

## CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

### 5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State are regulated under the Registration Act, 1908, the Rajasthan Stamps (RS) Act, 1998 and the Rules made thereunder. According to Section 3 of the RS Act, every instrument shall be chargeable with duty according to the rates mentioned in the Schedule to the RS Act. The SD is leviable on execution of instruments and RF is payable on registration of instruments. Surcharge is also chargeable on SD with effect from 9 March 2011.

### 5.2 Results of audit

There are 547 auditable units<sup>1</sup> in the Registration and Stamps Department, 17,28,017 instruments were registered during 2017-18 therewith. Out of these, 167 units were selected for test check in which 7,21,914 instruments were registered, of these 4,82,023 instruments (approximate 67 per cent) were selected for test check. During scrutiny, audit noticed short/non-realisation of SD and RF of ₹ 148.43 crore in 2,000 cases (approximate 0.5 per cent of sampled cases). These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. Thus, there is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Particulars	Number of Cases	Amount
1	Performance Audit on 'Levy and collection of stamp duty and registration fee'	1	88.40
2	Incorrect determination of market value of properties	1,356	33.54
3	Non/short levy of SD and RF	562	12.98
4	Other irregularities related to:		
	(i) Revenue	77	0.14
	(ii) Expenditure	4	13.37
<b>Total</b>		<b>2,000</b>	<b>148.43</b>

During the year 2017-18, the Department accepted underassessment and other deficiencies of ₹ 59.00 crore pertaining to 3,686 cases, of which 1,057 cases involving ₹ 21.43 crore were pointed out during the year 2017-18 and the rest in the earlier years. The Department recovered ₹ 9.28 crore in 2,386 cases during the year 2017-18, of which 47 cases involving ₹ 0.08 crore related to the year 2017-18 and the rest to the earlier years.

The Government accepted and recovered the entire amount of ₹ 11.75 lakh in one case after it was pointed out (January 2018) by the Audit. This paragraph has not been discussed in the Report. A Performance Audit on 'Levy and collection of stamp duty and registration fee' involving ₹ 88.40 crore is discussed in the succeeding paragraphs.

<sup>1</sup> 547 auditable units: 527 SRs (Registering authorities) and 20 administrative offices.

### **5.3 Performance Audit on ‘Levy and collection of stamp duty and registration fee’**

#### **5.3.1 Introduction**

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State of Rajasthan are regulated under the Rajasthan Stamp Act (RS Act), 1998, the Registration Act, 1908 and rules made thereunder. The Stamp Act is fiscal enactment, its primary object is to collect revenue. The SD was payable at the rates (*ad valorem* or fixed) as prescribed in the schedule under Section 3 to the RS Act. The RF was payable under Section 78 of Registration Act, for registration of document, searching the registries, safe custody and return of documents and filing transactions *etc.*

RF was fixed *vide* notification dated 9 April 2010 *i.e.* at the rate of one *per cent* of the value or consideration subject to a maximum of ₹ 50,000. The notification was amended on 9 March 2015 and maximum limit of RF was deleted. It was again amended on 8 March 2017 and was fixed one *per cent* of value or consideration, subject to maximum of ₹ 4 lakh and further fixed on 12 February 2018 subject to maximum of ₹ 3 lakh. Surcharge was also payable on SD at the rate of 10 *per cent*. Additional surcharge at the rate of 10 *per cent* was also payable *vide* notification dated 8 March 2016.

Market value of the property and the rates of stamp duty and registration fee are essential elements in collection of revenue on account of SD and RF of an instrument. The market value was determined in accordance with the procedure laid down in Rule 58 of RS Rules and the rates of SD and RF were notified by the Government from time to time. The Government introduced a real time IT system ‘*E-Panjiyan*’ on 1 December 2014. It provides executants real time facility of self-valuation of their properties as well as assessment and payment of duty by booking of time slot for registration.

#### **5.3.2 Organisational set-up**

The Department functions under the overall administrative control of Finance Department. The Inspector General, Registration and Stamps (IGRS) is the administrative head of the Department. The Additional Inspector General (AIG), is the *Ex-officio* superintendent of stamps at headquarter and also assists the IGRS in administrative matters. The Financial Advisor (FA) assists the IGRS in financial matters. The entire State has been divided into 18 circles which are headed by Deputy Inspector General (DIG) *cum Ex-officio* Collector (Stamps). There are 111 Sub Registrar (SR) offices headed by SRs and 403 *Ex-officio* SRs offices headed by *Tehsildars* or *Naib Tehsildars* working under the administrative control of the District Registrar in each District.

#### **5.3.3 Audit objectives**

The Performance Audit (PA) was carried out to examine whether:

- the provisions of the relevant Act/Rules and Departmental instructions were adequate and enforced properly to safeguard revenue of the State;
- the Department had devised systems to ensure that the documents required to be registered were presented for registration and the requisite stamp duty and registration fee were levied;

- a system is in place to watch compliance of conditions under which exemption/remissions in stamp duty and registration fee, if any granted;
- internal control mechanism was effective and sufficient to safeguard collection of the stamp duty and registration fee; and
- the registering authorities and Public offices were discharging their functions in accordance with the prescribed rules and procedures.

#### 5.3.4 Audit Criteria

- The Registration Act, 1908;
- The Rajasthan Stamps Disposal Rules 1962;
- The Rajasthan Stamp Act, 1998;
- The Rajasthan Registration Rules, 1955;
- The Rajasthan Stamp Rules, 2004 and
- Notifications and circulars issued under the Act and Rules *ibid.*

#### 5.3.5 Scope and Methodology

The PA was conducted between October 2017 and July 2018 for the period from April 2012 to March 2017. The records of IGRS, Ajmer, nine<sup>2</sup> out of 18 DIGs, 68<sup>3</sup> out of 514 SRs along with the records of major Public offices were examined with a view to ascertain the efficiency and efficacy of the Department in levy and collection of SD and RF payable on instruments. The sample selection<sup>4</sup> of the units for field audit was drawn in such a manner so as to represent the entire population and major portion of the revenue of the State.

Total number of instruments registered in the 514 SRs<sup>5</sup> during the period 2012-13 to 2016-17 were 75.20 lakh. Out of these 17.86 lakh instruments were registered in selected 68 SRs. Audit selected 3,040 instrument, each having money value of more than one crore rupee. Scrutiny of these instruments disclosed irregularities in 566 instruments (approximate 19 *per cent* of selected cases) resulting in short recovery of revenue on account of stamp duty and registration fee of ₹ 88.40 crore<sup>6</sup> as discussed in the succeeding paragraphs.

At the outset an Entry Conference was held on 23 January 2018 with the members of the Department headed by Secretary, Finance (Revenue) and IGRS, wherein objectives, scope and methodology of PA were explained. Exit Conference was held on 21 August 2018, wherein audit findings were discussed in detail with the departmental and the Government officers, the replies received in the exit conference and at other point of time have been appropriately commented in the respective paras. Thereafter, the findings of

<sup>2</sup> DIG Alwar-I, II, Bikaner, Jaipur-I, II, III, Jodhpur, Kota and Udaipur.

<sup>3</sup> SR: Alwer-I, Asind, Bagru, Bansoor, Bap, Baseri, Behror, Bhiwadi, Bhilwara-I, Bundi, Bhadra, Bilara, Bhindar, Chirawa, Shri Dungargarh, Dausa, Deedwana, Deogarh, Ghatol, Gajsinghpur, Hindumalkot, Jaipur-I, II, III, IV, V, VI, VII, VIII, Jalore, Jaswantpura, Jodhpur-I, III, Kishangarh, Khairthal, Kusalgarh, Kolayat, Kapasan, Kharchi, Kota-II, Laxmangarh, Luni, Mojmabad, Malsisar, Mandawa, Mundwa, Neemrana, Nokh, Pishangan, Pallu, Pali-I, Phalasia (Jhadol), Ramsin, Rajakhera, Relmagra, Sawar, Shrinagar, Sujangarh, Sangod, Sadulsahar, Sanchore, Sanganer-II, Tapukara, Talawada, Uchain, Udaipur-I, II and Viratnagar.

