

***CHAPTER-IV***  
***STAMP DUTY***



## 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), 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 21 Deputy Commissioners (DCs), 83 tehsildars and 47 naib tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

### 4.1.2 Results of audit

In 2014-15, 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 ₹ 227.83 crore in 1,441 cases, which fall under the following categories in **Table 4.1**.

**Table 4.1**

(₹ in crore)			
Sr. No.	Categories	Number of cases	Amount
1	Non/short recovery of stamp duty and registration fee due to		
	• undervaluation of immovable property	462	149.49
	• non-charging of residential rates on purchase of land	482	6.37
	• misclassification of instruments	102	18.52
2	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	106	1.23
3.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	166	0.96
4.	Miscellaneous irregularities	123	51.26
	<b>Total</b>	<b>1,441</b>	<b>227.83</b>

During the year, the Department accepted underassessment and other deficiencies amounting to ₹ 19.96 crore in 448 cases. The Department recovered ₹ 17,379 in one case relates to the earlier years.

Significant cases involving ₹ 19.96 crore are discussed in following paragraphs:

#### **4.2 Short realisation of stamp duty due to misclassification of documents**

**Eighty nine deeds were assessed at ₹ 258.45 crore instead of assessing at ₹ 566.65 crore based on the rates fixed by the Collector, resulting in short levy of SD of ₹ 14.53 crore.**

Under the provisions of the Section 2(10) of the IS Act, as applicable to the State of Haryana, separate rates have been prescribed for different types of instrument. The classification of an instrument depends upon the nature of transactions recorded therein. Further, as per Section 47 A of the IS Act, if the registering officer 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 noticed (October 2013 to March 2015) from the records of 17 offices<sup>1</sup> of Sub Registrars (SRs)/Joint Sub Registrars (JSRs) for the years 2011-12 to 2013-14, that 89 deeds<sup>2</sup> were registered between May 2011 and November 2013 on the basis of rates fixed by the Collector for agricultural land. The value of these properties were assessed at ₹ 258.45 crore<sup>3</sup> on which the department levied SD of ₹ 16.73 crore. However as per land records/khasra numbers given in the Collector's rates list, the immovable properties sold in 78 deeds were commercial/residential and in 11 deeds they were partly commercial i.e. Hotels, Stone crushers, Petrol pumps, Factories and Rice shellers as per land records (Jamabandhi) maintained by the Revenue Department. The value of these properties based on the rates fixed by Collector for commercial/ residential properties was to be assessed for ₹ 566.65 crore on which SD of ₹ 31.26 crore was leviable. This resulted in short levy of SD of ₹ 14.53 crore (₹ 31.26 crore - ₹ 16.73 crore) due to undervaluation of immoveable properties.

Eight SRs/JSRs<sup>4</sup> replied (February 2014 to August 2015) that cases had been/would be sent to the Collector under Section 47 A of the IS Act.

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<sup>1</sup> SRs/JSRs: Adampur, Ballah, Ballabgarh, Barwala, Ganaur, Gharaunda, Gurgaon, Hansi, Hisar, Indri, Karnal, Manesar, Nillokheri, Nissing, Rai, Sonipat and Uklana.

<sup>2</sup> 11 Deeds more than three years.

<sup>3</sup> In 11 cases value were calculated on proportionate basis.

<sup>4</sup> SRs/JSRs: Adampur, Barwala, Ganaur, Hansi, Hisar, Rai, Sonipat and Uklana.

SR Gharaunda admitted the facts (January 2015) in three cases and stated that in two cases, the land was agricultural land/vacant land. The reply was not tenable as the land records (Jamabandhi) shows that in those two cases the land were shown as commercial (factory). SR Karnal stated (January 2015) that six cases amounting to ₹ 6.98 lakh were more than three years old and further admitted that as there is no provision of recovery for the cases more than three years old, however, in view of revenue involved, cases had been sent to the Collector for final decision. SR Nilokheri stated in February 2015 that one case was more than three years old and remaining eight cases had been sent to collector for final decision. SR Ballabgarh stated in March 2015 that case would be sent to Collector under Section 47A for final decision. No further progress report on recovery and replies from the remaining five SRs/ JSRs<sup>5</sup> have been received (November 2015).

