

***CHAPTER-IV***

***STAMP DUTY AND  
REGISTRATION FEES***

## CHAPTER IV STAMP DUTY AND REGISTRATION FEES

### 4.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899 (IS Act), Registration Act, 1908 and the rules framed thereunder as applicable in Telangana State and are administered at the Government level by the Principal Secretary (Revenue). The Commissioner and Inspector General of Registration and Stamps (CIGR) is the head of the Department, who is empowered with the task of superintendence and administration of registration work. He is assisted by six Deputy Inspectors General (DIG), 22 District Registrars/Asst. IGs (DR/AIG) and 198 Sub-Registrars (SR) respectively.

### 4.2 Internal audit

There is a separate Internal audit wing in the Department to examine the lapses of the registering officers if any, in the cases of undervaluation of properties registered which cause loss of revenue to the State exchequer. Monthly Audit programmes are drawn up and teams consisting of District Registrar (Market Value & Audit) and Sub Registrar (Market Value & Audit) would conduct Audit of Sub Registrars (SRs) and District Registrars (DRs) of the State as per the given programme. An officer in the rank of Deputy Inspector General (Registration & Stamps) would supervise and review the audit procedures.

### 4.3 Results of audit

Test check of records of 72 offices of District Registrars and Sub Registrars conducted during 2014-15, showed non/short levy of stamp duty and registration fees etc. and other irregularities amounting to ₹ 24.66 crore in 360 cases, which fall under the following categories:

**Table 4.1 : Results of audit**

(₹ in crore)			
Sl.No.	Category	No. of cases	Total
1.	Short levy of duties	272	16.53
2.	Misclassification of documents	23	1.88
3.	Undervaluation of properties	35	3.09
4.	Adoption of incorrect rates	17	0.32
5.	Other irregularities	13	2.84
<b>Total</b>		<b>360</b>	<b>24.66</b>

During the year 2014-15, the Department accepted under-assessments and other deficiencies in 68 cases involving ₹ 89.55 lakh. An amount of ₹ 76.25 lakh in 51 cases was realised during the year 2014-15. A few illustrative cases involving ₹ 10.52 crore are mentioned in the succeeding paragraphs.

#### **4.4 Short levy of duty due to undervaluation of properties**

Stamp duty to be levied on a deed covering any transaction of property depends on the market value or consideration whichever is higher. The Market Value Register of the Department of Registration and Stamps gives the market values of different types of properties and structures while the provisions of the Indian Stamp Act specify the rates at which duty is to be levied.

During test check of records of five District Registrars<sup>125</sup> and 10 Sub Registrars<sup>126</sup>, Audit noticed (between August 2014 and March 2015) that while registering 118 sale deeds, seven gift deeds, four Agreement of Sale cum General Power of Attorney deeds, two Partition deeds, one Release deed, one settlement deed and one Development Agreement between April 2012 and March 2014, the registering officers undervalued the properties for various reasons as mentioned in **Annexure I**.

Undervaluation of these properties resulted in short levy of stamp duty, transfer duty and registration fees of ₹ 2.50 crore.

After Audit pointed out these cases, Sub Registrar, Nizamabad (Rural) replied that the stamp duty was levied as per rates prescribed for residential areas in the market value guidelines register. The reply is not acceptable as the property was located in the commercial area, and hence the rates as applicable to commercial areas were to be adopted. The remaining registering officers replied that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June 2015 and July 2015. Their replies have not been received (January 2016).

#### **4.5 Short levy of stamp duty and registration fees due to misclassification of documents**

Schedules I and I-A to the Indian Stamp Act give the rates to be adopted for each type of document. The documents are to be classified as per the clauses contained in it and not according to the title of the deed.

Audit noticed (between May 2011 and January 2015) during test check of records of District Registrar, Rangareddy (West) and 10 Sub Registrars<sup>127</sup> that 15 sale deeds, three mortgage deeds, three partition deeds, two cases each of dissolution of partnership deeds, conveyance deeds, reconveyance of mortgage deed and one Agreement of Sale cum General Power of Attorney were misclassified and lesser stamp duty levied. This resulted in short levy of stamp duty, transfer duty and registration fees amounting to ₹ 1.84 crore as detailed in **Annexure II**.

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<sup>125</sup> DRs- Hyderabad, Hyderabad (South), Karimnagar, Rangareddy (East), Rangareddy (West).