<sup>4</sup> The sample was drawn on the basis of *probability proportion to size sampling method*. There are total 514 auditable units in the Department which are further divided into two categories *i.e.* full time SR offices (111) and ex-officio SR offices (403). Total 28 units (25 *per cent* units covering 54.93 *per cent* revenue) out of available 111 units of full time SR offices and 40 units (10 *per cent* units covering 18.32 *per cent* revenue) out of available 403 units of *Ex-officio* SR offices have been selected. The selection of units in this manner covered 46.71 *per cent* of the total average revenue of all SR offices.

<sup>5</sup> There are total 527 SRs, out of these 514 SRs are working.

<sup>6</sup> This includes observations amounting to ₹ 4.95 crore noticed during regular audit.

the audit in the form of a Draft Paragraph was issued to the Government and IGRS on 18 October 2018. Reply of the Government on the Draft Paragraph was received on 13 December 2018 and the same has been incorporated in respective paragraphs appropriately. Cases of similar nature noticed in performance audit and in the compliance audit have been clubbed together in the PA.

### 5.3.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of Finance Department and Registration and Stamp Department in providing necessary information and records for Audit.

### 5.3.7 Trend of Revenue

Actual receipts from SD and RF during the last five years from 2012-13 to 2016-17 along with the total tax receipts of the state for the same period are shown in the following table:

(₹ in crore)						
Year	Revised Budget Estimate (REs)	Actual	Variation excess (+) short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts viz-a-viz total tax receipts
2012-13	3,300.00	3,334.87	34.87 (+)	1.05 (+)	30,502.65	10.93
2013-14	3,350.00	3,125.33	224.67 (-)	6.70 (-)	33,477.70	9.34
2014-15	3,500.00	3,188.89	311.11(-)	8.89 (-)	38,672.92	8.25
2015-16	3,450.00	3,234.00	216.00 (-)	6.26 (-)	42,712.92	7.57
2016-17	3,250.00	3,053.25	196.75 (-)	6.05 (-)	44,371.66	6.88

Source: Information provided by IGRS and State Finance Accounts.

It would be seen from the above that the variation between the REs and the actuals was less than nine *per cent* however collection of revenue had reduced from ₹ 3,334.87 crore in 2012-13 to 3,053.25 crore in 2016-17 *i.e.* by nine *per cent*.

The Government replied that reduction in collection of revenue was due to downturn of the market, vacant post of SRs, exemption in SD on developer agreements, DLC rates fixed were not based on market rates, various exemptions granted in public interest, *etc.*

### 5.3.8 Uncollected Revenue-Arrears

Arrears of revenue mainly comprise of the cases of unpaid amounts of the stamp duty on account of the underassessment noticed during inspection of Public offices<sup>7</sup> by the registering authorities or internal and external Audit or brought to notice of the department by any other person. The Department raises fresh demand(s) where the instrument(s) are found not properly stamped. The concerned party has an option to appeal against the demand raised before an appellate authority prescribed under the RS Act.

<sup>7</sup> Means any office whom the State Government may by notification in the official Gazette, notified on this behalf. We test checked records of major Public Offices *i.e.* Registrar of Firms, Registrar of Company, Urban Improvement Trust, RIICO and Regional Auditor Co-operative Societies of the selected districts.

As per information provided by the IGRS office Ajmer, 10,993 cases involving amount of SD of ₹ 305.23 crore were pending for recovery as on 31 March, 2017 as shown below:

(₹ in crore)

Year	Arrears prior to 1 April		Demand raised during the year		Recovery during the year		Recovery outstanding as on 31 March	
	Number of cases	Amount involved	Number of cases	Amount involved	Number of cases	Amount involved	Number of cases	Amount involved
2012-13	NA	170.96	NA	99.21	NA	67.07	NA	203.10
2013-14	NA	203.10	NA	69.12	NA	99.59	18,860	172.63
2014-15	18,860	172.63	2307	225.70	6,776	149.71	14,391	248.62
2015-16	14,391	248.62	2552	91.76	3,813	62.82	13,130	277.56
2016-17	13,130	277.56	548	88.93	2,685	61.26	10,993	305.23

Source: information provided by IGRS.

The Department did not provide information regarding the number of cases pending recovery up to 31 March 2014. This could also not be electronically be ascertained by Audit as no module was developed in 'E-Panjiyan' to monitor the recovery of arrears. However, the age wise position of outstanding arrears, as on 31 March 2017 as furnished by the Department is given below:

Age wise category	Number of cases	Amount involved (₹ in crore)
Cases outstanding upto one year	1,841	87.93
Cases outstanding between one and five years	3,264	164.39
Cases outstanding more than five years	5,888	52.91

The Government intimated that out of ₹ 305.23 crore (10,993 cases), ₹ 69.93 crore (2,510 cases) have been recovered while ₹ 235.30 crore (8,483 cases) are pending for recovery. Out of these, ₹ 175.30 crore (1,220 cases) are pending due to stay granted by various courts. Continuous efforts are being made to recover the outstanding revenue

*It is recommended that a module for recovery of arrears may be developed in 'E-Panjiyan' system which would be compatible to tag the details of recoveries with the properties and executants so that arrears could be recovered before further transfer of such properties to other hands.*

The Government stated that a module is being developed in 'E-Panjiyan' which would enable the Department to tag the details of recoveries with the properties.

### System and compliance deficiencies

The system and compliance deficiencies noticed are mentioned in the following paragraphs:

#### 5.3.9 Determination of rates of immovable properties

Rule 58 of RS Rules *inter-alia* envisages that in case of agriculture, residential and commercial categories of land, the market value shall be assessed on the

basis of the rates recommended by the District Level Committee<sup>8</sup> (DLC), in case of other categories of land on the basis of the rates determined by Inspector General of Stamps with approval of the State Government and in case of constructed portion, on the basis of the rates determined by the State Government.

### 5.3.9.1 Determination of rates by DLC

As per rule 58(2) of RS Rules, the DLC is required to conduct meeting once a year for determining the DLC rates. According to Rule 58(3) of RS Rules, if the DLC does not revise the rates of agriculture, residential or commercial categories of land up to 31 March of any year, the market value of such categories of land in that district, shall be assessed by increasing the existing rates by 10 *per cent* from 1 April of the following year with effective from 14 July 2014. The holding of DLC meetings was an effective tool in the hands of the Department for determining the true market value of the properties from time to time.

Scrutiny of information in respect of meetings conducted by DLCs in six districts<sup>9</sup> revealed that 30 meetings of DLCs were required to be conducted during the period 2012-13 to 2016-17. However, only 10 DLC meetings were conducted during this period. The position of DLCs meetings was as under:

Sl. No.	Name of District	2012-13	2013-14	2014-15	2015-16	2016-17	No. of meetings conducted
1	Jaipur	Not conducted	Not conducted	Increased the prevailing rates upto 49 <i>per cent</i> .	Rates were remained unchanged	Not conducted	2
2	Jodhpur	Rates increased 5 to 20 <i>per cent</i>	Rates increased 5 to 50 <i>per cent</i>	Rates increased 5 to 50 <i>per cent</i>	Rates increased 5 to 50 <i>per cent</i>	Not conducted	4
3	Bikaner	Not conducted	Not conducted	Not conducted	Rates increased 4 to 50 <i>per cent</i>	Not conducted	1
4	Alwar	Not conducted	Not conducted	Rates increased 10 to 49 <i>per cent</i>	Not conducted	Not conducted	1
5	Udaipur	Not conducted	Rates increased 8 to 15 <i>per cent</i>	Not conducted	Not conducted	Not conducted	1
6	Kota	Not conducted	Not conducted	Rates increased 10 to 40 <i>per cent</i>	Not conducted	Not conducted	1

It would be seen that there was a short fall of 66.66 *per cent* in holding the DLC meetings. On the basis of the recommendations of the DLCs the rates of properties were increased up to 50 *per cent* and where DLC did not conduct

<sup>8</sup> The DLCs were constituted under Rule 2(b) of RS Rules by the State Government for each district for determination the market value of land. As per order dated 7 March 1996, DLC consists of District Collector as chairman, *Pradhan* of each *Panchayat Samiti*, members of Legislative Assembly, Secretary of Urban Improvement Trust, representative of local authorities, Secretary of Jaipur Development Authority, concerned DIG (Stamps) and SRs of that area as members.

