

***CHAPTER-IV***  
***STAMP DUTY***



## CHAPTER IV: STAMP DUTY

### 4.1 Tax administration

Receipts from the stamp duty and registration fees are regulated under the Indian Stamp Act, 1899 (IS Act), Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. The Additional Chief Secretary, Revenue and Disaster Management Department, Haryana is responsible for the administration of the registration of various documents. The overall control and superintendence over levy and collection of stamp duty and registration fees vests with the Inspector General of Registration (IGR), Haryana. The IGR is assisted by Deputy Commissioners (DCs), tehsildars and naib tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

The value of property mentioned in the agreement or the market rate prescribed by the Collector, whichever is higher, is considered for levy of duty and fee on transfer of properties. Stamp Duty (SD) is leviable at the rate of five *per cent*. An addition of two *per cent* SD is leviable on properties located within Municipal limits. There is remission of two *per cent* for women.

Registration Fee (RF) is leviable at different rates based on the transaction value<sup>1</sup>.

Stamp Auditor is posted in each district who covers all the SR/JSR offices in the district and checks all documents/deeds in each SR/JSR of that district. This is the internal audit mechanism established by the department.

### 4.2 Results of audit

In 2017-18, test check of the records of 103 out of 132 units of the Revenue Department showed non/short levy of stamp duty and registration fee etc. and other irregularities involving ₹ 135.68 crore in 2,353 cases, which fall under the following categories in **Table 4.1**.

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Transaction Value (₹)	Registration Fee (₹)
1 to 50,000	100
50,001 to 1,00,000	500
1,00,001 to 5,00,000	1000
5,00,001 to 10,00,000	5000
10,00,001 to 20,00,000	10,000
20,00,001 to 25,00,000	12,500
Above 25,00,000	15,000



During the year, the Department accepted under-assessment and other deficiencies amounting to ₹ 84.56 crore involved in 1,030 cases out of which 992 cases involving ₹ 73.25 crore were pointed out during the year and rest in earlier years. The Department recovered ₹ 8.51 lakh in 21 cases during the year 2017-18.

Significant cases involving ₹ 84.22 crore are discussed in the following paragraphs. The cases pointed out are based on the test check conducted by audit. The Department may initiate action to examine similar cases and take necessary corrective action.

### 4.3 Non/short Levy of Stamp Duty on Lease Agreements

#### 4.3.1 Introduction

**Due to misclassification of lease agreements as simple agreements, 30 instruments of mining lease remained insufficiently stamped resulting in short levy of stamp duty and registration fee of ₹ 24.36 crore. Non-consideration of annual increase for calculating annual average rent and incorrect application of rate of stamp duty in 25 cases resulted in short recovery of SD and RF of ₹ 13.17 crore. Non-execution of lease deeds of 411 agreements of Haryana Mines & Geology Department, Haryana Tourism Corporation, Haryana Roadways, Municipal Corporations and non-registration of lease deeds of mobile towers resulted in short levy of stamp duty and registration fees of ₹ 29.60 crore.**

The State Government levies and collects stamp duty and registration fees on various types of instruments such as conveyance, mortgage, lease etc. Under Section 105 of Transfer of Property Act 1882, 'a lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms'. Stamp duty (SD) and Registration fee (RF) in State are regulated by the Indian Stamp Act, 1899 (IS Act) and Indian Registration Act, 1908 (IR Act), as adopted by the Government of Haryana with suitable amendments.

Lease agreements of 103 offices out of the 130 offices of Joint Sub Registrars (JSRs)/Sub Registrars (SRs) in 21 districts<sup>2</sup> in the State for the years 2014-15

<sup>2</sup> Ambala, Bhiwani, Faridabad, Fatehabad, Gurugram, Hisar, Jhajjar, Jind, Kaithal, Karnal, Kurukshetra, Mewat, Mohindergarh, Palwal, Panchkula, Panipat, Rewari, Rohtak, Sirsa, Sonapat and Yamunanagar.

to 2016-17 were test checked during audit between April 2017 and March 2018 to ascertain whether stamp duty and registration fees are levied correctly on the basis of rates fixed for registration of lease deeds.

Important findings in respect of registration of lease deeds are discussed in the following paragraphs:

#### **4.3.2 Non/short levy of stamp duty and registration fees**

Section 33 (1) of the IS Act, provides that every person in charge of a public office before whom any instrument chargeable with duty is produced shall impound the same if such instrument is not duly stamped. Under Section 38 (2) of the Act, the impounded documents are required to be sent to the Collector by the person so impounding such instrument.

