

CHAPTER – VI
STAMPS AND
REGISTRATION FEES

Chapter-VI Stamps and Registration Fees

6.1 Tax Administration

Department of Registration and Stamps is under the Commercial Tax Department headed by the Principal Secretary. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. Two Joint Inspectors General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts officer (AO) are deployed at the headquarters. There are 51 Registration Districts notified in the State. There is one SDR in 15 Registration districts, 36 DRs in the remaining districts and 234 Sub Registrar (SR) offices in the State. The SR office is the place where all the registration works take place and having the maximum interface with the common public. Collector is the head of Registration administration at the district level. The role of DR is to guide SRs in their day-to-day function, pass orders in cases of valuation of stamps required, penalty, refund and inspection of SR and public offices where Stamp duty is involved.

6.2 Results of audit

We test checked the records of 88¹ units out of 233 units of the Department during the year 2014-15. A total of 16,31,365 deeds were registered in these units out of which 1,63,137 deeds were audited, in which, observations on non-realisation of revenue due to inordinate delay in finalisation of cases, short realisation of Stamp duty and Registration fees, incorrect exemption and other observations involving ₹ 110.79 crore in 2,024 cases were made which fall under the following categories as mentioned in the **Table-6.1**.

Table - 6.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to inordinate delay in finalisation of cases	677	17.31
2.	Short realisation of Stamp duty and Registration fees due to undervaluation of properties/incorrect exemption	211	5.68
3.	Incorrect exemption from payment of Stamp duty and Registration fees	26	2.52
4.	Loss of revenue due to misclassification of instruments	105	14.32
5.	Other observations	1,005	70.96
Total		2,024	110.79

The Department accepted underassessment and other deficiencies of ₹ 17.82 crore in 873 cases, which were pointed out in audit during the year 2014-15.

¹ One office of Inspector General, Registration, Four District Registrar's offices and 83 Sub registrar offices.

An amount of ₹ 22 lakh was realised in 54 cases by the Department during the year 2014-15.

A few illustrative cases involving ₹ 7.99 crore are discussed in the following paragraphs:

6.3 Delay in disposal of cases referred by Sub Registrars (SRs)

Cases referred by Sub Registrar between May 2010 and March 2014 to the Collector of Stamps (District Registrar) for determination of market value of properties had not been finalised though the stipulated period of three months for disposal of referred cases had lapsed. This resulted in non-realisation of Stamp duty and Registration fees of ₹ 6.33 crore.

We test checked the records of District Registrar office Gwalior and 12 Sub Registrar offices² (between March 2014 and March 2015) and observed that 1,534 cases were referred (between May 2010 and March 2014) by Sub registrars in accordance with the provisions of Section 47-A of Indian Stamp Act, 1899 to the Collector of Stamps, who had not finalised these cases in stipulated period.

In these cases, the delay ranged between three and thirty six months beyond the stipulated period of three months for finalisation of referred cases in contravention of departmental instructions of July 2004 which stipulated that the Collector of stamps shall determine the correct market value of these referred cases in maximum three months period. This inordinate delay resulted in non-realisation of Stamp duty and Registration fees of ₹ 6.33 crore.

After the cases were pointed out, the respective SRs stated (between March 2014 and March 2015) that Collector of stamps would be requested for early disposal of cases. District Registrar, Gwalior stated (January 2015) that referred cases were being finalised, while District Registrar, Burhanpur stated that in one case ₹ 14,000 have been recovered while in remaining cases, RRC has been issued to recover the amount.

The matter was reported to the Inspector General, Registration, and the Government (June 2015); their replies have not been received (November 2015).

6.4 Incorrect determination of market value

In 27 instruments, though the market value of the property was higher as per guidelines for the respective year, the SRs did not refer these instruments to the Collector of Stamps for determination of the correct value of the properties. This resulted in short levy of Stamp duty and Registration fees of ₹ 51.56 lakh.

We test checked (between April 2014 and February 2015) 6,105 cases out of 61,049 cases registered between April 2013 and March 2014 in six Sub

² Ashoknagar, Badwaha(Khargone), Betul, Burhanpur, Chhatarpur, Dewas, Jaora (Ratlam), Karera (Shivpuri), Khandwa, Mandsaur, Nagod (Satna) and Ratlam

registrar offices³ and observed in 27 instruments, that the market value determined on the basis of market value guidelines for the respective year, was ₹ 18.09 crore against the registered value of ₹ 11.89 crore.

The SRs did not verify the market value of the property declared in the instruments with market value guidelines of that year and resultant undervaluation of stamps and therefore did not refer these instruments to the Collector of Stamps for determination of the correct value of the properties and duty leviable thereon.