The matter was reported to the Government in June and July 2015; reply has not been received (November 2015).

#### **4.3 Short levy of stamp duty due to application of incorrect rates of immovable property**

**The registering authorities assessed 127 sale deeds of plots with an area less than 1,000 square yards under urban areas and near residential areas in the village but falling under the jurisdiction of municipality on the rates fixed for agricultural land instead of urban land which resulted in short levy of stamp duty of ₹ 2.46 crore.**

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.

Audit noticed (June 2013 to April 2014) that in 32 registering offices<sup>6</sup>, 127 sale deeds of plots falling within the parameter of above notification were registered between April 2011 and July 2013. These deeds were liable to be assessed for ₹ 67.79 crore based on the rates fixed for residential areas and SD of ₹ 3.88 crore was chargeable. However, the registering authorities assessed the deeds for ₹ 26.85 crore based on the rates fixed for agricultural land and levied SD of ₹ 1.42 crore. This resulted in short levy of SD of ₹ 2.46 crore (₹ 3.88 crore - ₹ 1.42 crore).

<sup>5</sup> SRs/JSRs: Ballah, Gurgaon, Indri, Manesar and Nissing.

<sup>6</sup> SRs/ JSRs: Assandh, Barwala, Ballabgarh, Faridabad, Fatehabad, Farukhnagar, Ganaur, Gharaunda, Gohana, Gurgaon, Hansi, Hathin, Hisar, Jagadhri, Jhajjar, Karnal, Kurukshetra, Ladwa, Manesar, Mohindergarh, Nissing, Nuh, Pataudi, Panipat, Panchkula, Pehowa, Punhana, Samalakha, Shahbad, Sohna, Sonipat and Tohana.

29 SRs/JSRs<sup>7</sup> replied (June 2013 to April 2014) that an amount of ₹ 2.42 lakh had been recovered in five cases of SRs Gurgaon, Kurukshetra and Tohana and the remaining cases had been/would be sent to the Collector for decision under Section 47 A of the IS Act. SRs Nuh and Punhana stated that action would be taken as per rules. No further progress report has been received on recovery and reply from the SR Mohindergarh till date (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

#### **4.4 Short levy of stamp duty due to application of non prime rates on land containing prime khasras**

**Sixty five deeds were assessed as agricultural land at ₹ 35.92 crore on which SD of ₹ 1.63 crore was levied instead of the rates fixed for prime land by the collector for ₹ 66.78 crore on which SD of ₹ 2.86 crore was leviable which resulted in short levy of stamp duty ₹ 1.23 crore.**

As per Haryana Government instructions 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, 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 which it is chargeable, should be fully or truly set forth therein.

Audit noticed (April 2012 to January 2015) from the records of 11 offices<sup>8</sup> of the SRs/JSRs, that 65 conveyance deeds were registered for sale at normal khasras rates fixed for agricultural land during the period between April 2011 and November 2013. It was also found that the khasras transacted in these deeds were 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 ₹ 66.78 crore, on which SD of ₹ 2.86 crore was leviable. But these deeds were assessed at the rates fixed for agricultural land for ₹ 35.92 crore on which SD of ₹ 1.63 crore was levied. This resulted in evasion of SD of ₹ 1.23 crore (₹ 2.86 crore - ₹ 1.63 crore).

All the SRs/JSRs admitted the facts and stated (March 2013 to September 2015) that cases had been sent to the Collector under Section 47 A of the IS Act for decision. An amount of ₹ 17,379 had been recovered in

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<sup>7</sup> SRs/JSRs: Assandh, Barwala, Ballabgarh, Faridabad, Fatehabad, Farukhnagar, Ganaur, Gharaunda, Gohana, Gurgaon, Hansi, Hathin, Hisar, Jagadhri, Jhajjar, Karnal, Kurukshetra, Ladwa, Manesar, Nissing, Pehowa, Pataudi, Panipat, Panchkula, Samalakha, Shahbad, Sohna, Sonipat and Tohana.