##### **(i) Misclassification of mining lease documents into simple agreement**

Under Section 17 (i) (d) of the Registration Act, 1908 leases of immovable property from year to year or for any term exceeding one year, or reserving a yearly rent are compulsorily registerable documents. Article 35 of Schedule 1-A of the IS Act, provides for levy of stamp duty on lease deeds at prescribed rates<sup>3</sup> for consideration equal to the amount of value of the fine or premium or advance in addition to the amount of the average annual rent reserved and on the basis of period of lease.

In 12 offices<sup>4</sup> of SRs/JSRs, there were 30 instruments of mining lease for period ranging from seven to 20 years between November 2014 and January 2017. The lessees paid annual average rent amounting to ₹ 720.88 crore payable during the terms of contract. These deeds were required to be compulsorily registered under Section 17 of the Registration Act and stamp duty of ₹ 24.36 crore at the prescribed rates and registration fees of ₹ 4.40 lakh was leviable. However, these deeds were not duly stamped and were got executed on stamp paper of ₹ 6,720 and registration fees of ₹ 3.95 lakh only was levied. The public officer did not impound these instruments. This resulted in short levy of stamp duty of ₹ 24.36 crore and registration fees of ₹ 0.005 crore (₹ 45000) due to misclassification of lease agreements as simple agreements.

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<sup>3</sup> One year to five years: 1.5 per cent on average annual rent, exceeding five years and not exceeding 10 years: 3 per cent on average annual rent, exceeding 10 years and not exceeding 20 years: 6 per cent on average annual rent, exceeding 20 years and not exceeding 30 years: 9 per cent on average annual rent, exceeding 30 years and not exceeding 100 years: 12 per cent on average annual rent.

<sup>4</sup> Chhachhrauli, Charkhi Dadri, Faridabad, Ganaur, Gharunda, Indri, Mohindergarh, Nangal Choudhary, Narnaul, Raipur Rani, Smalkha and Sonapat.

On this being pointed out, SR Narnaul and Samalkha stated in January and April 2018 that three cases had been decided by the Collector in May and July 2017 respectively and notices for recovery of ₹ 3.64 crore (Samalkha:- ₹ 3.21 crore two cases; Narnaul:- ₹ 0.43 crore one case) had been issued to the defaulters. SR Faridabad stated (October 2018) that one case would be sent to Collector for decision under Section 47-A of the Act. The remaining ten SRs stated (between March and September 2018) that the cases had been sent to the Collector for decision under Section 47-A of the IS Act.

**(ii) Wrong calculation of annual average rent**

In five offices<sup>5</sup> of SRs, audit observed that in respect of 13 instruments registered for period ranging from three to 99 years between February 2016 and March 2017, the annual average rent was to be calculated as ₹ 114.83 crore and stamp duty of ₹ 13.30 crore and registration fee of ₹ 0.02 crore was leviable. However, the Registering Authorities assessed the average annual rent in these documents as ₹ 5.75 crore due to non consideration of annual increase for calculating annual average rent and levied stamp duty of ₹ 0.23 crore and registration fee ₹ 0.01 crore. This resulted in short levy of stamp duty of ₹ 13.07 crore and registration fee ₹ 0.002 crore (₹ 19000).

On this being pointed out, SR Manesar stated in May 2018, that an amount of ₹ 11,500 had been recovered. Superintendent Stamp & Registration, Revenue and Disaster Department, Government of Haryana has issued letter (2 August 2018) to the concerned Deputy Commissioners to recover the amount pointed out by audit.

**(iii) Wrong calculation of rate of stamp duty**

In 12 cases of four SRs<sup>6</sup>, stamp duty of ₹ 28.55 lakh at the rate of six to nine *per cent* for leases exceeding 10 years and not exceeding 30 years and registration fees of ₹ 0.52 lakh was leviable. The Registering Authority levied stamp duty of ₹ 18.27 lakh at the rate of 1.5 to three *per cent* and registration fees of ₹ 0.33 lakh. This resulted in short levy of stamp duty of ₹ 10.28 lakh and registration fee ₹ 0.20 lakh.

On this being pointed out, SR Jind stated in April 2018 that an amount of ₹ 33,706 had been recovered. SR Ferozpur Jhirka stated in May 2018 that order for recovery for outstanding amount of ₹ 79,872 had been issued. Remaining SRs Gurugram and Manesar stated in April and May 2018 that the

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<sup>5</sup> Farukhnagar, Manesar, Panipat, Smalkha and Sonapat.

<sup>6</sup> SRs: Ferozpur Jhirka, Gurugram, Jind and Manesar.

cases had been sent to the Collector for decision under Section 47-A of the IS Act.

The Government needs to strengthen the internal audit to ensure timely detection and correction of error in levy and collection of revenue and avoid recurrence of misclassification of document.