<sup>9</sup> Six districts *i.e.* Alwar, Bikaner, Jaipur, Jodhpur, Kota and Udaipur covers selected nine DIGs (Stamps).

the meeting (during 2012-13 and 2013-14) the rates were not modified. After 14 July 2014, the SRs increased the rates by 10 *per cent* where meetings were not conducted. This, however, did not provide opportunity for incorporating the effects of specific market conditions on the rates of the properties, if any, in the DLC rates. Therefore, it is imperative that meetings of the DLC are conducted regularly to decide whether rate should be changed or not.

The Government replied that all the District Collectors would be instructed for conducting regular meetings of DLCs.

• **Absence of parameters for determination the market rates**

It was observed that the SRs sent the proposals for revision in prevailing rates of various categories of lands to DLC. No parameter or criteria was prescribed by the Government that could be followed by the DLC while recommending the revision in rates or by the SRs while sending the proposals to the DLC for revision.

The rates were being revised after adding a certain *percentage* to the prevailing rates and the same were approved in the DLC meetings. The rates determined by the DLCs were compared by audit with the auction rates of 30 properties auctioned by Jaipur Development Authority (JDA), Rajasthan Housing Board (RHB) Jaipur and Urban Improvement Trust (UIT) Kota. It was noticed that rates at which properties were auctioned in different localities varied by 152 to 806 *per cent* in comparison to the DLC rates fixed in same area in same year as mentioned in the following table:

Sl. No.	Name of local body	Name of locality	Auction rate in ₹ (per square metre)	Rate in ₹ determined by DLC (per square metre)	Difference in percentage
1	JDA, Jaipur	Chitrakoot Sector 1 to 4 (Residential) (Plot No B4/176A)	77,100 (21 August 2018)	21,798	354
		Paladi Meena (Residential) (Plot No E-34)	18,500 (20 August 2018)	5,850	316
		Gokul Nagar Yojna, Gokulpura, Jhotwara (Residential) (Plot No 605C)	40,600 (27 June 2018)	5,040	806
2	RHB, Jaipur	Pratap Nagar Sector-19 (Residential) (Plot No 193/ 10A)	76,400 (19 October 2015)	12,500	611
		V. T. Road Mansarovar (Commercial) (Plot No S-65)	2,79,000 (27 June 2017)	67,176	415
		Indira Gandhi Nagar Jagatpura Jaipur (Commercial) (Plot No 11-SC-32)	62,000 (17 May 2018)	40,707	152
3	UIT Kota	Mahaveer Nagar-I (Residential) (Plot No 1265)	6,270 (per square feet) (28 February 2018)	2,281 (per square feet)	275
		Ramkrishanpuram-A (Residential) (Plot No 12)	5,300 (per square feet) (8 June 2016)	1,940 (per square feet)	273

Source: Information collected from website of JDA and provided by RHB Jaipur and UIT Kota.

Price indicators such as rates of auctions of immovable properties by local bodies, trend of consideration shown in sale deeds registered in previous years

may be considered while fixing DLC rates. Besides, expert opinion may also help in arriving at actual market prices of properties.

The Government replied that Department has sent draft guidelines prepared for guiding the DLC to the Finance Department for approval. Certain parameters have been included in the draft to eliminate the difference between actual market rates and DLC rates.

### **5.3.9.2 Determination of rates by state Government**

- **Absence of system of periodical revision of rates of 'Cost of construction'**

Rule 58 of RS Rules provided that the registering officer shall assess the market value of constructed portion of properties on the basis of rates determined by the State Government. The rates for assessment of market value of constructed portion of property were revised on 8 December 2009 which were again revised *vide* notification dated 14 July 2014 and 9 March 2015. Government did not revise rates of constructed portion of properties between December 2009 and July 2014 and after 9 March 2015. No provision for periodical revision of the rates of constructed portion was made in the Act or Rules.

Provisions should be made for periodical revision of rates of constructed portion and criteria for determination of the cost should also be prescribed. Basic schedule of rates adopted by Public Works Department may be considered for the same.

The Government replied that determination of rate of construction is being done on the basis of cost of construction and other involving factors. Further, it was also informed that standards prescribed by Public Works Department would also be considered while revising the rates of construction.

### **5.3.9.3 Inconsistency/'chop and change' of fixation of market rates**

Audit found that the rates of the land were not valued according to the purpose for which the land(s) were intended to be used. A few cases noticed are detailed as follows:

- **Agriculture lands purchased for institutional purpose**

Neither any parameter was prescribed for fixation of rates for institutional purposes till March 2011 nor was any separate rates fixed for lands purchased for these purposes. The rates of lands purchased for institutional purpose were prescribed *vide* notification dated 9 March 2011 as 1.5 times of the residential rates.

It was observed that the rates of land purchased for the institutional purpose were revised four times during the period 2011-2015. The changes in the rates of land purchased (agriculture lands) for institutional purposes by

firms/companies are as below:

Notification dated 9 March 2011	Notification dated 12 July 2012	Notification Dated 14 July 2014	Notification dated 9 March 2015
Equal to 1.5 times of the residential DLC rates for that area	(notification dated 9 march 2011 was withdrawn) No separate rates were prescribed between 12 July 2012 and 13 July 2014.	<ul style="list-style-type: none"> <li>• Equal to 1.5 times of rates of agriculture land of that area where land purchased by co-operative Societies/ charitable institutions and</li> <li>• Two times of rates of agriculture of that area where such land purchased by companies or firms or by any institutions.</li> </ul>	The following provision was made in addition to notification dated 14 July 2014 <ul style="list-style-type: none"> <li>• Equal the residential rates where agriculture rates are not recommended by the DLC(s).</li> </ul>

• **Agriculture lands purchased by Firms/Companies**

The rates for agricultural land purchased by firms/companies were not specifically prescribed. The Finance Department issued a notification in May 2012 to prescribe rates for such land. It was observed that the rates of agricultural land purchased by firms/companies were revised and withdrawn three times during July 2012 to March 2015 as discussed below:

Notification dated 8 May 2012	Notification dated 12 July 2012	Notification dated 14 July 2014	Notification dated 9 March 2015
Agriculture land purchased by companies or partnership firms is to be determined equal to 1.5 times of the residential land of that area	Rates fixed <i>vide</i> notification dated 8 May 2012 were deleted, no separate rates were prescribed between 12 July 2012 and 13 July 2014.	Equal to 1.5 times the rates of agriculture land of that area.	Equal to the rates of agriculture land of that area.

It would be seen from above tables that there was no consistency in prescribing rates of lands for institutional purpose and agriculture lands purchased by companies/firms. Further no specific rates were prescribed for the period from 12 July 2012 to 13 July 2014. Rates fixed for agriculture lands purchased by firms/companies *vide* notification dated 14 July 2014 were again revised to same as agriculture land of that area *vide* notification dated 9 March 2015.

The practice to '*chop and change*' the rates shows that the Government was indecisive to prescribe norms for determination of rates of these categories of land. This resulted in fluctuations in valuation of such lands.

Secretary (Finance) in Exit Conference stated that lands should be valued according to the purpose, they are intended to use. He directed Deputy Legal Remembrance and IGRS to look into the matter and suggest suitable clarification in notification dated 9 March 2015.

The Government replied that rate of land(s) were not revised since 2015. It was also informed that rates are being revised in public interest on the basis of recommendations made by various organisation to the advisory committee at the time of budget. However, no supporting documents were furnished in this regard.

**5.3.10 Site inspection of immovable properties**

Rule 57 of the RS Rules provides that in case an instrument relating to immovable property chargeable with duty on the market value of the property, the facts affecting duty shall be set forth truly in instruments by executants. Where the registering officer has a doubt about correctness of facts mentioned

in the instrument affecting duty, he may inspect the property himself or may direct his subordinate employee authorised by IGRS in this regards to inspect the property so as to ascertain the correctness of facts and determine the market value accordingly.

