

Chapter-IV
Stamp Duty

CHAPTER-IV STAMP DUTY

4.1 Tax administration

The State Government exercises control over the registration of instruments through the Additional Chief Secretary (Revenue) at Government level. The Inspector General of Registration (IGR) is the Head of the Revenue Department who is assisted by Deputy Commissioners (Collectors) and Sub-Registrars (SRs) respectively. He is empowered with the task of superintendence and administration of registration work. For levy and collection of Stamp duty and Registration Fee, State has 12 Collectors and 117 *Tehsildars/Naib-Tehsildars* acting as the Registrars and SRs respectively.

4.2 Results of audit

In 2016-17, test check of records of 30 units of the Revenue Department showed incorrect determination of market value of property and irregular exemption on housing loan, non/short levy of stamp duty and registration fee, non/short recovery of lease money and other irregularities amounting to ₹3.93 crore in 144 cases as depicted below:

Table-4.1 Results of Audit

Sr. No.	Categories	₹ in crore	
		Number of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	33	1.75
2.	Non/short levy of stamp duty and registration fee	37	1.26
3.	Non/short recovery of lease money	02	0.02
4.	Other irregularities	72	0.90
Total		144	3.93

During the year 2016-17, the Department had accepted under-assessments and other deficiencies with revenue implication of ₹45.68 lakh in 100 cases, out of which an amount of ₹38.13 lakh was realised in 100 cases of which ₹37.04 lakh in 94 cases relates to earlier years and ₹1.09 lakh in six cases to the years 2015 and 2016.

Significant cases involving ₹2.18 crore are discussed in the following paragraphs.

4.3 Short recovery of Stamp Duty and Registration Fee on built up structures

Adoption of incorrect market rates for built up structure of residential units resulted in short realisation of Stamp Duty and Registration Fee of ₹92.03 lakh.

Rule 4(c) of the Himachal Pradesh Stamp (Prevention of Under-valuation of Instruments) Amendment Rules, 1992, as amended vide notification dated 26th June 2013, stipulates that certain factors shall be taken into consideration for fixing the rates of valuation of residential/non-residential building such as (i) classification of the buildings into *Pucca, Semi Pucca and Kutcha*, (ii) area in which buildings are located, (iii) latest plinth area rates notified by the Himachal Pradesh Public Works Department (HPPWD), (iv) premium for annual increase and (v) land area occupied by the structure. The Stamp Duty and Registration Fee will be charged as per the Revenue Department's notifications dated 12th January 2012 and 27th January 2014. The Deputy Commissioners (DCs) of the Districts shall finalise the land rates for calculating stamp duty and registration fee for any transaction. The registering officer is also required to verify the consideration amount shown in the sale deeds with reference to the rates fixed by the DC for the purpose.

Audit scrutiny of records of 13 Sub-Registrars (SRs)¹ revealed that 163 documents of sale deeds were registered between January 2014 and December 2015 for a consideration of ₹13.09 crore on the basis of valuation of properties prepared by private architects which was not based on the notification rates of built up structures. The actual value of property including value of built up structure (₹12.39 crore) worked out to ₹25.48 crore on the basis of plinth area rates fixed by the HPPWD in June 2013. While registering these sale deeds, the SRs did not verify the consideration amount with reference to the plinth area rates for the built up structure resulting in short recovery of Stamp Duty and Registration Fee of ₹92.03 lakh.

The matter was reported to the Department and the Government between June 2016 and March 2017; the Department intimated (between August 2017 and October 2017) that six SRs² had recovered an amount of ₹10.63 lakh and information regarding recovery was being collected from the remaining SRs. The reply of the Government was awaited (December 2017).