<sup>126</sup> SRs Chevella, Doodhbowli, Golkonda, Ibrahimpatnam, Kukatpally, Narapally, Nizamabad (Rural), Rajendranagar, Uppal and Wanaparthy.

<sup>127</sup> Champapet, Chikkadpalli, Gandipet, Kalwakurthy, Karimnagar (Rural), Kukatpally Siddipet (Urban), Uppal, Vallabhanagar and Vikarabad.

After Audit pointed out these cases, Sub Registrar, Siddipet (Urban) replied (June 2014) that notices would be issued. Sub Registrar, Gandipet replied (November 2014) that the amount would be collected. In the remaining cases, the registering officers replied (between May 2011 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between May and July 2015. Their replies have not been received (January 2016).

#### **4.6 Short levy of stamp duty on amalgamation deeds**

As per Article 20 (d) read with Article 21 of IS Act, in the cases of amalgamation or merger of companies under the order of High Court, stamp duty is to be levied at two *per cent* on the market value of the property which is being transferred. Market value would include the amount of total value of the shares issued or allotted by the transferee company and the amount of the consideration paid for such amalgamation or merger. The value of the share shall be its average price on the day of the instrument.

Audit noticed (January 2015) in two District Registrars<sup>128</sup> that in the cases of two amalgamation deeds, the registering authorities adopted nominal share price as mentioned in the document as the market value instead of the share price quoted on the stock market as on the date of Amalgamation Order issued by the Court. This resulted in undervaluation of properties and subsequent short levy of duties of ₹ 1.19 crore.

After Audit pointed out these cases, the registering authorities replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.7 Short levy of stamp duty and registration fees on lease deeds due to non-inclusion of service tax paid by lessee on lease rentals**

Article 31(a) of Schedule I-A to the IS Act, prescribes the stamp duty to be levied on leases. As per Explanation to the Article *ibid*, if the lessee undertakes to pay any recurring charge on behalf of the lessor including taxes/fees due to the Government, it shall be taken to be part of the rent and duties levied accordingly. Service tax falls under this category.

Audit noticed (between June 2014 and January 2015) during test check of records of offices of two District Registrars<sup>129</sup> and three Sub Registrars<sup>130</sup> that on seven lease deeds registered between November 2011 and November 2013, the registering authorities, while registering the documents, did not consider

<sup>128</sup> Hyderabad (South) and Rangareddy (West).

<sup>129</sup> Hyderabad, Rangareddy (West).

<sup>130</sup> Champapet, Kapra and Malkajgiri.

the service tax component of ₹ 106.36 crore payable by lessees on behalf of the lessors while calculating duties to be paid on lease rentals. This resulted in short levy of stamp duty and registration fees of ₹ 1.15 crore.

After Audit pointed out these cases, the Sub Registrar, Champapet contended (November 2014) that service tax is not part of the lease rent requiring levy of stamp duty. The reply is not correct as per the explanation cited. In the remaining cases, the registering authorities replied (between June 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between May and July 2015. Their replies have not been received (January 2016).

#### **4.8 Short levy of stamp duty on DGPA's due to undervaluation**

Under Article 6(B) of Schedule I-A to IS Act, read with Government Orders<sup>131</sup>, Development Agreements-cum-General Power of Attorney (DGPA) are to be charged with stamp duty at one *per cent* on the higher of the following: (i) amount of sale consideration (ii) market value or (iii) estimated market value for land and complete construction valued as per the schedule of the rates approved by the Commissioner.

Audit noticed (between June 2014 and March 2015) during test check of records of offices of four District Registrars<sup>132</sup> and four Sub Registrars<sup>133</sup> that in 12 out of 16 DGPA's registered between May 2012 and January 2015 for development of the land by building multi-storied residential/commercial complexes, the registering authorities did not consider the complete built up area such as landowners' share of structure, parking, stilt etc for computation of market value of the properties. In two cases, higher rate for the structure as agreed to be paid by the builder to the land owner was not considered for levy of stamp duty. In two other cases, the properties were not valued as per the market value guidelines. Thus, the properties registered were undervalued. This resulted in short levy of stamp duty of ₹ 1.12 crore.

After Audit pointed out these cases, District Registrar, Hyderabad (South) replied that notices would be issued to the parties for collection of duties. The remaining registering authorities replied (between June 2014 and March 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.9 Short levy of stamp duty on development agreement**

As per Article 6(B) of Schedule I-A to the IS Act read with Government Order<sup>134</sup>, stamp duty is to be levied on Development Agreements at

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<sup>131</sup> G.O.Ms.No.1481 Revenue (Regn-I) Department, dated 30 November 2007 and G.O.Ms.No.568 Revenue (Regn-I) Department, dated 01 April 2008.