IGRS *vide* circular number 11/2004 instructed DIGs to constitute a panel of two to ten inspectors in each SR office for timely inspection of properties. Provision was also made at para 4(vi) of circular *ibid*, to recover loss of revenue from responsible Inspector, in case of incorrect reporting by him.

This arrangement was further modified *vide* circular number 16/09, *vide* which instrument was to be returned immediately after registration and properties valuing upto 25 lakh were to be inspected on random basis by SRs (25 *per cent*) and DIGs (10 *per cent*) and all the properties valuing more than 25 lakh were compulsorily be inspected.

Scrutiny of information provided by the SRs revealed that short levy of SD of ₹ 7.38 crore in 1,676 cases during 2012-13 to 2016-17 was detected by nine SRs during inspections. Out of which ₹ 4.36 crore was recovered.

Thus, it would be seen that conducting of inspection is an important tool in the hands of the Department for detecting the underassessment of the SD and needs to be strengthened in the interest of revenue. Information of site inspections of immovable properties was called for from selected DIGs and SRs. The information was not provided by the DIGs. Information provided by selected SRs for the period 2012-13 to 2016-17 revealed that:

- Records of site inspections were not maintained in six SRs<sup>10</sup> and in 12 SRs<sup>11</sup> the information made available was incomplete as the information was provided only for two to three years, bifurcation of site inspections according to monetary value was not provided, *etc.*
- In 20 SRs 71,572 site inspections were to be conducted as per prescribed norms. Out of these, 52,648 inspections (526 inspections per SR per year) were conducted by these SRs. On an average 26 *per cent* inspections<sup>12</sup> were not conducted against the norms, the short fall ranged between one *per cent* and 100 *per cent*.
- In 30 SRs 1,78,257 site inspections were to be conducted (on an average 1,188 inspections<sup>13</sup> per SR per year). These SRs submitted reports showing conduct of all the targeted inspections.

**Effectiveness of the inspections conducted:**

- Audit noticed short payment of stamp duty and registration fee of ₹ 1.81 crore in 10 instruments of immovable properties (each valued at more the ₹ 25 lakh) which were shown as inspected by the SRs. It indicates that the inspections were not conducted diligently.
- Further, number of inspections conducted by the SRs ranged between 21 and 22,162 during the years 2012-17 (details in *Appendix-I*). It would mean conducting up to 17 inspections a day considering 250 working days in a year which is not a practical option and may not prove an effective tool in achieving the intended purpose.

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<sup>10</sup> Jhadol, Kapasan, Kota-II, Kushalgarh, Malsisar and Sangod.

<sup>11</sup> Bagru, Bundi, Ghatol, Jaipur-IV, Jaipur-V, Khairthal, Laxmangarh, Mandawa, Rajakheda, Sanganer-II, Uchain, and Viratnagar.

<sup>12</sup> 26 *per cent*: Out of 71,572 inspections, 18,924 inspections were not conducted.

<sup>13</sup> 1,188 inspections: Total 1,78,257 inspections ÷ 150 (Five years X 30 SRs).

The Government replied that an application is being developed in 'E-Panjiyan' for monitoring the site inspections, SRs have been instructed to conduct the prescribed site inspections and to maintain proper record of site inspections, DIGs have also been instructed to ensure recovery of remaining amount of ₹ 3.02 crore.

*The rate of properties and the number of registrations both have increased many folds since 2009 when these norms were prescribed, therefore, the Government may consider to revise these norms to make the inspections practical and effective. Further the IGRS may monitor the work of inspections to ensure compliance of the department's instructions.*

### 5.3.11 Computerisation in Department

The Government of Rajasthan introduced an IT system 'Rajcrest' in 2003 to provide online registration facility. This system was in operation at all the full time SR offices and 144 ex-officio SR offices. This system was replaced with 'Sarathi' in 11 full time SR offices of Jaipur City in 2006. Further, the Government introduced 'E-Panjiyan' on 1 December 2014. This system is now operative at all SR offices with effect from 26 October 2017.

It was noticed that

- Separate modules for calculation of SD payable in various categories of instruments such as developer agreement, lease deeds, sale deeds of specific properties like agriculture land upto 1,000 square metre, industrial land, institutional land and transfer of mining lease, were not developed or suitably programmed in the 'E-Panjiyan'.
- Integration of *khasra* numbers, unit conversion table and history of earlier transactions of same property with the 'E-Panjiyan' was also not made.

In light of the above the 'E-Panjiyan' could not calculate correct SD payable on the instruments. These functions if available in the 'E-Panjiyan', could have prevented short levy of SD of ₹ 10 crore in 249 cases related to 43 SRs as discussed in succeeding paragraphs.

#### 5.3.11.1 Non-linking of *khasra* numbers with DLC rates and 'E-Panjiyan'

Scrutiny of DLC rates of five SRs<sup>14</sup> revealed that the rates for agricultural land situated on the National Highways, State Highways, district roads and village roads were determined on the basis of certain distances from said road *i.e.* 100 metre, 200 metre, 500 metre, *etc.* whereas, the DLC rates of six other SRs<sup>15</sup> determined were based on near to road/*abadi* or away from road/*abadi* without providing specific distances. It was seen that the *khasra* numbers of lands falling under above categories of locations were also not shown in DLC rates of these SRs.

It was noticed in SR Railmagra and Kolayat that seven deeds (Six sale and one gift deed) comprising of 115.05 *bigha* were registered between October 2015 and May 2016. The value of the land as per prevailing DLC rates was ₹ 3.35 crore involving SD and RF of ₹ 22.48 lakh. However, the SRs did not determine the value based on the distances from the national/state highway

<sup>14</sup> Bap, Bhilwara, Dausa, Kolayat and Railmagra.

<sup>15</sup> Behror, Bundi, Kishangarh, Sangod, Udaipur-I and II.

and incorrectly levied SD of ₹ 9.06 lakh on a consideration of ₹ 1.40 crore. This resulted in short levy of SD and RF of ₹ 13.42 lakh.

The Government replied that provisions to link the *khasra* numbers with DLC rates are available in the '*E-Panjiyan*' and DIGs have been instructed to link the *khasra* numbers of state/national highways with the DLC rates. Entire amount of SD of ₹ 1.51 lakh in respect of five cases have been recovered while in remaining two cases notices for recovery have been issued.

### **5.3.11.2 Non-integration of conversion table with the '*E-Panjiyan*'**

As per notification dated 9 March 2015, market value of agriculture land having area up to 1,000 square metre shall be assessed at the rates of residential land of that area. It was found that DLCs rates were approved in different measurement units *i.e. bigha, are, hectare etc.* The measurement of land can be worked out on the basis of length of *zarib*<sup>16</sup>, however this unit was neither mentioned in DLC rates nor in '*E-Panjiyan*'. Besides, the '*E-Panjiyan*' could not convert the land area from hectare to *bigha*, *bigha* to metre/yards/feet and *vice versa* in absence of conversion table due to which valuation of agriculture lands comprising area upto 1,000 square metre depends solely upon manual inputs given by registering officials.

Audit examined the sale deeds with saleable area upto 1,000 square metre in 28 SRs<sup>17</sup> and found that 175 deeds of agriculture land were registered between October 2015 and May 2016. The concerned SRs while converting the local units into hectares incorrectly considered the saleable area of land as more than 1,000 metre and levied SD of ₹ 0.09 crore on a consideration of ₹ 1.50 crore at agricultural rates instead of ₹ 1.03 crore on market value of ₹ 16.53 crore at residential rates. This resulted in short levy of SD and RF of ₹ 0.94 crore. Thus, non-integration of unit conversion table with '*E-Panjiyan*' by the Revenue Department resulted in short realisation of revenue to that extent.

The Government replied that the work relating to integration of unit conversion table and linking of land record computerisation with '*E-Panjiyan*' is under progress. Entire amount of SD of ₹ 6.07 lakh in respect of 26 cases have been recovered, 48 cases are under consideration with DIGs (Stamps) while in remaining 101 cases notices for recovery have been issued.