### ***4.3.3 Loss of stamp duty and registration fees due to non registration of lease agreement***

Under section 17 (1) (d) of the IR Act, lease of immovable property from year to year, or for any term exceeding one year or reserving a yearly rent are to be compulsorily registerable documents. Further in the case of lease, the expenses for providing the proper stamp duty and registration fee shall be borne by the lessee.

#### **(a) Loss of stamp duty and registration fees due to non registration of Mining lease agreement**

As per condition contained in the Letter of Intent (LoI), Stamp Duty and Registration Fee are leviable on mining lease agreements. The Director, Mines & Geology Department Haryana directed all the Mining field offices vide letter dated 08 May 2017 that the agreement executed shall be got duly registered under relevant law with concerned Registering Authority and they shall be liable to pay stamp duty and registration fees as per the applicable rates.

Scrutiny of information collected from the Assistant Mining Engineers (AMEs)/Mining Engineers (MEs) revealed that in five AMEs/MEs<sup>7</sup> out of 15, 40 lease agreements were executed for different period ranging from seven to 12 years between August 2015 and January 2018. The instruments of lease and contract exceeding one year were required to be registered compulsorily on payment of SD and RF. The licencees paid annual average lease rent of ₹ 827.26 crore for the grant of licences. These instruments were required to be registered and stamp duty of ₹ 29.22 crore and registration fee of ₹ 6.00 lakh was to be levied. Non-registration of lease deeds by these licencees deprived the Government of stamp duty and registration fees of ₹ 29.22 crore and ₹ 0.06 crore respectively.

On this being pointed out, all the AMEs/MEs stated between March and May 2018 that action would be taken according to the decision of Punjab and Haryana High Court in the case of writ petition 7991 of 2014. The replies of the field offices are not tenable because the High Court directed that the

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<sup>7</sup> Bhiwani, Hisar, Narnaul, Panipat and Yamunanagar.



agreements shall not be revoked due to non-payment of SD and RF. The High Court did not stay the registration of these documents. Moreover, the Department failed to insist on the registration of these documents as per condition contained in the Letter of Intent (LoI).

The matter was reported to the Government; (October 2018), the Government admitted the facts (October 2018) and issued directions to concerned Deputy Commissioners to take necessary steps for recovery of the deficient amount of SD and RF pointed out by Audit.

**(b) Agreement between Government Corporation and private party**

Scrutiny of information collected from the Haryana Tourism Corporation Chandigarh in respect of 20 Tourism complexes revealed that 204 agreements were executed between April 2014 and March 2017. The Haryana Tourism Corporation granted licenses on biennial/triennial basis to run the business in the premises of Tourism complex. The licencees paid annual average lease rent of ₹ 6.10 crore for the grant of licences. The Tourism Corporation accepted the instruments as agreements on non-judicial stamp paper of ₹ 11,070 only. The Corporation did not insist upon the licencees to get these instruments registered as lease deeds with the concerned SRs/JSRs. These instruments were required to be registered and stamp duty of ₹ 9.15 lakh and registration fee of ₹ 3.78 lakh was to be levied. Non-execution of lease deeds by these licencees resulted in revenue forgone in the form of stamp duty and registration fees of ₹ 9.04 lakh and ₹ 3.78 lakh respectively.

On this being pointed out, the Tourism Corporation stated in April 2018 that direction had been issued to all the Drawing and Disbursement Officers (DDOs) in the field units to get these instruments registered with the concerned SRs/JSRs. The DDOs had also been directed to collect the requisite stamp duty from these licencees.

**(c) Agreement between Government Department and Private Party**

Scrutiny of information collected from nine depots of Haryana Roadways revealed that 110 agreements were executed between April 2016 and July 2017 for grant of lease on biennial/triennial basis to run the business in the premises of Haryana Roadways bus stands. The licencees paid annual average lease money of ₹ 5.13 crore for the grant of lease. The Haryana Roadways accepted the instruments as agreements on non-judicial stamp paper of ₹ 3,880 only. These instruments were not registered as lease deeds with the concerned SRs/JSRs. SD and RF of ₹ 7.70 lakh and ₹ 3.03 lakh respectively was required to be levied. Non-execution of lease deeds by these

licences deprived the Government of revenue in the form of stamp duty and registration fee of ₹ 7.66 lakh and ₹ 3.03 lakh respectively.

On this being pointed out, nine General Managers (GMs) of Haryana Roadways stated in May 2018 that efforts would be made to recover the outstanding amount of ₹ 10.69 lakh from lessees and in future these instruments would be registered with the concerned SRs/JSRs.