<sup>132</sup> Rangareddy (East), Rangareddy (West), Hyderabad, Hyderabad (South).

<sup>133</sup> Kukatpally, Peddapalli, Rajendranagar and Saroornagar.

<sup>134</sup> G.O.Ms.No.1481, Revenue (Regn-I) Department, dated 03 December 2007.

five *per cent* on the higher of the following: (i) the amount of sale consideration; (ii) market value of property or (iii) estimated market value for land and complete construction in accordance with schedule of rates.

Audit noticed (January 2015) during test check of records of District Registrar, Rangareddy (West), that in respect of a development agreement registered in November 2012, the registering authority adopted lesser area of construction than the area of construction sanctioned by the Greater Hyderabad Municipal Corporation. This resulted in undervaluation of property and subsequent short levy of stamp duty of ₹ 40.27 lakh.

After Audit pointed this out, the District Registrar, Rangareddy (West) replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.10 Short levy of stamp duty on AGPAs**

As per Article 6(B) of Schedule I-A to IS Act, read with Government Orders<sup>135</sup>, stamp duty to be levied on Agreements of sale coupled with General Power of Attorney (AGPA) is six per cent on consideration or market value of the property, whichever is higher.

Audit noticed (between August 2014 and January 2015) during test check of records of offices of District Registrar, Hyderabad and two SRs<sup>136</sup> that on 112 AGPA documents involving properties worth ₹ 158.70 lakh registered after 20 September 2010, the registering authorities levied stamp duty at the rate of less than six *per cent*. This resulted in short levy of stamp duty of ₹ 14.81 lakh as detailed in **Annexure III**.

After Audit pointed out these cases, the registering authorities replied (between August 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

#### **4.11 Short levy of duties on lease deeds**

As per Article 31(a)(vi) of Schedule I-A to IS Act read with Government Order<sup>137</sup> dated 11 May 2010, (i) if lease period is between five and 10 years, stamp duty is to be levied at the rate of five *per cent* on 1.5 times average annual rent (AAR) and (ii) where the lease period exceeds 30 years, stamp duty should be levied at five *per cent* on the value of the property under lease as declared by the party. Registration fee is to be levied at 0.5 *per cent* on 10 times AAR.

<sup>135</sup> G.O.Ms.No.1178, Revenue (Regn.-I) Department, dated 16 September 2010.

<sup>136</sup> Ibrahimpatnam and Vanasthalipuram.

<sup>137</sup> G.O.Ms.No.408 Rev (Reg-I) Dept, dated 11 May 2010.

Audit noticed (between January 2013 and January 2015) during test check of records of two District Registrars<sup>138</sup> that in two lease deeds registered between April 2008 and April 2012, the registering authorities while registering the documents short levied stamp duty of ₹ 89.24 lakh due to incorrect calculation.

After Audit pointed out these cases, District Registrar, Hyderabad (South) replied that efforts would be made for collection of deficit duties. The remaining registering authorities replied (between January 2013 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

#### **4.12 Loss of revenue due to non-registration of documents to be registered compulsorily**

Section 17 of the Registration Act, 1908 enlists the type of documents which are to be compulsorily registered.

Audit noticed (between August 2014 and March 2015) during test check of records of two District Registrars<sup>139</sup> and Sub Registrars, Marredpally that in two sale deeds, one gift settlement and one DGPA registered between August 2012 and June 2013, there was mention of earlier transactions such as gift, partition, sale and memorandum of compromise etc. which were to be compulsorily registered under Section 17 but were not registered. The registering authorities, while registering the documents, did not consider the earlier transactions which resulted in short levy of stamp duty and registration fees of ₹ 51.53 lakh.

After Audit pointed out these cases, all the registering authorities replied (between August 2014 and March 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.13 Short levy of duties on documents involving distinct matters**

As per Section 5 of IS Act if an instrument relates to several distinct transactions, it shall be charged with an amount of duty equivalent to the sum of duties that would have been levied if each transaction were to be registered as a separate instrument.

In two District Registrars<sup>140</sup> and Sub Registrar, Malkajgiri, Audit noticed (between December 2014 and January 2015) from the recitals of three documents that duties were not levied on various distinct transactions which

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<sup>138</sup> Hyderabad (South) and Rangareddy (West).