### **5.3.11.3 Absence of the provision for determination of SD on Development Agreements in '*E-Panjiyan*'**

Audit analysis revealed that '*E-Panjiyan*' was not made compatible to determine the value of the property according to the purpose of development of property, work out share of land owner and developer and assess SD separately on share of owner and developer as required in provisions. The SD on these instruments was being done manually which resulted in a number of mistakes.

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<sup>16</sup> *Zarib* is a measurement unit used to measure land. Each district uses different size of *zarib* and length of *zarib* varies from 110 to 165 feet.

<sup>17</sup> Asind (Eight cases), Bansoor (Two cases), Basedi (22 cases), Bilara (Four cases), Bundi (Two cases), Chirava (Three cases), Devgarh (Six cases), Ghatol (Nine cases), Hindumalkot (Two cases), Jalore (Six cases), Jaswantpura (14 cases), Jhadole (One case), Kharchi (Two cases), Kolayat (One case), Malsisar (One case), Mandava (Two cases), Mojmabad (Five cases), Pisangan (One case), Railmagra (23 cases), Rajakhera (10 cases), Ramsin (14 cases), Sanchore (Eight cases), Sangod (Four cases), Sawar (Two cases), Srinagar (Five cases), Sujangarh (One case), Talawara (One case), Uchain (16 cases), [Total 175 cases]

During scrutiny of records of seven SR offices it was noticed that 11 instruments of developer agreement were executed and registered between land owners and developers. These properties were undervalued resulting in short levy of SD and RF of ₹ 1.80 crore. Of these, six cases are detailed in the following table:

(₹ in crore)							
Sl. No.	Name of SR	Number of cases	Market value assessed	Market value to be assessed	SD and RF leviable	SD and RF levied	Short levy and recovery
1	Sanganer-II & Jaipur-II	3	17.65	34.33	0.82	0.37	0.45
	Land was to be developed for mixed use <i>i.e.</i> residential and commercial purpose and as per notification dated 9 March 2015 it should have been valued at 75 per cent of commercial rate. But it was incorrectly valued at the agriculture rates in two cases and in one case the rate applied was less than approved DLC rate. This resulted in short levy of SD of ₹ 45 lakh.						
2	Neemrana	2	5.26	12.38	0.40	0.17	0.23
	Recitals of the deeds indicated that land(s) were to be developed as multi-storey building, therefore, these should be valued at residential rates under Section 51 of the RS Act which stipulated that the potentialities and purpose to which the land may be put to use should also be considered in determination the market value of the property. But it was valued at the agriculture rates. This resulted in short levy of SD of ₹ 23 lakh.						
3	Bhiwadi	1	3.35	40.00	1.12	0.09	1.03
	The rate of land for <i>group housing projects</i> were more than the residential rates prescribed by the DLC and should have been considered for the purpose of SD and RF. But the SRs incorrectly adopted rates of residential land prescribed by the DLC resulting in short levy of SD of ₹ 1.03 crore.						

The Government replied that 'E-Panjiyan' is compatible to assess SD and RF according to the inputs such as actual use of land, type of land, *etc.* given to the system. Entire amount of SD of ₹ 1.94 lakh in two cases have been recovered, eight cases are under consideration with DIG (Stamps) while in remaining one case, reply from concerned DIG (Stamps) is awaited.

'E-Panjiyan' should also be made compatible to assess SD separately on share of owner and developer as required in provisions.

#### 5.3.11.4 Short levy of SD on Lease deeds

Lease deeds executed for various periods are chargeable with SD under Article 33 of the Schedule to the RS Act as under:

Article	Period of lease	SD chargeable
33(a)(iii)	Term in excess of 20 years	as on a conveyance on market value of the property.
33(a)(ii)	Term more than 10 years upto 20 years	as on a conveyance for a consideration equal to the amount or value of the average rent of two years.
33(c)(i) (Amended <i>vide</i> notification dated 14 July 2014)	Term upto ten years (if money advanced or development charges advanced or securities charges advanced is refundable and the lease purports)	at the rate of one <i>per cent</i> of the rent for the entire period subject to minimum of ₹ 5000 in case of leases of other than residential properties.

Audit noticed that 'E-Panjiyan' was not compatible to link instruments of lease registered earlier in respect of the same property to sum up such stated periods along with all previous periods immediately preceding this without a break for which the lessee and lessor remained the same. The 'E-Panjiyan' was also not compatible to work out average rent of certain period as required.

During audit of records of 18 SRs<sup>18</sup>, it was noticed that 31 instruments were registered as lease deeds. Scrutiny of these cases revealed short levy of SD amounting to ₹ 1.61 crore as discussed below:

- Recitals of the 11 lease deeds indicated that their period of execution exceeded 20 years for levy of SD and RF but these were incorrectly treated as less than 20 years as the period of lease, earlier period(s) of leases and option to renew was not taken into consideration. This resulted in short levy of SD of ₹ 1.06 crore on these instruments.
- Out of 20 lease deeds, in two cases average rent was wrongly calculated, in seven cases SD was charged at the rate of two *per cent* and in one case at the rate of one *per cent* instead of five *per cent* of average rent of two years. In nine cases, SD was charged at the rate of one or two *per cent* of average rent of two years instead of one *per cent* of rent of entire period of lease and in one cases SD was not charged at all. This resulted in short/non-levy of SD of ₹ 55 lakh.

The Government replied that entire amount of SD of ₹ 3.04 lakh has been recovered in four cases, 12 cases are under consideration with DIG (Stamps), notices for recovery have been issued in 11 cases while in four cases concerned DIG (Stamps) disagreed with audit observation stating that SD at the rate of conveyance has been charged on previous instruments executed between the same executants. However, reasons for disagreements are contradictory to the provisions.

#### **5.3.11.5 Non-integration of provisions in ‘E-Panjiyan’ for delayed registration of lease deeds.**

Notification dated 14 July 2014 stipulated the method of valuation of lease deeds executed by local bodies or authorities<sup>19</sup> in respect of land allotted or sold by them. It prescribed enhanced valuation of land in case of presentation of a document before the registering authority after two months of its execution for the purpose of levy of SD. Besides, as per Section 23 of the Registration Act any instrument shall be accepted for registration within four months from the date of its execution. Delay in presentation shall be regulated by charging a fine as provided in part XIII of the Rajasthan Registration Rules, 1955.

Audit found that there was delay in presentation of the lease deeds before the registering authorities for which the concerned SRs were required to levy SD on the values to be worked out in accordance with the provisions of the RS Act and also collect fine on account of the RF for the default. However, there was no provision in the ‘E-Panjiyan’ to identify such delays and compute SD and RF leviable on their delayed presentation automatically.

Scrutiny of records of selected SR offices disclosed that in 25 cases, documents were delayed presented for registration. The SRs while registering the deeds omitted to work out the value of the properties in accordance with the notification *ibid* and fine under the Rajasthan Registration Rules. This

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<sup>18</sup> SR: Bap, Chidawa, Deedwana, Jaipur-I & II, Jalore, Khairthal, Kharchi, Kolayat, Mojmabad, Mundwa, Railmagra, Sanchore, Srinagar, Sujangarh, Udaipur-I & II and noticed during regular audit: SR Aspur.

<sup>19</sup> Local Bodies or Authorities *i.e.* State Government, Rajasthan Housing Board, Development Authorities (Jaipur, Jodhpur and Ajmer), Urban Improvement Trusts (UITs), *Krishiupajmandi, Mandisamittee, Gram Panchayats, Panchayat Samittee*, Rajasthan State Industrial Development and Investment Corporation (RIICO), Rajasthan State Cooperative Housing Federation or by any other authority or enterprises of the state Government *etc.*

resulted in short levy of SD and RF of ₹ 5.52 crore including fine for late presentation of lease deeds as discussed below:

- **Registered within three and four months of execution of the lease deed:** As per notification *ibid* if an instrument is submitted for registration between two and four months from the date of its execution, SD shall be leviable on 125 *per cent* of the ‘premium, other charges paid in consideration including interest or penalty, if any and the average amount of the rent of two years’.