**(d) Non-registration of lease deed of mobile tower**

As per information collected from Panchkula and Ambala Municipal Corporations, 55 mobile towers were erected between April 2014 and March 2017. No objection certificate was issued by the Municipal Corporations for installation of mobile phone towers. In these cases, the land for installation of mobile phone towers was taken by the mobile phone companies on lease from the land owners for the lease period ranging from nine to 20 years. These lease deeds were required to be compulsorily registered under the Act and stamp duty and registration fees of ₹ 5.57 lakh and ₹ 0.55 lakh respectively was to be levied. However, these lease deeds were not registered and were got executed on stamp paper of ₹ 5,410 only. This resulted in short levy of stamp duty of ₹ 5.52 lakh and registration fees of ₹ 0.55 lakh.

On this being pointed out, the MC Panchkula stated in June 2018 that efforts would be made to recover the outstanding amount of ₹ 2.76 lakh and lease agreements would be registered with the concerned SRs.

The matter was reported to the Government in June 2018. The Government has instructed (August 2018) the concerned department for taking necessary steps for the recovery of the deficient amount of stamp duty and registration fees.

**(e) Municipal Corporation as lessee**

In one case, the Municipal Corporation, Panchkula had taken a building for office use on monthly rent basis for three years from 16 October 2013 to 15 October 2019 in two spells of three years each. These lease deeds were also required to be compulsorily registered under the Act. Stamp duty of ₹ 1.40 lakh at the rate of 1.5 *per cent* on the annual average rent of ₹ 92.96 lakh and registration fees of ₹ 0.30 lakh was to be levied. However, these lease deeds were not registered and were got executed on stamp paper of ₹ 20 only. This resulted in short levy of stamp duty of ₹ 1.40 lakh and registration fee of ₹ 0.30 lakh.

State Government may consider issuing directions to all departments, boards, corporations, Public Sector Undertakings (PSUs) to making it mandatory to get all agreements for leasing out property registered as lease deeds.

#### **4.3.4 Conclusion**

Instances of non-compliance to provisions of IS Act and Registration Act as pointed out by Audit indicate weak internal controls of the Department. No mechanism existed in the Department to ascertain whether registration was being done in respect of those documents which were required to be registered compulsorily. There was no system of information sharing between public offices and the Registration Office as a result of which the department could not detect lease agreements that were not duly registered. This resulted in non/short levy of stamp duty and registration fee of ₹ 67.13 crore.

**The issues pointed out are based on the test check conducted by audit. The Department may initiate action to examine similar cases and take necessary corrective action.**

#### **4.4 Short levy of stamp duty due to misclassification of sale deeds as collaboration agreements**

**Registering Authorities misclassified sale deeds as collaboration agreements in 10 cases resulting in short levy of stamp duty and registration fees of ₹ 5.99 crore.**

As per Haryana Government notification issued in October 2013, any agreement that relates to giving authority or power to a promoter or a developer, by whatever name called, for construction on, development of or sale or transfer (in any manner whatsoever) of, any immovable property shall be liable to stamp duty as is leviable on a conveyance on the market value of the property mentioned in the agreement.

Scrutiny of records of nine SRs<sup>8</sup> revealed that 10 collaboration agreements<sup>9</sup> were registered between May 2015 and January 2017 on which stamp duty and registration fees of ₹ 0.17 crore was levied. Scrutiny of these agreements revealed that the owners of land had authorised the developers to take possession of the land with the right to construct, shop-cum-flats and residential houses. These agreements were therefore liable to be levied SD as

<sup>8</sup> Dharuhera, Faridabad, Gurugram, Manesar, Nilokheri, Palwal, Panchkula, Ratia and Rewari.

<sup>9</sup> An agreement between at least two parties looking to work together on a commercial project on a collaborative or cooperative basis. The agreement spells out the specific terms and conditions of the parties' working relationship including allocation of responsibilities and division of revenues derived from the exploitation of the work.

per Notification issued in October 2013. As per rates fixed by the Collector, value of land transferred to the developers worked out to ₹ 90.67 crore on which stamp duty<sup>10</sup> and registration fees of ₹ 6.16 crore was leviable. Thus, misclassification of these documents as collaboration agreements resulted in short levy of stamp duty and registration fees of ₹ 5.99 crore (₹ 6.16 crore - ₹ 0.17 crore).

On this being pointed out, SR Rewari stated (April 2018) that Collector had passed an order to recover the amount of ₹ 2.81 lakh. Four SRs<sup>11</sup> stated between March and April 2018 that the cases had been sent to the Collector under Section 47-A of the Indian Stamp Act for decision.

