

CHAPTER-IV
STAMP DUTY

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4.1 Tax administration

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

The consideration or market value of property, whichever is higher, is considered for levy of Stamp Duty and Registration Fee on transfer of properties. Stamp Duty is leviable at the rate of six *per cent*. For women, Stamp Duty is leviable at the rate of four *per cent*.

Registration Fee is leviable at the rate of two *per cent* on consideration or market value of property, whichever is higher.

4.2 Results of audit

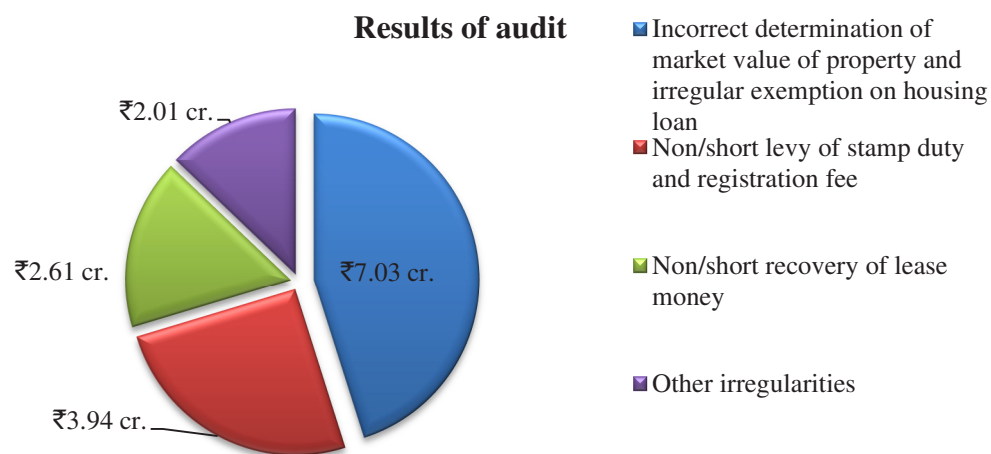
Test check of records of 73 units, out of 155 units, having receipts of ₹101.40 crore, during the year 2017-18 relating to Revenue Department, showed incorrect determination of market value of property and irregular exemption on housing loan, non/short levy of Stamp Duty and Registration Fee, non/short recovery of Stamp Duty on lease deeds and other irregularities involving ₹15.59 crore in 218 cases, which fall under the following categories as depicted below:

Table: 4.1 Results of audit

			₹in crore
Sr. No.	Categories	Number of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	83	7.03
2.	Non/short levy of Stamp Duty and Registration Fee	32	3.94
3.	Non/short recovery of lease money	25	2.61
4.	Other irregularities	78	2.01
Total		218	15.59

The category wise audit findings are depicted in the graph as below:

Graph 4.1



During the year 2017-18, the Department accepted under-assessments and other deficiencies with revenue implication of ₹1.10 crore in 144 cases, out of which an amount of ₹55.23 lakh was realised in 134 cases, of which ₹54.61 lakh in 132 cases related to audit findings of earlier years, and ₹0.61 lakh in two cases were related to audit findings of the year 2017-18.

Significant cases involving an amount of ₹8.41 crore are discussed in the following paragraphs.

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

Adoption of pre-revised market rates for built-up residential and non-residential structures by Sub-Registrars resulted in short realisation of Stamp Duty and Registration Fee of ₹3.64 crore.

Deputy Commissioner of the District finalises the Law/Rules for calculating Stamp Duty and Registration Fee for any transaction depending upon classification of building into *Pucca*, *Semi-Pucca*, *Kutchra*, location etc.

During 2017-18, Audit test checked the records of 73 SRs, where 1,19,748 sale and lease deeds were registered. On scrutiny of deeds of 73 SRs, it was found that 45 SRs, where 91,705 sale/lease deeds were registered, out of which 59,608 deeds were test checked in audit, levied short Stamp Duty and Registration Fee on built up structures in 358 sale deeds. These deeds were registered between November 2013 and December 2016 for a consideration amount of ₹81.21 crore calculated on the basis of valuation of properties prepared by private architects. The valuation was not based on rates for built-up structures as notified by the Department. Audit observed that on the basis of plinth area rates fixed/revised by HPPWD or DCs of concerned Districts, the actual value of the properties, including value of built-up structures, worked out to ₹131.32 crore. However, SRs while registering these sale deeds did not verify the consideration amount with reference to fixed/revised plinth area rates of built-up structures which led to short realisation of Stamp Duty and Registration Fee by ₹3.64 crore.

The Department replied (between March and December 2018) that 16 SRs¹ had recovered an amount of ₹32.32 lakh in 114 cases. The remaining SRs stated that cases would be reviewed. The reply of the Government was still awaited (August 2019).

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 ₹1.18 crore.