Audit found that a lessee got a lease deed registered in SR Bap on 28 July 2016 after its execution on 31 March 2016. The SR while registering the document ignored the delay of three months and 28 days and valued the property at consideration amount of ₹ 44.28 crore instead of ₹ 55.35 crore *i.e.* 125 *per cent* of premium *etc.* The SD and RF of ₹ 3.10 crore was charged instead of ₹ 3.87 crore. This resulted in short levy of SD and RF of ₹ 0.77 crore.

- **Registered within five and eight months of execution of the lease deed:** (i) As per notification *ibid* if an instrument is submitted for registration between five and eight months from the date of its execution, SD shall be leviable on 150 *per cent* of the ‘premium, other charges paid in consideration including interest or penalty, if any and the average amount of the rent of two years’. As per the provisions of the Rajasthan Registration Rules *ibid* if an instrument is submitted for registration with a delay of more than three months but less than four months after the prescribed period of four months, a fine of 50 *per cent* of the proper RF is also leviable.

A lessee got a lease deed registered in SR Bap on 14 July 2016 after its execution on 18 November 2015. Thus, there was a delay of seven months and 26 days in the registration of the deed under RS Act. SD of ₹ 7.40 crore on ₹ 123.34 crore (*i.e.* 150 *per cent* of the consideration ₹ 74.75 crore) was leviable as per notification *ibid*. The SR, however, levied SD of ₹ 4.48 crore on consideration of ₹ 74.75 crore. Besides, as per Rajasthan Registration Rules *ibid* RF of ₹ 1.85 crore including fine was leviable, however, the SR levied RF of ₹ 74.75 lakh only. This resulted in short levy of SD and RF including fine of ₹ 4.02 crore.

(ii) As per the provisions of the Rajasthan Registration Rules *ibid* if an instrument is submitted for registration with a delay of more than two months but less than three months after the prescribed period of four months, a fine of 30 *per cent* of the proper RF is also leviable.

Audit noticed that a lease deed was registered on 12 August 2016 under Rajasthan Investment Promotion Scheme<sup>20</sup> (RIPS) with a delay<sup>21</sup> of two months and 22 days after its execution on 21 January 2016. SD was exempted under RIPS, therefore, only RF was leviable. However, the SR did not levy a fine of ₹ 26 lakh on the deed.

- **Registered after eight months of execution of the lease deed:** As per notification *ibid* if an instrument is submitted for registration after eight months from the date of its execution and revalidated from the local bodies, SD shall be leviable on market value of the property or on 150 *per cent* of

<sup>20</sup> A Scheme to promote investment and employment opportunities in the State.

<sup>21</sup> A document can be presented for registration within a period of four months of its execution, therefore, delay is worked out beyond the period of four months.

the 'premium, other charges paid in consideration including interest or penalty, if any and the average amount of the rent of two years', whichever is higher.

Audit noticed that in 22 cases, instruments were presented for registration after expiry of eight months of their execution and were revalidated by concerned local bodies<sup>22</sup>. The lease deeds were valued at consideration amount of ₹ 0.97 crore instead of ₹ 8.12 crore i.e. market value of properties. Therefore, SD and RF of ₹ 0.06 crore was charged instead of ₹ 0.53 crore. This resulted in short levy of SD and RF of ₹ 0.47 crore.

The Government replied that entire amount of SD of ₹ 0.15 lakh has been recovered in two cases, notices for recovery have been issued in 21 cases while in two cases of SR Bap, DIG/SR disagreed with audit observation without stating reason.

*Separate module should have been developed in 'E-Panjiyan' that could capture all the data relating to correct calculation of SD and RF in case of delay in presentation of lease deeds.*

The Government stated that necessary action to be taken in the 'E-Panjiyan' is under progress.

### **5.3.12 Lack of co-ordination between IGRS and Public Offices**

Section 37 of the RS Act, provides that every person-in-charge<sup>23</sup> of a Public Office before whom any instrument chargeable with SD is produced or such an instrument comes to his notice in the performance of his functions, shall examine every such instrument, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed as per Sub-section 2 of Section 37 of the RS Act.

The State Government notified (16 December 1997) certain offices as Public offices. IGRS through a circular (August 2010) instructed the SRs to inspect every Public office once in a quarter and the DIGs to inspect the same once in a year. Further, IGRS vide circular dated 29 December 2011, instructed Public offices to submit quarterly returns to DIGs/SRs concerned in respect of instruments executed/presented in their offices.

Section 17(1)(b) of the Registration Act, provides that other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or confined, of the value of ₹ 100 and above, to or in immovable property, are required to be compulsorily registered.

Information furnished by selected SRs revealed that 35 SRs did not inspect any of the Public offices<sup>24</sup> and required quarterly returns were not sent to 24 SRs<sup>25</sup> by the Public offices.

<sup>22</sup> Gram Panchayat: 4 B Badi (Pakki), Bansoor, Bhoopseda, Gyanpura, Hameerpur, Hazipur, Mojmabad, Rampur, Ransigaon and Shivpur; Nagar Palika: Deedwana and Sanchore and JDA Jaipur.

<sup>23</sup> Means any officer whom the State Government notified in the official Gazette.

<sup>24</sup> Registrar of Firms, Registrar of Company, Urban Improvement Trust (UIT), RIICO and Regional Auditor Co-operative Societies.

<sup>25</sup> Asind, Behror, Bhadra, Bhilwara-I, Bilada, Chirawa, Deedwana, Devgarh, Ghatol, Jaipur-V, Jodhpur-III, Kapasan, Kishangarh, Kushalgarh, Luni, Malsisar, Mandawa, Mundawa, Pallu, Railmagra, Sadulsahar, Shri Dungargarh, Sujangarh and Tapukada.

The Government replied that a new Section 10(A)<sup>26</sup> under RS Act has been introduced through Finance Bill 2018 to ensure payment of SD on the documents not compulsorily registrable. The Department *vide* circular dated 1 June 2018 instructed persons-in-charge of Public offices in this regard.

During PA non/short levy of SD of ₹ 66.64 crore in 176 cases was noticed in 22 Public offices out of 35 Public offices inspected. This shows lack of co-ordination between IGRS and Public offices as discussed in succeeding paragraphs:

#### **5.3.12.1 Contribution of immovable property to partnership firms**

According to Article 43(1)(c) of the Schedule under the RS Act in case of an Instrument of partnership, where share contribution is brought in by way of immovable property, the SD shall be chargeable as on conveyance on the market value of such property.

During scrutiny of records of eight<sup>27</sup> Registrar of Firms (RoF), it was noticed that in 39 cases<sup>28</sup>, immovable properties valuing ₹ 137 crore were brought in by the partners as share contribution in the partnership firms during the period 2012-13 to 2016-17, through the deeds of partnership. The SD of ₹ 0.32 lakh was paid on these partnership deeds at the rate of ₹ 5,000 in one case, ₹ 2,000 in five cases each and ₹ 500 in remaining 33 cases each instead of five *per cent* on market value which resulted in short levy of SD of ₹ 8.77 crore. The Person-in-charge of RoF neither impounded these instruments nor made any references to the DIGs (Stamps) for short payment of SD.

The Government replied that entire amount of SD of ₹ 10.94 lakh has been recovered in three cases, eight cases are under consideration with DIG (Stamps) while notices for recovery have been issued in 28 cases.

#### **5.3.12.2 Transfer of property on retirement or incoming of a new partner**

According to Article 43(2)(a) of the Schedule to the RS Act, an instrument of dissolution of the partnership or if on retirement of a partner, any property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership, the SD is chargeable as on conveyance on the market value of such property.

- **Cases related to RoF Offices**

Scrutiny of records of RoF Jaipur (city) and Bhilwara revealed that in two cases of partnership firms, on retirement of existing partner/incoming of a new partner, immovable properties valuing ₹ 7.53 crore were taken (between December 2014 and October 2015), as their share by the partners other than the partners who brought in that property as their share of contribution in the partnership firms. The instrument in respect to RoF Jaipur was unstamped while SD of ₹ 500 was paid on the instrument registered with RoF Bhilwara instead of ₹ 49.24 lakh calculated at the rate of five *per cent* on market value of these properties which resulted in short levy of SD ₹ 49.24 lakh.