The matter was reported to the Government in February 2018. Reply was awaited despite issuance of reminders in May and November 2018.

**The Department may strictly follow the notification issued in October 2013 regarding collaboration agreement.**

#### **4.5 Short levy of stamp duty due to incorrect classification of residential/commercial properties as agricultural land**

**Seventy four deeds were registered on the rates fixed by the Collector for agricultural land instead of residential/commercial property, resulting in short levy of stamp duty and registration fees of ₹ 4.69 crore.**

**Registering Authorities incorrectly assessed 100 sale deeds of plots with an area less than 1000 square yards falling within municipal limits at rates fixed for agricultural land instead of residential land resulting in short levy of stamp duty and registration fees of ₹ 2.45 crore.**

**4.5.1** As per Section 47-A of the Indian Stamp Act, if the registering officer has reasons to believe that the value of the property or the consideration, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be and the proper duty payable thereon.

Scrutiny of records of 15 Sub Registrars (SRs)/Joint Sub Registrars (JSRs)<sup>12</sup> for the year 2016-17 revealed that 74 deeds were assessed at ₹ 48.85 crore based on the rates fixed by the Collector for agricultural land on which the

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<sup>10</sup> Five per cent on ₹ 10,12,11,031 = ₹ 50,60,552 and 7 per cent on ₹ 80,54,59,375 = ₹ 5,63,82,156 (₹ 50,60,552 + ₹ 5,63,82,156 = ₹ 6,14,42,708 i.e. ₹ 6.14 crore).

<sup>11</sup> Faridabad, Gurugram, Manesar and Nilokheri.

<sup>12</sup> Assandh, Balla, Bilaspur, Chhachhrauli, Farukhnagar, Gharaunda, Gurugram, Jagadhri, Karnal, Manesar, Nissing, Pataudi, Radaur, Saraswati Nagar and Sohna.

department levied stamp duty and registration fees of ₹ 3.03 crore (SD ₹ 2.97 crore + RF ₹ 0.06 crore). However, as per land record/khasra numbers given in the Collector's rate lists, these immovable properties were commercial<sup>13</sup>/residential property as per land records (Jamabandis) maintained by the Revenue Department. The value of these properties based on the rates fixed by Collector for Commercial/residential properties were liable to be assessed for ₹ 140.41 crore on which stamp duty and registration fees of ₹ 7.72 crore (SD ₹ 7.65 crore + RF ₹ 0.07 crore) was leviable. This resulted in short levy of stamp duty and registration fees of ₹ 4.69 crore (SD ₹ 4.68 crore + RF ₹ 0.01 crore) due to incorrect valuation of residential/ commercial properties as agricultural properties.

On this being pointed out, SRs/JRs Gurugram, Sohna and Manesar stated in April 2018 that cases had been sent to the Collector under Section 47-A for decision. 11 SRs/JSRs<sup>14</sup> stated (between June 2017 and January 2018) that the cases would be sent to the Collector under Section 47-A of the Indian Stamp Act for decision. Reply from JSR Balla has not been received.

The matter was reported to the Government in March 2018. Reply was awaited despite issuance of reminder in June and November 2018.

**4.5.2** In order to check evasion of stamp duty (SD) in sale deeds, the Government issued instructions in November 2000 to all Registering Authorities in the State to the effect that agricultural land sold within municipal limits, with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, be valued at the rate fixed for residential property of that locality for the purpose of levying SD.

Scrutiny of records of 20 registering offices<sup>15</sup> revealed that 100 sale deeds of plots within the municipal limits and with area less than 1000 square yards were registered between April 2014 and March 2017. These deeds were assessed at ₹ 19.94 crore based on the rates fixed for agricultural land and SD and RF of ₹ 0.95 crore (SD = ₹ 0.88 crore + RF = ₹ 0.07 crore) was levied. However, these deeds were liable to be assessed for ₹ 45.98 crore based on the rates fixed for residential land of the areas and SD and RF of ₹ 3.40 crore

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<sup>13</sup> Educational institutes, factory, godown, poultry farm, rice sheller, warehouse and shop.

<sup>14</sup> Assandh, Bilaspur, Chhachhrauli, Farukhnagar, Gharaunda, Jagadhri, Karnal, Nissing, Pataudi, Radaur and Saraswati Nagar.

<sup>15</sup> Ambala Cantt, Ambala City, Ateli, Ballabgarh, Barara, Barwala, Faridabad, Farukhnagar, Fatehabad, Ferozpur Jhirka, Gaunchhi, Gharaunda, Gurugram, Jagadhri, Kalka, Karnal, Naraingarh, Panchkula, Pataudi and Tohana.