<sup>139</sup> Rangareddy (East) and Sangareddy.

<sup>140</sup> Hyderabad (South) and Karimnagar.

resulted in short levy of duties amounting to ₹ 23.47 lakh as detailed in **Annexure IV**.

After Audit pointed out these cases, District Registrar, Hyderabad (South) replied that the document must be read as a whole and as the property was partitioned, there was no release involved. Reply is not tenable as the two of the members have taken cash in lieu of immovable property which was equivalent to release, under Article 40, Schedule I-A of the IS Act. The remaining registering officers replied (between December 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between May and July 2015. Their replies have not been received (January 2016).

#### **4.14 Short levy of duties due to intentional splitting of sale of land abutting highway**

Section 27 of the IS Act requires that an instrument contains details like consideration, market value of the property and all other facts and circumstances affecting the levy of duty on it. Section 64-A of the IS Act provides for recovery of stamp duty short levied.

The CIGR in a circular <sup>141</sup> instructed all Sub Registrars to check undervaluation of property and to plug all loopholes to arrest any leakage of revenue. These instructions were issued in the wake of cases noticed in respect of splitting of the high valued land abutting National Highways by their owners with a view to escape stamp duty.

During test check of records of District Registrar, Rangareddy (East), Audit noticed (March 2015) that a land owner registered two separate DGPA's for the land admeasuring 4300 sq. yards (February 2014) by splitting them into plots of 3600 sq. yards and 700 sq. yards with different market values of ₹ 8000 and ₹ 20000 per sq. yard respectively. The split was made in such a way that the smaller plot carrying the higher market value abutted the National Highway while the bigger plot of lesser market value had no direct access to the road. Similarly, in District Registrar, Rangareddy (West) (January 2015), the owner of two contiguous plots (474.44 and 740.56 sq. yards) sold the plots to the same vendee (November 2012) by adopting two different market values of ₹ 22,000 and ₹ 11,000 per sq. yard respectively.

In all these cases, the registering authorities did not check undervaluation by linking the documents. This resulted in short levy of duties of ₹ 10.43 lakh.

After Audit pointed out the cases, all the registering authorities replied (between April 2014 and March 2015) that the matter would be examined and detailed reply furnished in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

<sup>141</sup> Rc.No.MV2/10472/2008 dated 11 July 2008.



#### **4.15 Short levy of duties due to non-verification of facts**

As per the Rule 7 of AP Revision of Market Value Guidelines Rules, 1998, different values have been fixed for agricultural lands fit for house sites/residential localities. Rule 4 (1)(ii)(a) of the Rules *ibid* provides for different rates for valuation of agricultural land and non-agricultural land for levy of stamp duty and registration fees. Section 64-A of the IS Act provides for recovery of deficit stamp duty, if any.

During test check of records of District Registrar, Karimnagar and two Sub Registrars<sup>142</sup>, Audit noticed (between September 2014 and January 2015) that in the case of two sale deeds and one AGPA executed between May 2013 and July 2013, the registering authorities, while registering the documents, did not verify the status and category of the land from the Land Revenue authorities and adopted agricultural rates for lands which had already been converted for non-agricultural purposes. In one of the above cases, registered, in the office of SR, Jagtial, the property was already on lease for running a Junior college by the time it was sold. Therefore, the property sold was to be valued at the rate applicable to agricultural land fit for house sites. However, registering authority had adopted agricultural rate instead. The properties were thus undervalued resulting in short levy of stamp duty and registration fees of ₹ 9.67 lakh.

After Audit pointed out these cases, Sub Registrar, Jagtial stated (September 2014) that it was not the duty of the registering officer to verify the previous registrations and that at the time of registration of document, vendor produced all evidence such as pattadar pass book, title deed, webland pahani<sup>143</sup> etc. Sub Registrar contended therefore that the land was agricultural land. The reply is not acceptable as the lands had already been converted or the landowners had obtained permission for using the land for non-agricultural purposes. The provisions of Section 64-A of the IS Act can be invoked by the registering officers to collect the deficit stamp duty. In the remaining two cases registering officers replied (between September 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

#### **4.16 Short levy of duty on partition deeds due to omission of joint share**

As per Article 40 of Schedule I-A to IS Act in case of partition among family members, stamp duty should be levied at one *per cent* on the amount or the market value of the property partitioned after exempting the major share.

