had been sent to the Collector under Section 47-A of the IS Act. Further reports on recovery and replies from the SRs Bass and Nissing have not been received (October 2016).

The matter was reported to the Government in May 2016; its reply was awaited (October 2016).

4.4 Short levy of stamp duty due to application of non prime rates on land containing prime khasra

As per Haryana Government instruction issued in November 2000, 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 and developed Colonies/Wards/Sectors and record the khasras numbers in the Collector's rate list to avoid evasion of stamp duty. Thereafter, these rates are sent to the registering authority for proper evaluation of the immoveable properties situated in these prime Khasras. Further, Section 27 of the IS Act as applicable to the state of Haryana, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty chargeable, should be fully or truly set forth therein.

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⁷ Ballabgarh, Bass, Faridabad, Manesar, Nissing and Tigaon.

Ballabgarh, Faridabad, Manesar and Tigaon.

Audit scrutiny of records (May 2014 to August 2015) of 20 offices⁹ of the SRs/JSRs revealed that 110 conveyance deeds were registered for sale at normal khasra rates fixed for agricultural land during the period between April 2011 and May 2014. However, the khasras transacted in these deeds matched with the prime khasras having higher land rates. As such, the value of land was liable to be assessed on the rates fixed by the Collector for prime land for ₹ 75.81 crore on which SD of ₹ 3.30 crore was leviable instead of at the assessed rates fixed for agricultural land for ₹ 43.90 crore on which SD of ₹ 1.75 crore was levied. This resulted in short levy of SD of ₹ 1.55 crore (₹ 3.30 crore - ₹ 1.75 crore).

On this being pointed out, all the SRs/JSRs stated (between September 2014 and July 2016) that the cases had been send to the Collector under Section 47-A of the IS Act for decision and efforts would be made to recover the outstanding amount.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

4.5 Misclassification of 'conveyance on sale' as release deeds

As per Haryana Government clarification in December 2005 and article 55 in schedule 1-A of the Indian Stamp Act, 1899 (IS Act), if an instrument of ancestral property is executed in favour of brother or sister (children of renouncer's parents) or son or daughter or father or mother or spouse or grand children or nephew or niece or co-parcener¹⁰ of the renouncer, stamp duty will be levied at the rate of ₹ 15 and in any other case, the same duty will be levied as a conveyance relating to sale of immoveable property for the amount equal to the market value of the share, interest, part of claim renounced.

Audit scrutiny of records (between August and December 2015) of 26 SRs/JSRs¹¹ revealed that 83 release deeds were executed between

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Assandh, Ballabgarh, Ballah, Bilaspur, Chhachharauli, Dharuhera, Fatehabad, Gharaunda, Hisar, Israna, Jagadhri, Karnal, Kharkhauda, Matlauda, Mulana, Mustfabad, Nilokheri, Radaur, Rewari and Shahzadpur.

A person who inherited the property from the Hindu Undivided Family.

Adampur, Barwala, Ballabgarh, Balsamand, Bass, Behal, Boondkalan, Badhra, Bawani khera, Bhiwani, Farukhnagar, Faridabad, Gurgaon, Hansi, Hisar, Jagadhri, Loharu, Manesar, Mohana, Narnaund, Pataudi, Raipur Rani, Sohna, Siwani, Tigaon and Tosham.

November 2012 and March 2015 in favour of persons other than those allowed in the above clarification of the Government. The registering authorities levied SD of ₹ 1,850 only as release deeds whereas these deeds were liable to SD of ₹ 87.16 lakh at the rate of five to seven *per cent* as conveyance on sale amounting to ₹ 17.40 crore as per Collector rate. Misclassification of 'conveyance on sale' as 'release deeds' resulted in short levy of SD of ₹ 87.14 lakh.

On this being pointed out, 14 SRs/JSRs¹² stated (between January and May 2016) that 42 cases had been sent to the Collector under Section 47-A of the IS Act for decision.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

4.6 Irregular remission of stamp duty

As per Government order of 16 June 2014, the Government may remit the SD chargeable on the instrument if it pertains to transfer of immovable property within the family by an owner during his lifetime to any of the blood relations namely parents, children, grand children, brother (s), sister (s) and between spouse.

Audit scrutiny of records (March to December 2015) of the registered documents of transfer deeds in nine offices 13 of SRs/ JSRs for the year 2014-15 revealed that 33 instruments of transfer deeds were executed in favour of persons other than those allowed in the above orders of Government. The registering authorities exempted the transferees from SD which was in contravention of the above orders of the Government. Thus, irregular remission of SD resulted in loss of revenue to the State exchequer to the extent of \mathfrak{T} 48.02 lakh.

On this being pointed out, all the SRs/JSRs stated (August to December 2015) that cases would be sent to Collector under Section 47-A of the IS Act.

The matter was reported to the Government in April 2016; its reply was awaited (October 2016).

Badhra, Bawani Khera, Boondkalan, Charkhidadri, Faridabad, Farukhnagar, Loharu, Siwani and Sohna.

Barwala, Ballabgarh, Bass, Farukhnagar, Faridabad, Gurgaon, Hansi, Jagadhri, Loharu, Mohana, Sohna, Siwani, Tigaon and Tosham.

4.7 Incorrect grant of exemption

Government of Haryana vide order of 07 June 2012 exempts 1.5 per cent SD chargeable under the IS Act in respect of instruments executed by agriculturists in favour of any commercial bank for securing loan for purchase of tractor with its accessories, tractor trolley and thresher, installation of tubewell based on diesel engine, boring and electrification of tubewell, laying of underground pipes, lining of water course, leveling and reclamation of land and development of horticulture and purchase of pumping sets, cane crushers bullocks or plough and spray equipments, sprinkler irrigation for agriculture purposes, piggery, dairy, poultry, fishery and crop loans, agricultural loans, term loans, kisan credit cards or any other allied purpose.