(SD = ₹ 3.28 crore + RF = ₹ 0.12 crore) was leviable. This resulted in short levy of SD and RF of ₹ 2.45 crore (SD = ₹ 2.40 crore + RF = ₹ 0.05 crore).

On this being pointed out, Sub Registrars (SRs) Kalka and Gurugram stated between October 2017 and April 2018 that the cases had been sent to the Collector for decision and 13 SRs<sup>16</sup> stated between (January and November 2017) that the cases would be sent to the Collector for decision under Section 47-A of the Indian Stamp Act. Replies from remaining five SRs have not been received.

The matter was reported to the Government in February 2018. Reply was awaited despite issuance of reminders in May and November 2018.

**The Government may direct the Department to correctly classify properties as residential or commercial on the basis of land record/other related record before registration for ensuring levy of correct rates of SD and RF.**

#### **4.6 Misclassification of Sale deeds as release deeds<sup>17</sup> resulting in short levy of stamp duty**

**The Registering Authorities misclassified conveyance on sale as release deeds and levied stamp duty and registration fees of ₹ 10,920 instead of ₹ 1.71 crore as per Collector rate resulting in short levy of SD and RF of ₹ 1.71 crore.**

As per Haryana Government clarification in December 2005 regarding Article 55 in schedule 1-A of the Indian Stamp Act, 1899 if an instrument of ancestral property is executed in favour of brother or sister (children of renouncer's parents) or son or daughter or father or mother or spouse or grand children or nephew or niece or co-parcener<sup>18</sup> of the renouncer, stamp duty will be levied at the rate of ₹ 15 and in any other case, the same duty will be levied as a conveyance relating to sale of immovable property for the amount equal to the market value of the share, interest, part or claim renounced.

Scrutiny of records of 31 Sub Registrars (SRs)/Joint Sub Registrars (JSRs)<sup>19</sup> revealed that 106 release deeds were executed between August 2014 and

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<sup>16</sup> Ambala City, Ambala cantt, Ateli, Barwala, Farukhnagar, Fatehabad, Ferozpur Jhirka, Gaunchhi, Jagadhri, Karnal, Naraingarh, Panchkula and Tohana.

<sup>17</sup> Deed where a person renounces his/her rights in an ancestral property.

<sup>18</sup> A person who inherited the property from the Hindu Undivided Family.

<sup>19</sup> Ambala City, Ballabgarh, Bapoli, Balla, Barwala, Behal, Bhattu Kalan, Bilaspur, Charkhi Dadri, Faridabad, Farukhnagar, Ferozpur Jhirka, Gohana, Israna, Jagadhri, Karnal, Kharkhoda, Loharu, Matluada, Mohna, Nathusari chaupta, Nigdu, Nuh, Panipat, Pataudi, Ratia, Samalakha, Saraswati Nagar, Siwani, Sohna and Sonapat.

March 2017 in favour of persons other than those allowed as per clarification of the Government. Hence these deeds are to be treated as sale. The registering authorities, however treated these deeds as release deeds and incorrectly levied SD and RF of ₹ 10,920 (SD ₹ 4,950 + RF ₹ 5,970) only. The value as per Collector rate for these deeds is ₹ 32.99 crore, SD and RF of ₹ 1.71 crore (SD ₹ 1.61 crore + RF ₹ 0.10 crore) are leviable on these deeds. Misclassification of sale deeds as release deeds resulted in short levy of ₹ 1.71 crore.

On this being pointed out, all the SRs/JSRs (between November 2016 and December 2017) stated that the cases would be sent to the Collector under Section 47-A of the Indian Stamp Act for decision.

The matter was reported to the Government in March 2018. Reply was awaited despite issuance of reminders in June and November 2018.

#### **4.7 Irregular remission of stamp duty**

**Irregular remission of stamp duty in 53 instruments of transfer deeds in favour of persons other than blood relations resulted in loss of revenue of ₹ 88.78 lakh to the State exchequer.**

As per Government order of 16 June 2014, the Government may remit the stamp duty chargeable on an instrument if it pertains to transfer of immovable property by an owner during lifetime to any of the blood relations namely parents, children, grand children, brother (s), sister (s) and between spouse.

Scrutiny of records of the registered documents of transfer deeds in 20 Sub Registrars (SRs)/Joint Sub Registrars (JSRs)<sup>20</sup> for the years 2014-17 revealed that SD was remitted in 53 instruments of transfer deeds that were executed in favour of persons other than those allowed in the above orders of Government. This irregular remission of stamp duty resulted in loss of revenue to the extent of ₹ 88.78 lakh (SD ₹ 83.69 lakh + RF ₹ 5.09 lakh)

On this being pointed out, all the SRs/JSRs stated (between November 2016 and November 2017) that the cases would be sent to the Collector under Section 47-A of the Indian Stamp Act for decision.