The Government replied that notices for recovery have been issued.

<sup>26</sup> Under Section 10(A), the Government may notify all Departments of State Government, Institutions of Local Self Government, Semi Government Organisations, Banking or Non-Banking Finance Institutions or the body owned, controlled or substantially financed by the State Government or any class of them, specified in the schedule appended here to ensure that the proper stamp duty is paid to the State Government through electronic Government Receipt Accounting System (*e-GRAS*) in respect of instruments specified in the schedule.

<sup>27</sup> Alwar, Bhilwara, Bhiwadi, Bikaner, Bundi, Jaipur, Jodhpur and Pali.

<sup>28</sup> Alwar(one case), Bhilwara (seven cases), Bhiwadi (one case), Bikaner (10 cases), Bundi (seven cases), Jaipur (four cases), Jodhpur (one case) and Pali (eight cases).

• **Similar cases noticed in SR offices**

Scrutiny of records of two SRs offices<sup>29</sup>, revealed that three sale deeds of immovable properties were registered (between May 2016 and February 2017). Recitals of the sale deeds disclosed that in these cases, on retirement/incoming of a new partner of partnership firms, immovable properties valuing ₹ 2.71 crore were taken as their share by the partners other than the partners who brought in that property as their share of contribution in the partnership firms. There was no mention of the partnership deeds being stamped. The SRs did not consider the fact of transfer of such share in immovable properties on which SD was chargeable on market value of transferred properties which resulted in non-levy of SD and RF of ₹ 18.95 lakh.

The Government replied that entire amount of SD of ₹ 4.40 lakh has been recovered in one case while remaining two cases are under consideration with DIG (Stamps).

**5.3.12.3 Non-execution/registration of lease deeds by RIICO**

As per notification dated 30 January 2018, SD is chargeable on lease deeds or sale deeds executed by UIT, RIICO and State Government in respect of land allotted or sold by them, at the rates of conveyance on the 50 *per cent* of the market value of the property if an instrument is submitted for registration within 2 months from the date of its execution and on the amount of purchase money, if the instrument is executed in respect of land sold through public auction.

Scrutiny of the records of 12 RIICO offices<sup>30</sup> disclosed that RIICO allotted/sold 85 plots<sup>31</sup> (between November 2005 and December 2017) measuring 6,60,872.50 square metre to 74 entrepreneurs and 10,00,020 square metre<sup>32</sup> to one entrepreneur. Lease deeds (81) of these plots were to be registered within 30, 60, 90, 120 or 150 days from the date of allotment of land or on deposit of full amount as per the terms and conditions of allotment letters. It was observed that lease deeds of above plots were not executed even after a lapse of period ranging between one year and 13 years and therefore, could not be registered by the purchasers. Persons-in-charge of RIICO offices did not take any action for execution of lease deeds. This resulted in non-levy of SD of ₹ 21.15 crore on value of ₹ 342.82 crore of these plots. Information regarding inspection of these RIICO offices was called for (September 2018) and is awaited (February 2019).

The Government replied that SD of ₹ 9 crore has been recovered in 24 lease deeds, notices for recovery have been issued in 47 cases, one case is under consideration with DIG (Stamps) while remaining nine cases are under process.

**5.3.12.4 Partition deeds of immovable properties**

Article 42 of the Schedule to the RS Act prescribes that SD on an instrument, whereby co-owners of any property, divide or agree to divide such property in

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<sup>29</sup> Jaipur-III and Udaipur-II.

<sup>30</sup> Bais Godam, Bhilwara, Bhiwadi, Dausa, Jalore, Kota, Malviya Nagar, Neemrana, Shahjahanpur, Sitapura, Udaipur and VKIA.

<sup>31</sup> Bais Godam (five cases), Bhilwara (17 cases), Bhiwadi (two cases), Dausa (four cases), Jalore (two cases), Kota (seven cases), Malviya Nagar (nine cases), Neemrana (seven cases), Shahjahanpur (23 cases), Sitapura (one case), Udaipur (five cases) and VKIA (three cases).

<sup>32</sup> 10,00,020 square metre: 247.11 acre X 4,046.86 square metre per acre.

severally parts, is leviable as on a conveyance on the market value of the separated share or shares of the property. The largest share remaining after this property is partitioned (or if there are two or more shares of equal value, the one of such equal shares) shall be deemed that from which the other shares are separated. The SD was further revised *vide* notification dated 8 March 2017 to three *per cent* of market value of separated shares of immovable properties.

- **Cases noticed in UIT Udaipur**

Scrutiny of records of UIT Udaipur revealed that 31 documents of partition deeds of immovable properties were executed (between July 2011 and October 2017) between co-owners/co-sharers. These deeds were registered at Notaries Public paying SD of ₹ 100 each in 29 cases and ₹ 500 each in two cases instead of ₹ 2.16 crore calculated on market value of separated shares of immovable properties *i.e.* ₹ 71.42 crore which resulted in short levy of SD of ₹ 2.16 crore.

Neither the Notaries Public nor the Person-in-charge of UIT, being Public officer impounded the instruments and made references to Collector (Stamps) for duly stamping.

The Government replied that notices for recovery have been issued.

- **Similar cases noticed in SR offices**

During scrutiny of records of three SRs offices<sup>33</sup>, audit noticed non/short levy of stamp duty in three sale deeds of immovable properties and one instrument of partition deed registered between July 2015 and August 2016.

**Sale Deeds:** Recitals of the three sale deeds disclosed that the co-owners or co-sharers initially had joint ownership rights in the undivided immovable properties. Thereafter, they separated their shares of the properties by executing partition deeds and sold their shares of property in individual capacity. The facts about registration of three partition deeds were neither mentioned in the sale deeds nor were the copies of registered partition deeds enclosed with the sale deeds for ready reference. The SD and RF of ₹ 75.09 lakh was chargeable on market value of ₹ 20.77 crore of separated shares of the properties partitioned as the recital of these sale deeds.

**Registered partition deeds:** In the case of registered partition deed, the SR charged SD of ₹ 1.93 lakh on value of construction cost of ₹ 27.60 lakh at the rate of conveyance instead of SD ₹ 7.05 lakh on market value of land including construction of separated share of ₹ 1.01 crore.

This resulted in short/non-levy of SD and RF of ₹ 80.21 lakh on these four partition deeds.

The Government replied that notice for recovery has been issued in one case, two cases are under consideration with DIG (Stamps) while in remaining one case the DIG disagreed with observation stating that partition deed was not registered. Disagreement in the case is contrary to the provisions as unstamped/unregistered instrument could not be considered as evidence. Further, it is also responsibility of the concerned authority to take appropriate action for duly stamping the instrument.

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<sup>33</sup> Jaipur-IV, Jodhpur-III and Udaipur-II.

### 5.3.12.5 Non-availability of appropriate information regarding collection of SD by Registrar of Company

As per schedule to the RS Act following instruments are chargeable with SD as under:

Article 10	Article of Association of a Company	0.5 <i>per cent</i> of the authorised share capital
Article 11	Amendment in Article of Association of a Company	0.5 <i>per cent</i> of the authorised share capital (reduced to 0.2 <i>per cent vide</i> notification dated 14 July 2014).
Article 36(b)	Memorandum of Association of a Company, if not accompanied by Article of Association under Section 26 of Companies Act 1956.	0.5 <i>per cent</i> of share capital or ₹ 500, whichever is higher.
Article 52	Share Warrants to bearer issued under the Companies Act	5 <i>per cent</i> of consideration (reduced to 2 <i>per cent vide</i> notification dated 9 March 2011).

On being requested to provide the records and details of collection of SD and realisation in Government Account under above mentioned Articles, the Registrar of Company (RoC) Jaipur stated that these data are maintained at E-governance cell, New Delhi. Information in this regard was called for from E-governance cell, New Delhi (July and August 2018), the same is awaited (February 2019).

We also requested the IGRS for details of the arrangements in place to monitor the levy, collection and realisation of SD to the Government account by RoC Jaipur under these articles.

