



Chapter-IV
Stamp Duty and
Registration Fee

Chapter-IV Stamp Duty and Registration Fee

4.1 Tax Administration

Receipts from Stamp Duty and Registration Fee are regulated by the Indian Stamp Act (IS Act), 1899, the Karnataka Stamp Act (KS Act), 1957, the Registration Act, 1908 and the Rules made thereunder. In Karnataka, the levy and collection of Stamp Duty and Registration Fee is administered at the Government level by the Principal Secretary, Revenue Department. The Department of Stamps and Registration under the administrative control of the Revenue Department regulates the levy and collection of Stamp Duty and Registration Fee.

4.2 Internal Audit

The Department stated that though an Internal Audit Cell was constituted in December 2012, it was still not functional (November 2017). Reasons for non-functioning of Internal Audit cell were not furnished by the Department.

4.3 Results of Audit

In 2016-17, test check of records of 94 units of the Department of Stamps and Registration revealed non/short levy of Stamp Duty, Registration Fee due to under-valuation of properties, suppression of facts and other irregularities amounting to ₹ 34.85 crore raised through 194 paragraphs, which fall under the following categories as given in **Table 4.1**.

Table 4.1
Results of Audit

Sl No.	Category	No. of paragraphs	(₹ in crore)
			Amount
1.	Short levy of Stamp Duty and Registration Fee due to under valuation of properties	94	26.01
2.	Short levy of Stamp Duty and Registration Fee due to suppression of facts	46	3.01
3.	Non-levy/collection of interest on belated realisation of Government money	08	0.26
4.	Other irregularities	46	5.57
	Total	194	34.85

During the course of the year, the Department accepted short/non-levy of ₹ 0.77 crore in 27 paragraphs. In 40 paragraphs, an amount of ₹ 0.69 crore was also recovered as pointed out during earlier years.

A few illustrative cases of non/short realisation of Stamp Duty and Registration Fee involving ₹ 20.36 crore are discussed in the following paragraphs.

4.4 Loss of Stamp Duty and Registration Fee

According to Section 45-B (1) of the KS Act, 1957, the State Government shall, by notification, constitute a Central Valuation Committee (CVC) under the Chairmanship of the Inspector General of Registration and Commissioner for Stamps, for estimation, publication and revision of market value guidelines of

property in any area in the State. Sub-Section (2) of the Section 45-B states that the Central Valuation Committee is the final authority for the formulation of policy, methodology and administration of the market value guidelines in the State.

Rule 8(2)(a) of the Karnataka Stamp (Constitution of Central Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2003, states that separate uniform guidelines may be evolved for the calculation of the rates for the buildings of different kinds, lands converted for non-agricultural use or industrial use as applicable to all the sub-districts and appended to the market value guidelines so approved and published. Special Instruction 11 of the CVC Guideline Values stipulates that if no specific rate is prescribed in the guideline for new layout, multi-storied buildings, villas, row houses, etc. then those cases are to be referred to CVC for fixation of market value.

During test check of records in the office of the Sub-Registrar (SR), Shivajinagar in January 2017, Audit noticed that 135 sale deeds were registered in the years 2014-15 and 2015-16 whereby commercial blocks/apartments in the Prestige Tech Park-III were sold by M/s.Valdel Xtent Outsourcing Solutions Private Limited (land owner) and M/s. Prestige Estates Projects Limited (Builder) to various customers. Prestige Tech Park-III is constructed on land measuring 8-07 acres situated in Survey Nos. 110/1, 110/2 and 110/3 of Amane Bellandur Khane Village, Varthur Hobli, Bengaluru East Taluk. On verification of the sale deeds registered, Audit noticed that no specific rates were prescribed in the CVC guidelines for the aforesaid Prestige Tech Park-III and the market value adopted was based on general rate fixed for Amane Bellandur Khane Village which approximately worked out to ₹ 3,000/- per square foot for commercial apartments¹.

Audit found that there were projects named Prestige Tech Park I and Prestige Tech Park II in the same Hobli and the above mentioned Prestige Tech Park-III was adjoining to the Prestige Tech Parks I and II. As per the recitals of the documents registered as Prestige Tech Park III, all the three Tech Parks would be maintained as a single campus with multiple blocks of building commonly connected with internal driveways, entry and exit points, etc. Separate guideline values were fixed for Prestige Tech Parks I and II at ₹ 6,200/- and ₹ 6,000/- per square foot respectively.