¹ Banjar: three cases: ₹0.51 lakh, Bilaspur: 15 cases: ₹7.34 lakh, Chuwari: 19 cases: ₹2.48 lakh, Haroli: four cases: ₹1.83 lakh, Kullu: 12 cases: ₹6.55 lakh, Nagrota Bagwan: six cases: ₹0.86 lakh, Nalagarh: 21 cases: ₹22.65 lakh, Palampur: seven cases: ₹0.76 lakh, Shimla: 21 cases: ₹13.14 lakh, Solan: 25 cases: ₹26.04 lakh, Sunder Nagar: 10 cases: ₹1.41 lakh, Sunni: six cases: ₹3.49 lakh and Una: 14 cases: ₹4.97 lakh

² Banjar: ₹0.51 lakh, Kullu: ₹3.21 lakh, Nagrota Bagwan: ₹0.60 lakh, Palampur: ₹0.58 lakh, Sunder Nagar: ₹3.13 lakh and Sunni: ₹2.60 lakh

4.4 Short determination of market value of properties

Incorrect valuation on the basis of affidavits regarding distance of the land from road filed by purchasers resulted in short realisation of Stamp Duty and Registration Fee of ₹37.76 lakh. In addition, penalty of ₹18.88 lakh was also leviable.

The valuation of land for the purpose of registration of sale deeds, both in the case of Rural and Urban areas, is made on the basis of classification of land and in accordance with the Himachal Pradesh Land Record Manual, 1992. A notification issued in January 2012 categorized classification of land in Rural areas for valuation purpose into three categories viz. (i) Property in which any point of the concerned *Khasra Number* (Kh. No.) or part thereof abuts any road (ii) Property not falling in (i) above in which any point of the concerned Kh. No. or part thereof is land up to a distance of 50 metres from the road, and (iii) property not falling in (i) above, in which no point of the concerned Kh. No. or part thereof is within 50 metres from such road. In case of land falling in urban areas, the limit of 25 metres is applicable as against 50 metres in Rural areas. The roads are categorised as National Highway (NH), State Highway (SH) and Other Road (OR). The purchaser will be required to file affidavit stating the distance of the relevant land or holding from a NH, SH or OR which will be the basis for the rate to be used for Stamp Duty calculation. If the affidavit of purchaser found false, penalty upto 50 *per cent* of the applicable Stamp Duty/Registration Fee may be levied and recovered.

Audit scrutiny of the records of seven SRs³ revealed that 30 documents were registered between 2014 and 2015 for a consideration amount of ₹11.46 crore against which Stamp Duty of ₹63.25 lakh and Registration Fee of ₹23.23 lakh was levied on the basis of affidavits filed by the purchasers regarding distance of the properties from different categories of roads. The land was classified by measuring incorrect distance of land or holding from NH, SH or OR on the basis of the affidavits filed by the purchasers. This resulted in adopting valuation of ₹11.46 crore as against the actual valuation of ₹16.90 crore based on the actual distance in each case and short realization of Stamp Duty and Registration Fee of ₹37.76 lakh⁴. In addition, the penalty of ₹18.88 lakh at the rate of 50 *per cent* of Stamp Duty/Registration Fee was also leviable.

The matter was reported to the Department and the Government between December 2016 and February 2017; the Department intimated (August 2017) that SR Nagrota Bagwan had recovered an amount of ₹0.66 lakh and information regarding recovery was being collected from the remaining SRs. The reply of the Government was awaited (December 2017).

³ SRs Indora, Haroli, Kullu, Nagrota Bagwan, Nalagarh, Palampur and Shimla (R)

⁴ SRs Indora: six cases: ₹9.91 lakh, Haroli: one case: ₹1.61 lakh, Kullu: two cases: ₹5.00 lakh, Nagrota Bagwan: six cases: ₹0.66 lakh, Nalagarh: five cases: ₹7.99 lakh, Palampur: six cases: ₹1.14 lakh and Shimla (R): four cases: ₹11.45 lakh

4.5 Short recovery of Stamp Duty and Registration fee on sale deeds of industrial units

The exemption of 50 per cent of stamp duty on sale deeds of industrial units without verification of setting up of new industrial enterprises resulted in short levy of Stamp duty and Registration fee of ₹60.68 lakh.