The matter was reported to the Government in March 2018. Reply was awaited despite issuance of reminders in May and November 2018.

<sup>20</sup> Badhra, Bawal, Bahadurgarh, Ballabgarh, Bapoli, Behal, Beri, Faridabad, Fatehabad, Kanina, Kosli, Loharu, Matenhhail, Mohna, Nagina, Nuh, Panchkula, Punhana, Ratia and Satnali.

#### 4.8 Short levy of stamp duty due to application of normal rates on prime khasra land

**Registering Authorities incorrectly assessed prime khasra land at normal rates fixed for agricultural land resulting in short levy of stamp duty of ₹ 0.87 crore.**

Haryana Government issued instructions in September 2013 for constituting district level committees comprising of officers of Revenue Department and Municipal Committees for evaluating different categories of land for fixing collector rates. Further, Section 27 of the Indian Stamp Act, 1899 as applicable to the State of Haryana, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty chargeable, should be fully or truly set forth therein.

Scrutiny of records of 30 SRs/JSRs<sup>21</sup> revealed that 119 conveyance deeds were registered for sale at normal khasra rates for agricultural land during the period between April 2014 and March 2017. The khasras of these deeds as per land revenue records were prime khasras having higher land rates. Collector rate for these land was ₹ 62.38 crore on which SD and RF of ₹ 2.69 crore was leviable (SD ₹ 2.60 crore + RF ₹ 0.09 crore). The SRs/JSRs, assessed these land at rates fixed for normal khasra amounting to ₹ 42.40 crore and levied SD and RF of ₹ 1.82 crore (SD ₹ 1.75 crore + RF ₹ 0.07 crore). This resulted in short levy of stamp duty of ₹ 0.87 crore (SD ₹ 0.85 crore + RF ₹ 0.02 crore).

On this being pointed out, ASR Sahlawas stated in April 2018 that an amount of ₹ 7,440 had been recovered in one case. 11 SRs/JSRs<sup>22</sup> stated between March and April 2018 that cases had been sent to the Collector under Section 47-A for decision. 15 SRs/JSRs<sup>23</sup> stated (between December 2016 and October 2017) that the cases would be sent to the Collector under Section 47-A of the Indian Stamp Act for decision. Replies from remaining three SRs have not been received.

The matter was reported to the Government in March 2018. Reply was awaited despite issuance of reminders in June and November 2018.

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<sup>21</sup> Assandh, Badhra, Bahadurgarh, Barwala, Bhattukalan, Bound Kalan, Chhachhrauli, Ellanabad, Fatehabad, Ferozpur Jhirka, Ganaur, Gharaunda, Gohana, Indri, Kalka, Khanpurkalan, Matlauda, Matanhail, Nagina, Nilokheri, Nissing, Panipat, Punhana, Raipur Rani, Rania, Sadharua, Salahawas, Samalkha, Sirsa and Tohana.

<sup>22</sup> Assandh, Ganaur, Gharaunda, Gohana, Indri, Khanpurkalan, Matanhail, Nilokheri, Nissing, Panipat and Samalkha.

<sup>23</sup> Badhra, Bahadurgarh, Barwala, Bound Kalan, Chhachhrauli, Ellanabad, Ferozpur Jhirka, Kalka, Matlauda, Nagina, Punhana, Raipur Rani, Rania, Sadharua and Sirsa.



The Department may identify and record the khasra No. of prime land and colonies/ward/sectors in software HARIS for proper evaluation of stamp duty.

#### 4.9 Irregular exemption of stamp duty

**Irregular exemption of stamp duty and registration fee was allowed to farmers who had, in 21 cases, purchased residential/commercial land and in five cases purchased agricultural land after two years of receiving compensation which resulted in non/short levy of SD and RF of ₹ 25.51 lakh.**

As per Government order issued in January 2011 under the Indian Stamp Act, 1899, the Government exempts stamp duty and registration fee in respect of sale deeds executed by farmers whose land is acquired by Haryana Government for public purposes and who purchase agricultural land in the State within two years of the compensation received by them. The exemption will be limited to the compensation amount and the additional amount involved in the purchase of agricultural land will be liable to stamp duty and registration fees as per rules.