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 the classification of land in rural areas for

¹ SRs Bangana: 12 cases: ₹2.64 lakh, Bhunter: 13 cases: ₹4.83 lakh, Bijhari: 19 cases: ₹1.51 lakh, Dalhousie: four cases: ₹0.78 lakh, Dehra: three cases: ₹1.07 lakh, Gohar: one case: ₹0.08 lakh, Hamirpur: six cases: ₹3.22 lakh, Joginder Nagar: eight cases: ₹2.54 lakh, Khudiyani: nine cases: ₹1.23 lakh, Kullu: 11 cases: ₹5.53 lakh, Lad-Bhadol: two cases: ₹0.63 lakh, Manali: nine cases: ₹4.53 lakh, Mandi: eight cases: ₹2.21 lakh, Nadaun: three cases: ₹0.20 lakh, Rohru: three cases: ₹0.56 lakh and Thunag: three cases: ₹0.76 lakh

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 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 is found false, penalty upto 50 *per cent* of the applicable Stamp Duty/Registration Fee may be levied and recovered.

During 2017-18, Audit test checked the records of 73 SRs, where 1,19,748 sale and lease deeds were registered. On scrutiny of deeds of 73 SRs, it was found that 13 SRs², where 39,729 sale/lease deeds were registered, out of which 25,423 deeds were test checked in audit, short determined the market value of properties in 56 sale deeds. These sale deeds were registered between June 2014 and December 2016 for a consideration amount of ₹27.40 crore. Stamp Duty of ₹1.48 crore and Registration Fee of ₹0.55 crore were levied on the basis of affidavits filed by the purchasers regarding distance of the sold properties from different categories of roads against the registered documents. However, the lands were classified merely on the basis of the distances of lands/holdings from NH, SH or OR as stated in affidavits filed by the purchasers and valuation of ₹27.40 crore was made. Audit cross verified the affidavits with maps (*lattha*) available with *Kanungo* (Revenue Authority) and calculated the actual valuation of ₹43.40 crore. Thus, Stamp Duty of ₹2.34 crore and Registration Fee ₹0.87 crore was required to be levied which was not done. This resulted in short levy of Stamp Duty and Registration Fee of ₹1.18 crore³ (SD ₹0.86 crore + RF ₹0.32 crore). Besides, penalty at the prescribed rate was also leviable.

The Department intimated (September 2018) that SRs had been directed to furnish the reply. The reply of the Government was still awaited (August 2019).

The Government may consider setting up a mechanism to verify the actual distance of lands from the roads.

² SRs Amb, Baddi, Balh, Bhunter, Dharamshala, Fatehpur, Hamirpur, Kullu, Manali, Nadaun, Palampur, Shimla (R) and Theog

³ SRs Amb: four cases: ₹12.94 lakh, Baddi: three case: ₹25.01 lakh, Balh: seven cases: ₹16.12 lakh, Bhunter: three cases: ₹1.41 lakh, Dharamshala: four cases: ₹12.17 lakh, Fatehpur: eight case: ₹4.76 lakh, Hamirpur: two cases: ₹1.70 lakh, Kullu: one case: ₹0.80 lakh, Manali: three cases: ₹2.36 lakh, Nadaun: two cases: ₹2.41 lakh, Palampur: five case: ₹6.35 lakh, Shimla (R): seven cases: ₹23.65 lakh and Theog: seven cases: ₹8.18 lakh

4.5 Non-revision of lease rent

The Department did not revise the lease rent as per the condition of the agreement, resulting in loss of revenue of ₹3.59 crore.

Under the Himachal Pradesh Lease Rules (HPLR) 1993, Government land can be leased out to individual/companies for various purposes. As per condition of the lease deed, the lease is required to be renewed after every 10 years on the basis of prevailing market rates of the land. Further, Himachal Pradesh Lease (Amended) Rules, 1993 provides that lease money is required to be revised after the period specified in the lease agreement and is calculated at the rate of five *per cent* of the latest highest market value of land leased or double the average market value of five years, whichever is less.

During 2017-18, Audit test checked the records of 73 SRs where 1,19,748 sale and lease deeds were registered. On scrutiny of deeds of 73 SRs, it was found that one SR, where 107 sale/lease deeds were registered, out of which 92 deeds were test checked in audit, had not revised the lease rent. In SR Udaipur (Lahaul & Spiti), transfer of Government land measuring 94.20 *Bigha* sanction was accorded for in favour of Himachal Pradesh Agricultural University, Palampur in 1978 for a period of 99 years at a lease rent of ₹1,885 per annum for setting-up a Regional Research Centre. The lease was granted with the condition that rent was to be revised after every 10 years at the rate of five *per cent* of prevailing market value of land. Audit observed that lease rent was required to be revised in 1998, 2008 and 2018 according to the conditions of the agreement. However, the Department did not take any action to revise lease rent after the stipulated period of 10 years and accepted the payment on old lease rates. No lease rent was paid after 2008. The lease rent required to be levied till March 2018 as per the agreement works out to ₹3.59 crore whereas lease rent paid till 2008 was only ₹0.38 lakh. Thus, non-revision of lease rent after every 10 years resulted in foregoing of revenue of ₹3.59 crore.

The SR stated (August 2018) that notice had been issued to the University to deposit the lease rent. The reply of the Government was still awaited (August 2019).

The cases pointed out are based on test check conducted by Audit. The Department may initiate action to comprehensively examine similar cases and take necessary corrective action.