Section 47-A of the Indian Stamp Act, 1899, stipulated that if market value of any property set forth was less than the market value shown in the market value guidelines, instruments of these properties should be referred to the Collector of Stamps for determination of the correct market value and duty leviable thereon. Non observance of this provision resulted in short levy of Stamp duty and Registration fees of ₹ 51.56 lakh (**Appendix-XIX**).

After we pointed out the cases, the Sub Registrars stated (between March 2014 and March 2015) that all the cases would be referred to Collector of Stamps for necessary action.

The matter was reported to the Inspector General, Registration and Government (June 2015); their replies have not been received (November 2015).

6.5 Short levy of Stamp duty and Registration fees on lease deed

The registration authorities levied only ₹ 2.33 crore as stamp duty and ₹ 1.65 crore as registration fees against leviable stamp duty of ₹ 2.55 crore and registration fee of ₹ 1.91 crore respectively on 17 documents of lease deeds. This resulted in short realisation of stamp duty and registration fees of ₹ 21.89 lakh and ₹ 26.10 lakh respectively.

We test checked (between March and September 2014) the records of four Sub Registrar offices⁴ and found that in 17 lease deeds test checked out of 120 lease deeds executed and registered (between May 2010 and March 2014), stamp duty of ₹ 2.55 crore and registration fees of ₹ 1.91 crore was payable as per rates of stamp duty on lease deeds. The stamp duty should have been levied as per rates provided in Article 33 of Schedule 1-A of the Indian Stamp Act, 1899, and registration fee should have been levied at three fourths of the stamp duty as per Article II of the Registration Act, 1908.

However, the registering authorities levied only ₹ 2.33 crore as stamp duty and ₹ 1.65 crore as registration fees as sub registrars did not apply different rates of stamp duty for different periods of lease mentioned in the lease deeds or did not consider the clause related to revision of rates of lease rent at periodic intervals as stated in the lease deeds. This resulted in short realisation of stamp duty and registration fees of ₹ 21.89 lakh and ₹ 26.10 lakh respectively (**Appendix-XX**).

³ Anuppur, Barwaha, Chhatarpur, Gadarpur, Khargone, Kotma

⁴ Anuppur, Gadarpur(Narsinghpur), Sukhalia(Indore-III) and Umariya

After the cases were pointed out (between March and September 2014), Sub Registrar Sukhalia (Indore III) replied (May 2014) that in one case (Document no. 5887)(4) Dt. 30 March 2014, the comparative study was done between market value rate and lease amount and duty was imposed on higher value. The reply is not acceptable because as per rule, 75 per cent of stamp duty was to be levied as Registration fees, which was not levied on the document while SD was also short levied by ₹ 24,361. In other cases of Sub Registrar Sukhalia (Indore III), Anuppur, Gadarwara (Narsinghpur) and Umaria, it was stated (March and September 2014) that matter would be forwarded to District Collector of Stamps for further action.

The matter was reported to the Inspector General, Registration, and the Government (June 2015); their replies have not been received (November 2015).

6.6 Short levy of stamp duty and registration fee on instruments of power of attorney

In 17 instruments of Power of attorney (POA), the instruments were treated as POA to sell without consideration for a period not exceeding one year though, the power to sell, gift, exchange or permanent alienation of immovable property was given without explicitly mentioning that the power is given for a period not exceeding one year, resulting in short levy of stamp duty and registration fees of ₹ 28.27 lakh.

We test checked 156 POAs out of 623 POAs registered in four Sub Registrar offices⁵ (between March 2014 and February 2015) and found that in 17 instruments of POA registered (between April 2006 and March 2014), the power to sell, gift, exchange or permanent alienation of immovable property was given, however, it was not explicitly mentioned in the POA that the power is given for a period not exceeding one year. As the POA did not purport to be for a definite term, duty should have been levied on the market value of the property.

In these cases, the instruments were treated as POA to sell without consideration for a period not exceeding one year and stamp duty ranging between ₹ 100 to ₹ 1,000 was levied in these cases by respective Sub registrars.

Although, Article 45 (d) of schedule 1-A of the Indian Stamp Act, 1899, stipulated that only when Power of attorney is given without consideration, authorising the agent to dispose of immovable property situated in Madhya Pradesh with or without consideration for a period exceeding one year or when it is irrevocable or when it does not purport to be for any definite term, the same duty as a conveyance on the market value of the property is chargeable on such instruments. Non-observance of this resulted in short levy of stamp duty and registration fee of ₹ 28.27 lakh (**Appendix-XXI**).

After the cases were pointed out (between March 2014 and February 2015), Sub Registrar Rajgarh (December 2014), Kotma (Anuppur) and Umaria

⁵ Khandwa, Kotma(Anuppur), Rajgarh and Umaria

(March 2014) stated that cases would be referred to Collector of stamps. Sub Registrar Khandwa (February 2015) stated that amendment would be done.