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<sup>142</sup> Jagtial and Kalwakurthy.

<sup>143</sup> Land Records extracted from the online land records system called WEBLAND accessible through <http://webland.telangana.gov.in>.

Further, as per the Standing Orders<sup>144</sup> properties set apart for common enjoyment have to be treated as one distinct share.

Audit noticed (between November 2014 and January 2015) during test check of records of District Registrar, Rangareddy (West) and two Sub Registrars<sup>145</sup> that in three partition deeds registered between August 2013 and March 2014, the registering authorities while registering the documents did not consider the un-partitioned property for common use before arriving at the value of the properties partitioned for levying duties. This should have been treated as one of the shares as per the Standing Orders. Not doing so resulted in short levy of stamp duty and registration fees of ₹ 9.66 lakh.

After Audit pointed out these cases, all the registering authorities replied (between November 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.17 Short remittance of duties on sale deeds**

According to Article 47-A of Schedule I-A to the IS Act, instruments of sale are to be charged with stamp duty at five *per cent*<sup>146</sup> on the amount set forth in the instrument or the market value of the property, whichever is higher. Further, transfer duty is to be levied at two *per cent* on the above value as per the provisions of various Acts of local bodies.

Audit noticed (January 2015) during test check of records of District Registrar, Rangareddy (West) that, the registering authority while registering two sale deeds between March and April 2013 levied and collected duties amounting to ₹ 9.60 lakh. Cross verification of the challans remitted into the bank with bank statements however revealed that ₹ 0.69 lakh only was remitted into the Government account. This short remittance resulted in loss of revenue of ₹ 8.91 lakh to Government.

After Audit pointed out these cases, the District Registrar, Rangareddy (West) replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

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<sup>144</sup> SO 405(g) of Andhra Pradesh Registration Manual Part-II, read with Board's proceedings No.L.Dis.W3/3335/1960, dated 24 November 1960 & L.Dis.No.W/7761/61, dated 19 March 1962, L.Dis.No.7354/61, dated 12 February 1962.

<sup>145</sup> Ghatakesar and Rajendranagar.

<sup>146</sup> This rate came into effect from 01 August 2010 vide G.O.Ms.No.719 Revenue (Registration-I) Department, dated 30 July 2010. Previous rate was seven *per cent* in Corporations/Special/Selection Grade Municipalities and six *per cent* in other areas.

#### **4.18 Short levy of stamp duty on dissolution of partnership firm**

As per Article 41-C(a) of Schedule IA to the IS Act read with Government Order<sup>147</sup>, stamp duty on dissolution of partnership firm is to be charged at three *per cent* on the market value of the property distributed to the partners.

Audit noticed (January 2015) during test check of records of District Registrar, Rangareddy (West), that in the case of an instrument of dissolution of partnership firm, registered in February 2014, the registering authority did not consider the total value of property of the firm for computation of stamp duty. This resulted in short levy of stamp duty of ₹ 8.49 lakh.

After Audit pointed out the case, the District Registrar, Rangareddy (West) replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in May 2015. Their reply has not been received (January 2016).

#### **4.19 Short levy of registration fee**

As per Government Order<sup>148</sup>, registration fees is to be levied at the rate of 0.5 *per cent* on all gift deeds in favour of local bodies and on Agreements of sale of immovable properties/ GPAs with sale clause subject to a maximum of ₹ 10,000 and ₹ 20,000 respectively. Registration fee is to be charged on lease deeds at the rate of 0.1 *per cent* on the value taken for charging stamp duty.

Audit noticed (January and February 2015) during test check of records of offices of two District Registrars<sup>149</sup> and two Sub Registrars<sup>150</sup> that in six cases each of General Power of Attorneys, sale agreements, lease deeds and gift deeds in favour of local bodies registered after August 2013, the registering authorities collected registration fee at pre-revised rates. This resulted in short levy of registration fee of ₹ 5.02 lakh.

After Audit pointed out these cases, District Registrar, Hyderabad replied that out of ₹ 0.95 lakh, an amount of ₹ 0.68 lakh was collected in one case. Other registering authorities replied that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

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<sup>147</sup> G.O.Ms.No.584 Revenue (Registration-I) Department, dated 30 November 2013.

<sup>148</sup> G.O.Ms.No.463, Revenue (Registration-I) Department, dated 17 August 2013.

<sup>149</sup> Hyderabad and Rangareddy (West).

<sup>150</sup> Kapra and Saroornagar.