Audit noticed that Varthur Hobli had 14 Tech Parks including Prestige Tech Parks I and II with specific market values stipulated against each Tech Park and the lowest rate among the 14 Tech Parks was ₹ 5,900/- per square foot. Absence of separate value for Prestige Tech Park III should have been referred to the CVC as required under Special Instruction 11 of CVC guidelines for drawing up a value comparable to the rates of Tech Parks I and II. However, SR, Shivajinagara failed to refer the matter to CVC leading to non-stipulation of specific rate for Tech Park III. Thus, non-stipulation of specific rate resulted in

¹ As per Special Instruction 7 of the CVC guideline market value, the market value for commercial apartments is to be arrived at by enhancing the rates by 30 *per cent* as fixed for residential apartment.

loss of Stamp Duty and Registration Fee to the Government Exchequer by ₹ 17.25 crore².

Audit brought these cases to the notice of the Inspector General of Registration and Commissioner of Stamps and also to the Government during February and May 2017. The Government replied (October 2017) that the District Registrar (Shivajinagar) has taken up these cases under Section 45(A)(3) of KS Act, 1957 and has issued notices.

4.5 Short levy of Stamp Duty and Registration Fee due to suppression of facts

Section 28 (1) of the KS Act, 1957, stipulates that the consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which an instrument is chargeable, shall be fully and truly set forth therein. Further, under Section 61(a) of the KS Act, any person, who with the intent to defraud the Government, executes any instrument in which all the facts and circumstances required by Section 28 to be set forth in such instrument are not fully and truly set forth, shall be punishable with fine which may extend up to five times the deficient duty thereof.

During test check of records in fifteen³ SR Offices between April 2016 and March 2017, Audit noticed that in 24 instruments (21 sale deeds and three sale agreements), facts such as actual consideration received, existence of building, actual usage of property, classification of the property as site and execution of Power of Attorneys were suppressed at the time of registration of these instruments, which resulted in short levy of Stamp Duty and Registration Fee amounting to ₹ 1.60 crore as detailed in the **Table 4.2**.

Table 4.2
Short levy of Stamp Duty and Registration Fee

(₹ in crore)

Nature of instrument and SR Office	Facts suppressed in the instruments	Stamp Duty and Registration Fee leviable	Stamp Duty and Registration Fee levied	Short levy
Sale Deeds (8)/ Attibele, Jigani and Shivajinagar	Existence of building was not disclosed in Sale Deeds	3.89	3.01	0.88
Sale Deeds (9)/ Basavanagudi, Mahadevapura, Bagepalli, Gowribinanur, Mysuru (North), T. Narasipura and Tumakuru	Consideration received in Sale Agreements was not disclosed in Sale Deeds	0.24	0.18	0.06

² Loss calculated based on the lowest specified rate (₹ 5,900/- per square feet) among 14 Tech Parks, for an area of 9,63,032 square feet.

³ Arakalgud, Attibele, Bagepalli, Basavanagudi, Gowribidanur, Jigani, Kengeri, Mahadevapura, Mysuru (North), Periyapatna, Sarjapura, Shanthinagar, Shivajinagar, Tumakuru and T. Narasipura.

(₹ in crore)

Nature of instrument and SR Office	Facts suppressed in the instruments	Stamp Duty and Registration Fee leviable	Stamp Duty and Registration Fee levied	Short levy
Sale Agreements (03)/ Kengeri and Arakalgudu	Execution of General Power of Attorney ⁴ was not disclosed in Sale Agreements	0.30	0.01	0.29
Sale Deed (04)/ Attibele, Periyapatna, and Shanthinagar	Usage of property for commercial purposes, classification of property as site and location of property were not disclosed in Sale Deeds	1.32	0.95	0.37
Total		5.75	4.15	1.60

There was no mechanism in the Department to ascertain whether the parties were disclosing all the facts pertaining to the property (including consideration) and whether those were correctly set forth in the instruments so as to avoid loss of Stamp Duty and Registration Fee due to suppression of facts.

Fine under Section 61 (a) of KS Act, 1957, up to five times the amount pointed out, was also leviable in all these cases.