Rule 4(c) of the Himachal Pradesh Stamp (Prevention of Under-valuation of Instruments) Amendment Rules, 1992, as amended vide notification dated 26th June 2013, stipulates that certain factors shall be taken into consideration for fixing the rates of valuation of residential/non-residential building such as (i) classification of the buildings into *Pucca, Semi Pucca and Kutcha*, (ii) area in which buildings are located, (iii) latest plinth area rates notified by the Himachal Pradesh Public Works Department, (iv) premium for annual increase and (v) land area occupied by the structure. The Deputy Commissioners of the Districts shall finalise the rates for calculating stamp duty and registration fee for any transaction. The registering officer is also required to verify the consideration amount shown in the sale deeds with reference to the rates fixed by the DC for the purpose. The Stamp Duty and Registration Fee will be charged as per the Revenue Department's notifications dated 12th January 2012 and 27th January 2014.

The Government of Himachal Pradesh vide notification dated 13th August 2014 exempted 50 *per cent* Stamp Duty from the date of notification on execution of sale deeds for setting up new industrial units in the State, which commenced/commences production on or from the date of this notification, whichever is later. This will not include any industrial unit, which is formed as a result of re-establishment, mere change of ownership, change in constitution, restructuring or revival of an existing industrial unit.

Audit scrutiny of records of SR Nahan for the year 2014 and 2015 revealed that three documents of sale deed of existing industrial units were registered between April 2015 and July 2015, for a consideration amount of ₹4.85 crore. As such these units were not eligible for exemption from payment of 50 *per cent* of stamp duty, which resulted in short levy of stamp duty of ₹48.48 lakh. Further, these three sale deeds of industrial units were registered for a consideration amount of ₹4.85 crore based on incorrect rates of built up structure and value of land as against the actual value of property of ₹10.95 crore on the basis of applicable rates of land/plinth areas. This resulted in short levy of Registrations fee of ₹12.20 lakh.

Thus, Stamp duty and Registration fee was short levied by ₹60.68 lakh on three sale deeds of industrial units.

The matter was reported to the Department and the Government between December 2016 and February 2017; the Department intimated (August 2017) that information in this regard was being collected from the SR. The reply of the Government was awaited (December 2017).

4.6 Application of incorrect rates of Stamp Duty

Application of incorrect rates of Stamp Duty in sale deeds resulted in short realization of Stamp Duty of ₹28.00 lakh in 314 cases.

The Revenue Department vide notification dated 27th January 2014 revised the rates of Stamp Duty on sales deeds from five to six *per cent* where such instruments were registered in favour of other persons⁵ under Articles 23, 33 and 40 of Schedule I-A of the Indian Stamp Act, 1899.

Audit scrutiny of records of 11 SRs⁶ revealed that 314 documents were registered between February 2014 and November 2015 for a consideration amount of ₹27.58 crore and the SRs levied Stamp Duty of ₹1.38 crore on the basis of old rates against the actual leviable stamp duty of ₹1.66 crore on the basis of revised rates notified in January 2014. This resulted in short realisation of Stamp Duty of ₹28.00 lakh.

The matter was reported to the Department and the Government between December 2016 and February 2017; the Department intimated (September 2017) that five SRs⁷ had recovered an amount of ₹4.70 lakh and information regarding recovery was being collected from the remaining SRs. The reply of the Government was awaited (December 2017).

⁵ Other than women i.e. men

⁶ SRs Bilaspur: 15 cases: ₹0.70 lakh, Chopal: 4 cases: ₹0.60 lakh, Haroli: 28 cases: ₹4.90 lakh, Indora: 30 cases: ₹2.03 lakh, Kangra: 14 cases: ₹1.10 lakh, Kullu: 24 cases: ₹1.72 lakh, Nagrota Bagwan: 18 cases: ₹0.50 lakh, Nalagarh: 39 cases: ₹3.01 lakh, Palampur: 60 cases: ₹3.20 lakh, Shimla (R): 63 cases: ₹7.94 lakh and Sunder Nagar: 19 cases: ₹2.30 lakh

⁷ SRs Chopal: ₹0.51 lakh, Kullu: ₹0.50 lakh, Nagrota Bagwan: ₹0.22 lakh, Palampur: ₹2.33 lakh and Sunder Nagar: ₹1.14 lakh