<sup>8</sup> Ambala, Barwala, Ganaur, Hansi, Hisar, Kalanuar, Meham, Nathusari Chopta, Rai, Sampla and Sonipat.

respect of one case of Barwala and efforts would be made to recover the outstanding amount of ₹ 1.23 crore<sup>9</sup>. No further progress report on recovery has been received (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

#### 4.5 Short realisation of stamp duty due to registration of documents on the basis of old agreement

**The registering authorities assessed the value of land at ₹ 4.27 crore and levied SD of ₹ 18.55 lakh on the basis of rates agreed to between the parties earlier instead of registration of documents as per Collector rates valued at ₹ 17.26 crore and SD of ₹ 89.80 lakh resulting in short realisation of SD of ₹ 71.25 lakh in 45 cases.**

As per Government order issued in May 2010, stamp duty (SD) shall be levied on the Collector 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 noticed (October 2012 to March 2014) from the records of 21 offices<sup>10</sup> of SRs/JSRs for the years 2011-12 and 2012-13, that in 45 cases, the registering authorities assessed the value of land at ₹ 4.27 crore on the basis of rates agreed to between the parties earlier and levied SD of ₹ 18.55 lakh, but the actual value of the immovable property was ₹ 17.26 crore as per Collector rate applicable at the time of registration of documents and SD of ₹ 89.80 lakh was leviable resulting in short levy of SD of ₹ 71.25 lakh (₹ 89.80 lakh - ₹ 18.55 lakh).

18 SRs/JSRs<sup>11</sup> replied (April 2014 to September 2015) that cases had been sent to the Collector for assessment of correct value of property in sale deeds and an amount of ₹ 96,162 had been recovered in two cases of Bawal and Jind. Three SRs/JSRs<sup>12</sup> replied (October 2012 to March 2014) that cases would be sent to the Collector for decision under Section 47-A of the IS Act.

The matter was reported to Government in April 2015; reply has not received (November 2015).

<sup>9</sup> ₹ 1, 23, 24,614 - ₹ 17,379 = ₹ 1, 23, 07,235 say ₹ 1.23 crore.

<sup>10</sup> SRs: Ambala City, Babain, Bapoli, Bawal, Dharuhera, Gohana, Jind, Kurukshetra, Kosli, Matlauda, Narwana, Panipat, Rewari, Saha, Safidon, Samalkha, Shahabad, Sonipat and Tohana; JSRs: Pillukhera and Uchana.

<sup>11</sup> SRs: Ambala, Babain, Bawal, Dharuhera, Gohana, Jind, Kurukshetra, Kosli, Narwana, Panipat, Rewari, Saha, Samalkha, Safidon, Shahabad and Tohana; JSRs: Pillukhera and Uchana.

<sup>12</sup> SRs: Bapoli, Matlauda and Sonipat.

#### 4.6 Evasion of stamp duty due to undervaluation of immovable property

**Sixty two conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties resulting in evasion of stamp duty of ₹ 68.72 lakh due to undervaluation of immovable properties.**

Section 27 of the 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.

Audit noticed (April 2012 to March 2014) from the records of register of deed writers/agreements executed in JSR/SR office of 22 registering offices<sup>13</sup>, that 62 conveyance deeds were registered between April 2011 and January 2014 on account of sale of immovable properties worth ₹ 14.75 crore on which SD of ₹ 56.28 lakh was levied. Cross verification of these deeds with the agreements executed between the concerned parties between February 2011 and March 2013, showed that the total sale value of agreements worked out to ₹ 46.72 crore on which SD of ₹ 1.25 crore was leviable. Thus, the conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties. Undervaluation of immovable properties in conveyance deeds resulted in evasion of stamp duty of ₹ 68.72 lakh besides penalty.