Audit brought these cases to the notice of the Inspector General of Registration and Commissioner of Stamps and also to the Government during February and May 2017; the Government replied (August 2017) that ₹ 13.37 lakh was collected in four cases, notices were issued in 12 cases and orders were passed for recovery of deficit Stamp Duty and Registration Fee in six cases by the District Registrars concerned. Reply is awaited in the remaining two cases (November 2017).

4.6 Short levy of Stamp Duty and Registration Fee due to undervaluation

According to Section 3 of the KS Act 1957, Stamp Duty is levied on instruments chargeable with duty as prescribed under various Articles in the schedule of the Act *ibid*. Under Article 20, for instruments of conveyance, Stamp Duty is charged as a percentage of the consideration or of the market value of the property, whichever is higher. Market value guidelines are prescribed for properties situated in the State by the Central Valuation Committee under Section 45-B of the KS Act. This forms the basis for estimation of market value by the registering officer while registering documents chargeable with Stamp Duty.

⁴ According to Article 5(e)(i) and 5(e)(ii) of the Schedule under KS Act, 1957, an agreement for sale is chargeable with Stamp Duty at the rate of 10 paise for every ₹ 100 of the market value of the property if possession of the property is not delivered. On the other hand, if possession of the property is delivered, same duty as conveyance (as per Article 20 (1) – five *per cent* of the market value) is chargeable. Further, even if possession is not delivered, if a reference of a power of attorney granted separately by the seller to the purchaser in respect of the same property is made in the agreement, possession of the property is deemed to have been delivered according to Explanation I under the Article.

Test check of sale deeds registered during 2013-14 to 2015-16 was conducted in eight⁵ SR Offices between April 2016 and January 2017, during which, Audit noticed 19 cases of under-valuation of properties due to adoption of incorrect rates of market value guidelines. The resultant short levy of Stamp Duty and Registration Fee amounted to ₹ 1.51 crore as detailed in **Table 4.3**.

Table 4.3
Short levy of Stamp Duty and Registration Fee due to undervaluation
(₹ in crore)

Sl. No.	SR Offices	No. of cases	Stamp Duty and Registration Fee	Leviable	Levied	Short levy
1.	Dharwad Mysore (North)	07	Stamp Duty	1.00	0.56	0.44
			Registration Fee	0.18	0.09	0.09
			Total			
	In six cases, properties conveyed were situated in notified industrial area, hence as per special instructions to the market value guidelines, these properties were to be valued at 90 per cent of residential rates, which was not adopted. In one case residential property was valued at agricultural rate (rate/acre) instead of sital rate (rate/square feet).					
2.	Banaswadi, Bommanahalli Mysuru (North)	05	Stamp Duty	1.34	1.03	0.31
			Registration Fee	0.23	0.18	0.05
			Total			
	In four cases, non-residential properties were valued at residential rates instead of enhancing the rates by 40 per cent, as applicable to non-residential commercial properties and in one case, land converted for commercial purpose was valued at agricultural rates, instead of enhancing the rates by 75 per cent, as per special instructions appended to the market value guidelines.					
3.	Kengeri, J.P.Nagar, Anekal, Bidarahalli	05	Stamp Duty	1.51	1.05	0.46
			Registration Fee	0.27	0.18	0.09
			Total			
	In five cases, there were specific rates/specific instruction prescribed for valuation as per the market value guidelines for the properties conveyed, but the same were not adopted.					
4.	Mysore (North)	02	Stamp Duty	0.49	0.43	0.06
			Registration Fee	0.09	0.08	0.01
			Total			
	In two cases, the properties conveyed were abutting Ring Road, hence the specific rates had to be enhanced by 50 per cent as per instructions in the market value guidelines, but the same were not adopted.					
			Stamp Duty	4.34	3.07	1.27
			Registration Fee	0.77	0.53	0.24
Grand Total				5.11	3.60	1.51

Audit brought these cases to the notice of the Inspector General of Registration and Commissioner of Stamps and to the Government during March and June 2017. In reply, the Government stated that ₹ 28.99 lakh towards Stamp Duty and

⁵ Anekal, Banaswadi, Bommanahalli, Bidarahalli, Dharwad, J.P.Nagar, Kengeri and Mysuru (North).

₹ 5.14 lakh towards Registration Fee have been recovered in six cases. In remaining cases, the District Registrars concerned have issued notices for recovery of deficit Stamp Duty and Registration Fee.