Audit scrutiny of records (April 2014 and October 2015) of SRs Adampur, Nilokheri and Narnaund revealed that four instruments were executed between December 2013 and November 2014 for securing loan of ₹31.03 crore from commercial banks against security of immovable property for the purpose of poultry feed manufacturing units in three cases and in one case, loan was secured to the Education Society. As per the above cited orders of Government, SD could be exempted only in respect of instruments executed by the agriculturists for securing loan for the purchase of agriculture items as specified. The incorrect exemption of SD to these persons/society resulted in non-levy of SD of ₹46.54 lakh.

On this being pointed out, all the SRs stated in March and April 2016 that the cases had been sent to the Collector under Section 47-A of the IS Act.

The matter was reported to the Government in April 2016; its reply was awaited (October 2016).

4.8 Short realisation of stamp duty due to application of incorrect rates

As per Government order issued in May 2010, SD shall be levied on the Collector's rate 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.

Audit scrutiny of records (May 2014 to August 2015) of 16 offices¹⁴ of SRs/JSRs for the years 2013-14 and 2014-15 revealed that the registering authorities assessed the value of land in 27 cases at ₹ 4.53 crore on the basis of rates agreed to between the parties earlier and levied SD of ₹ 23.69 lakh whereas the actual value of the immovable property was ₹ 13.46 crore as per the Collector's rate applicable at the time of registration of documents and SD leviable was ₹ 66.13 lakh. This resulted in short levy of SD of ₹ 42.44 lakh (₹66.13 lakh- ₹ 23.69 lakh).

On this being pointed out, all the SRs/JSRs stated between November 2015 and April 2016 that all the cases had been sent to the Collector under Section 47-A of the IS Act.

The matter was reported to the Government in May 2016; its reply was awaited (October 2016).

4.9 Irregular exemption of stamp duty

As per Government order issued on January 2011 under the IS Act, the Government exempts SD in respect of sale deeds executed by farmers whose land is acquired by Haryana Government for public purposes and who purchase agricultural land in the State within two years of the amount of compensation received by them. The exemption will be limited to the compensation amount and the additional amount involved in the purchase of agricultural land will be liable to SD as per rules.

Audit scrutiny of records (June 2014 and October 2015) of 12 of SRs¹⁵ revealed that in 17 cases, farmers whose land had been acquired by the Government for public purposes purchased residential/commercial land valued at ₹ 4.10 crore. In another two cases, the farmers purchased agricultural land

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Assandh, Babain, Fatehabad, Jagadhri, Jind, Kaithal, Ladwa, Mohana, Panchkula, Pehowa, Pillukhera, Pundri, Rajaund, Shahbad, Safidon and Thanesar.

Bilaspur, Farukhnagar, Faridabad, Gurgaon, Hansi, Ismaliabad, Jagadhri, Karnal, Manesar, Pehowa, Rewari and Thanesar.

valued at ₹ 1.41 crore after two years of the receipt of compensation amount. SD was to be levied in these cases at the rate of five to seven *per cent* amounting to ₹ 29.50 lakh as the farmers had purchased residential/commercial land or agricultural land after two years of receipt of compensation and hence they were not eligible for exemption of SD. The Department had, however, levied SD amounting to ₹ 2.30 lakh against the leviable SD amounting to ₹ 10.52 lakh in seven cases out of 19, resulting in short levy of SD amounting to ₹ 8.22 lakh while no SD had been levied in the remaining 12 cases. The SD due from those 12 cases was ₹ 18.98 lakh. This irregular exemption of SD resulted in non/short levy of SD of ₹ 27.20 lakh (₹ 8.22 lakh + ₹ 18.98 lakh).

On this being pointed out, four SRs¹⁶ stated (June 2014 to January 2016) that eight cases had been sent to Collector, while seven SRs¹⁷ stated that nine cases would be sent to collector for decision under Section 47-A of the IS Act. Reply from SR Karnal was awaited (October 2016).

The matter was reported to the Government in April 2016; its reply was awaited (October 2016).

4.10 Short levy of stamp duty on lease deeds

Article 35 of Schedule 1-A of the IS Act provides for levy of SD on lease deeds at prescribed rates for consideration equal to the amount or value of the fine or premium or advance in addition to the amount of the average annual rent reserved and on the basis of period of lease.

Audit scrutiny of records (December 2014 to December 2015) of the offices of SRs/JSRs of Dhand, Karnal and Panchkula revealed that eight instruments of lease for periods ranging from nine to 99 years were registered between October 2013 and October 2014. The lessees received advance rent amounting to ₹ 19.85 lakh and annual average rent amounting to ₹ 5.07 crore payable during the term of contract. The registering authorities levied SD of ₹ 4.28 lakh instead of ₹ 15.81 lakh due to computation mistake and did not levy SD on advance rent. This resulted in short levy of SD of ₹ 11.53 lakh.

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Bilaspur, Faridabad, Manesar and Thanesar.

Farukhnagar, Gurgaon, Hansi, Ismaliabad, Jagadhri, Pehowa and Rewari.

On this being pointed out, all the SRs/JSRs stated in April 2016 that all the cases had been sent to the Collector for decision u/s 47-A of the IS Act.

The matter was reported to the Government in May 2016; its reply was awaited (October 2016).