The matter was reported to the Inspector General, Registration and the Government (June 2015); their replies have not been received (November 2015).

6.7 Non-Registration of Mortgage deeds

Plots in lieu of security for development work to be carried out by the coloniser, were not mortgaged on which, the estimated development expenditure was calculated at ₹ 15.10 crore based on rates of Madhya Pradesh Housing Board applicable for that area/zone. This resulted in non-levy of Stamp duty and Registration fees amounting to ₹ 27.18 lakh on the cost of estimated development expenditure.

Article 38(b) of Schedule 1-A to Indian Stamp Act, 1899 read with Government Notification (September 2007) and Section 75 of the Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993 provides for levy of duty on a mortgage deed (without possession) at the rate of one *per cent* of the amount secured by such deed. Further, under Rule 12 of Madhya Pradesh *Nagar Palika Niyam* and Madhya Pradesh *Gram Panchayat Niyam*, the developer has to mortgage 25 *per cent* of the land/plot in favour of local authorities as a security against the expenditure on development of the land. Section 17 of the Registration Act, 1908, provides that registration of such mortgage deed is compulsory.

District Registrars should carry out inspections of the public offices as per Departmental instruction No. 439 (part of Registration Act) to ensure that proper stamp duty is being paid on such documents. We test checked the records of 73 lease contractors in three Sub Registrar offices⁶ (between March 2014 and March 2015) and found that as per rule *ibid*, 25 *per cent* plots in lieu of security for development were not mortgaged. District Registrars also did not carry out inspections of these Departments to see if the deeds were properly executed and duly stamped. The estimated development expenditure of the land was ₹ 15.10 crore based on rates provided by Madhya Pradesh Housing Board. Not mortgaging the plots under the required provisions resulted in non-levy of Stamp duty and Registration fees amounting to ₹ 27.18 lakh. **(Appendix-XXII)**

After the cases were pointed out, the SR Badwaha (Khargone) stated in March 2015 that one case was already sent to Collector of stamps and other case would be referred to Collector of stamps. SR Gotegaon (Narsinghpur) stated (March 2014) that the matter would be brought to the notice of Sub-Divisional Officer (Revenue) and action shall be taken accordingly. SR Satna stated (June 2014) that no action was pending in the office of Sub-Registrar. District Registrar, Satna informed that letter would be written to Commissioner, Nagar Nigam for registration of the mortgage deed.

⁶ Badwaha(Khargone), Gotegaon (Narsinghpur) and Satna

The matter was reported to the Inspector General, Registration and the Government (June 2015), their replies have not been received (November 2015).

6.8 Irregular exemption of Stamp Duty

The exemption of payment of duty was given in exchange of agricultural land, market value of which was not approximately equal. This resulted in loss of revenue of ₹ 11.08 lakh.

We test checked the records of two Sub Registrar offices⁷ (between May and September 2014) and found that out of seven instruments of exchange of property registered and test checked in audit (between March 2012 and March 2014), in six cases exemption of payment of duty was given although market value of the agricultural lands exchanged were not approximately equal. Difference between market value of agriculture land varied between ₹ 4.81 lakh and ₹ 21.32 lakh.

This was in contravention of M.P. Government notification (November 1996), according to which, if the approximate market value of the land under exchange is not equal then stamp duty shall be levied on the property having greater market value treating the transaction as conveyance as per Article 29 of Schedule 1-A of Indian Stamps Act, 1899. In these cases approximate market value of the land under exchange was not equal; therefore stamp duty on land having higher market value should have been levied. This resulted in loss of revenue of ₹ 11.08 lakh (**Appendix-XXIII**).

After the cases were pointed out, both Sub Registrars stated (between May and September 2014) that all cases would be referred to Collector of Stamps.

The matter was reported to the Inspector General, Registration and Government (June 2015); their replies have not been received (November 2015).

6.9 Internal Audit

The Internal audit is a vital arm of internal control mechanism and is generally defined as the control of all controls. It helps the organisation to assure that the prescribed systems are functioning reasonably well.

During the year 2014-15, the Internal Audit Wing of the Department planned the audit of 61 Sub registrar offices and 22 District Registrar offices. Out of this, the Department audited only 21 Sub registrar offices while none of the District Registrar's offices was audited. The Department conducted the internal audit of only 25 per cent of the units it had planned. In internal audit, issues of non-reconciliation of *tauji* register, stamps not franked by franking machine, registration of documents with insufficient stamps and registration with misclassification in documents were observed.

⁷ Depalpur (Indore) and Gadarwara (Narsinghpur)