Scrutiny of records of 14 SRs/JSRs<sup>24</sup> revealed that in 21 cases, farmers whose land had been acquired by the Government for public purposes purchased residential/commercial land valued at ₹ 2.87 crore. In five cases, agricultural land was purchased for ₹ 1.30 crore after two years. Value of land in these cases was ₹ 4.18 crore as per collector rate. SD and RF of ₹ 26.08 lakh (SD ₹ 23.86 lakh<sup>25</sup> + RF ₹ 2.22 lakh) was to be levied in these cases. The Department had, however, levied stamp duty and registration fees amounting to ₹ 0.57 lakh (SD ₹ 0.52 lakh + RF ₹ 0.05 lakh)<sup>26</sup>. This irregular exemption of stamp duty resulted in non/short levy of stamp duty and registration fees of ₹ 25.51 lakh (SD ₹ 23.34 lakh + RF ₹ 2.17 lakh).

On this being pointed out, six SRs/JSRs<sup>27</sup> stated in April 2018 that cases had been sent to the Collector under Section 47-A for decision. Seven SRs/JSRs stated (between November 2016 and April 2018) that the cases would be sent to the Collector under Section 47-A of the Indian Stamp Act for decision. Further reply from SR Satnali had not been received.

The matter was reported to the Government in March 2018. Reply was awaited despite issuance of reminders in June and November 2018.

<sup>24</sup> Assandh, Bapoli, Bawal, Dharuhera, Fatehabad, Jagadhri, Kalanwali, Nathusari Chopta, Nilokheri, Panipat, Radaur, Satnali, Sirsa and Tohana.

<sup>25</sup> SD at the rate of three to seven *per cent*.

<sup>26</sup> SR Jagadhri levied SD ₹ 0.52 lakh + RF ₹ 0.05 lakh on ₹ 7,38,904 after adjusting compensation amount of ₹ 8,61,096 from the value of the property of ₹ 16,00,000.

<sup>27</sup> Assandh, Bapoli, Bawal, Fatehabad, Nilokheri and Panipat.

The Department may maintain a centralised database of the acquired land with compensation amount in software HARIS for proper evaluation of stamp duty.

#### 4.10 Short levy of stamp duty due to under-valuation of immovable property

**Fifty one conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties resulting in short levy of stamp duty and registration fees of ₹ 20.50 lakh. In addition, penalty not exceeding ₹ 2.55 lakh was also leviable.**

Section 27 of the Indian Stamp Act, 1899, stipulates that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, should be fully or truly set forth therein. Further, Section 64 of the IS Act provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to ₹ 5,000 per instrument.

Scrutiny of records of deed writers and agreements for sale registered were cross verified with the sale deeds executed in 17 SRs/JSRs<sup>28</sup>. It was noticed that in 51 conveyance deeds registered between May 2014 and May 2017, SD and RF of ₹ 33.23 lakh (SD ₹ 31.72 lakh + RF ₹ 1.51 lakh) was levied on the sale deed of immovable properties valued at ₹ 7.62 crore. Cross verification of these sale deeds with the agreements executed between the concerned parties and the records of deed writers between January 2014 and October 2016 showed that the total sale value was ₹ 12.18 crore on which SD and RF of ₹ 53.73 lakh (SD ₹ 50.95 lakh + RF ₹ 2.78 lakh) was leviable. Thus, the conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties. Under-valuation of immovable properties in conveyance deeds resulted in short levy of SD and RF of ₹ 20.50 lakh (SD ₹ 19.23 lakh + ₹ RF 1.27 lakh). In addition, penalty not exceeding of ₹ 2.55 lakh<sup>29</sup> was also leviable for incorrect information in the document.

On this being pointed out, SR Rewari stated in April 2018 that the Collector had ordered to recover an amount of ₹ 69,000 and process of recovery had

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<sup>28</sup> Balla, Bawal, Bhattu Kalan, Fatehabad, Gharaunda, Hathin, Indri, Jakhal, Jhajjar, Nagina, Nissing, Nuh, Palwal, Panipat, Punhana, Rewari and Tohana.

<sup>29</sup> ₹ 5000 X 51 = ₹ 2,55,000.

been started. Seven SRs/JSRs<sup>30</sup> stated in April 2018 that cases had been sent to the Collector under Section 47-A for decision. Eight SRs/JSRs<sup>31</sup> stated (between November 2016 and December 2017) that recovery would be made as per rules. Reply from SR Punhana had not been received.

The matter was reported to the Government in March 2018. Reply was awaited despite issuance of reminders in June and November 2018.

**The Government should strengthen internal audit to ensure timely detection and correction of errors in levy and collection of revenue and avoid recurrence of mistakes pointed out.**

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

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<sup>30</sup> Balla, Bawal, Gharaunda, Indri, Jhajjar, Nissing and Panipat.

<sup>31</sup> Bhattu Kalan, Fatehabad, Hathin, Jakhal, Nagina, Nuh, Palwal and Tohana.