11 SRs/JSRs<sup>14</sup> replied (December 2012 to September 2015) that cases had been sent to the Collector for assessment of correct value of property in sale deeds. Seven SRs/JSRs<sup>15</sup> stated (April 2012 to June 2014) that cases would be sent to the Collector for decision under Section 47-A of the IS Act. Further progress report on recovery and action taken to levy penalty and replies from the remaining four SRs/JSRs<sup>16</sup> are still awaited (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

<sup>13</sup> Ballabgarh, Bhuna, Ballah, Faridabad, Fatehabad, Gohana, Ganaur, Hodel, Hathin, Jind, Jakhal, Khanpurkalan, Kharkhoda, Matlauda, Nuh, Narwana, Pillukhera, Samalkha, Safidon, Tohana, Uchana and Palwal.

<sup>14</sup> Ballabgarh, Ballah, Faridabad, Ganaur, Gohana, Hodel, Khanpurkalan, Kharkhoda, Matlauda, Samalkha and Uchana.

<sup>15</sup> Bhuna, Jind, Jakhal, Tohana, Narwana, Pillukhera and Safidon.

<sup>16</sup> Fatehabad, Hathin, Nuh and Palwal.



#### 4.7 Irregular exemption of stamp duty

**Irregular exemption of stamp duty to farmers who had purchased land after two years of receipt of compensation for acquired land in 27 cases resulted in non/short levy of SD to the extent of ₹ 17.57 lakh.**

As per Government order issued on January 2011, under the IS Act, the Government exempts the stamp duty (SD) in respect of the 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, for the land acquired by the Government. The remittance will be limited to the compensation amount only and the additional amount involved in the purchase of agricultural land, will be liable to SD as per rules.

Audit noticed (September 2013 to November 2014) from the records of 11 offices<sup>17</sup> of JSRs/SRs, that farmers, whose land was acquired by the Government for public purposes, purchased residential/commercial land valued at ₹ 1.63 crore in 25 cases and agricultural land (after two years of the compensation amount received) valued at ₹ 1.77 crore in two cases between May 2012 and March 2014. Stamp duty was to be levied at the rate of four to seven *per cent* amounting to ₹ 17.75 lakh as the farmers had purchased residential land or agricultural land after two years of receipt of compensation and hence they were not eligible for exemption of SD. The Department had levied SD of ₹ 18,050 only in one case of Narwana. Thus irregular exemption of SD resulted in non/short levy of SD of ₹ 17.57 lakh.

JSR Julana replied (November 2014) that action would be taken as per rules. All other JSRs/SRs<sup>18</sup> stated (December 2013 to May 2015), that cases had been/would be sent to the Collector for decision under Section 47-A of the IS Act. Further progress report on recovery is yet to be received (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

#### 4.8 Undue benefit through reduction in Stamp Duty

**Undue benefit through reduction in SD in contravention of provision for execution of gift deeds in favour of persons other than blood relations, resulted in loss of revenue of ₹ 16.29 lakh to State exchequer in 120 instruments of gift deeds.**

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

<sup>17</sup> SRs/JSRs: Ambala City, Bhuna, Gharaunda, Julana, Nillokheri, Narwana, Naraingarh, Saha, Shehzadpur, Safidon and Uchana.

<sup>18</sup> SRs/JSRs: Ambala City, Bhuna, Gharaunda, Nillokheri, Narwana, Naraingarh, Saha, Shehzadpur, Safidon and Uchana.

Audit noticed (March to August 2014) from the registered documents of gift deeds in five offices<sup>19</sup> of SRs/JSRs for the years 2012-13 and 2013-14, that 120 instruments of gift deeds were executed in favour 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 ₹ 16.29 lakh.

JSR Shahzadpur replied (November 2014) that notices had been issued for recovery. JSR Matlauda and SR Naraingarh stated (March and August 2014) that recovery would be made as per rules. JSR Ambala Cantt and Panipat stated in May and September 2015 that cases had been sent to the Collector for decision under Section 47-A of the IS Act. The reply of the registering authority 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. No further progress report on recovery has been received (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

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<sup>19</sup> SRs: Naraingarh, Panipat; JSRs: Ambala Cantt. Matlauda and Shehzadpur.

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