The Government replied that data related to collection of SD by RoC is maintained in E-governance cell and is initially credited to Account Head 8658 "Suspense" and transferred to Account Head 0030 of Department and the matter will be taken up with RoC for its monitoring. Further, it was also stated that detailed information regarding collection of SD from companies have been called for from Ministry of Corporate Affairs, New Delhi and efforts are being made for collecting the same.

The above facts indicate that the Department lacked coordination with the RoC as well as E-governance cell and in absence of the information, Audit could not ascertain/ensure the correctness of the SD leviable.

### 5.3.12.6 Short levy of SD on amalgamation of companies

According to Article 21(iii) to the Schedule of the RS Act, an order under Section 394 of the Company Act, 1956 in respect of amalgamation, demerger or reconstruction of a company is chargeable with SD subject to a maximum of ₹ 25 crore:

- (i) An amount equal to four *per cent* of the aggregate amount comprising the market value of shares issued or allotted or cancelled in exchange of or otherwise, or on the face value of such shares, whichever is higher and the amount of consideration, if any, paid for such amalgamation, demerger or reconstruction, or
- (ii) An amount equal to four *per cent* of the market value of the immovable property situated in the State of the Rajasthan of the transferor company whichever is higher.

Scrutiny of records provided by RoC, Jaipur revealed that 13 companies valuing ₹ 648.57 crore were amalgamated with eight other companies (between April 2015 and November 2017). These amalgamation/demerger/reconstruction orders were not duly stamped under Article *ibid*. The Person-in-charge of RoC Jaipur neither impounded these documents nor referred them under sub-section 4 of Section 37 to the Collector (Stamps). This resulted in non-levy of SD of ₹ 31.13 crore at the rate of four *per cent* on consideration value of ₹ 648.57 crore.

The Government replied that entire amount of SD of ₹ 1.51 crore has been recovered in two cases, notice for recovery has been issued in one case, reply of concerned DIG is awaited in three cases, another case is under consideration with High Court and in remaining one case final reply is awaited (February 2019).

### **5.3.13 Non-registration of instruments by the Housing Co-operative Societies**

The Government introduced an Act 'Rajasthan Co-operative Societies Act 1965' to consolidate and amend the law relating to co-operative Societies in the State of Rajasthan, it was consolidated and amended in 2001 under the policy to encourage and promote the co-operative movement in the State. Activities of these Societies are regulated by Co-operative Societies Rules 1966 which were amended in 2003. All Registered Co-operative Societies have also been notified as Public offices *vide* notification dated 16 December 1997.

#### **5.3.13.1 Audit of Housing Co-operative Societies**

The Registrar shall prepare three panels of auditors *viz.* Departmental Auditors, Certified Auditors and Chartered Accountants, the society can choose one from such panels as its Auditor. The Auditor on completion of audit shall submit the Audit report in a proforma prescribed by the Registrar. If the result of audit discloses any defects in the working of housing co-operative society (society), the Registrar may make an order directing the Society to remedy the defects disclosed within the time mentioned in the order.

The Government replied that directions have been issued to DIG Jaipur-I in this regard.

#### **5.3.13.2 Non-conversion of land before allotment**

As per Section 90A of Land Revenue Act (LR Act) 1956, no person holding any land for the purpose of agriculture shall use the same for any other purpose except with the written permission of the State Government obtained in the prescribed manner.

Test check of information furnished by the Regional Auditor Co-operative Societies and Audit reports relating to the Societies in Jaipur was conducted. There are 160 Societies in Jaipur District established with the objective of development of townships for their members. Out of these only 80 Societies were working in the year 2016-17, while remaining were in the process of liquidation. The Audit reports of 30 Societies contained format-A. The information given in format-A disclosed that lands were acquired by them through unregistered agreements for which payment was also made to land

owners. The Societies allotted the residential plots to their members without conversion of the land. After allotment of plots these Societies submitted their records to JDA for regularisation of these residential schemes. These activities of the Societies are contrary to the provisions of Section 17 and 78 of Registration Act, Section 3 of RS Act and Section 90A of LR Act.

The Government replied that directions have been issued to DIG Jaipur-I and a letter has been written to Registrar of Co-operative Societies in this regard.

### 5.3.13.3 Leakage of revenue

As per explanation below Article 21 of the Schedule to the RS Act, SD on instrument of conveyance relating to immovable property shall be levied at the rate of five *per cent* on the market value of the property. Rule 58 of RS Rules provided that the market value of the land shall be assessed on the basis of the rates recommended by DLC or the rates approved by State Government, whichever is higher.

Fifteen schemes<sup>34</sup>, out of total of 264 schemes of three Societies which had submitted the prescribed documents related to acquisition of land were selected for detailed check. Scrutiny of Audit reports of these Societies revealed that land measuring 1,70,617 square metre situated in nine villages of Jaipur district valuing ₹ 44.82 crore was purchased by the Societies for the purpose of development of residential colonies through unregistered agreements. It was observed that these land(s) are still (July 2018) recorded in the name of original *khatedars* in the land records. These agreements were required to be registered under Section 17 of the Registration Act and chargeable with duty amounting to ₹ 2.94 crore at rate of five *per cent* on market value of such properties.

Neither the Societies got the agreements registered and paid the SD nor the Regional Auditor, co-operative Societies being Person-in-charge of a Public office made any reference to the DIGs (Stamps) in the matter, which resulted in revenue leakage of ₹ 2.94 crores.

The Government replied that notice for recovery has been issued in one case, 10 cases were under consideration with DIG (Stamps) while reply of concerned DIG (Stamps) in remaining four cases was awaited.

Information regarding inspections of these Public offices by DIGs (Stamps) was called for and is awaited (February 2019).

### 5.3.14 Deficit Stamp Duty and Registration fees

The executants while registering any instrument have to submit information, about property *i.e.* subject matter of transfer, location, area, nature of use, any other fact affecting duty, *etc.* in a prescribed check list. To assess the correct SD, the SR has to review the submitted check list along with facts contained in recital of instrument.

During scrutiny of records it was noticed that in 127 cases either complete information was not given in check lists or facts were mentioned in recital of documents/supporting documents were enclosed but incorrect input was given

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<sup>34</sup> Five schemes each of the three Societies selected.

in 'E-Panjiyan'. This resulted in non/short levy of SD and RF of ₹ 10.77 crore as discussed in table below:

Sl. No.	Particulars	Reply of the Government
1	<p><b><u>Undervaluation of immovable properties:</u></b></p> <p>73 Instruments were registered (between April 2012 and March 2018) in 29 SR offices<sup>35</sup> as sale deed/correction deed/consent deed/power of attorney (POA) in respect of agricultural/ commercial/ residential/ industrial/ institutional properties. Scrutiny of these instruments revealed that the concerned SRs had assessed the market value of the properties at ₹ 88.86 crore instead of ₹ 179.36 crore. The omission was due to application of pre-revised rates of RIICO of industrial properties, incorrect classification of properties, application of rates relating to other area, etc. Therefore, immovable properties were undervalued amounting to ₹ 90.50 crore. Due to this SRs charged SD and RF of ₹ 4.67 crore instead of ₹ 9.87 crore which resulted in short levy of SD and RF of ₹ 5.20 crore.</p>	<p>The Government replied that entire amount of SD of ₹ 4.80 lakh has been recovered in 16 cases, 38 cases are under consideration with DIG (Stamps) while notices for recovery have been issued in 19 cases.</p>
2	<p><b><u>Irregular exemption of SD and RF on Release deeds:</u></b></p> <p>36 instruments were registered (between April 2016 and March 2017) in 11 SRs offices<sup>36</sup> as release deeds for releasing ancestral properties to relatives. These ancestral properties were released to those relatives<sup>37</sup> who were not eligible for exemption in SD under Article 48 of the Schedule to the RS Act. The concerned SRs, however, allowed irregular exemption and charged SD of ₹ 4.36 lakh instead of ₹ 1.01 crore. This resulted in irregular exemption of SD and RF of ₹ 96.30 lakh<sup>38</sup>.</p>	<p>The Government replied that entire amount of SD of ₹ 0.63 lakh has been recovered in two cases, notices for recovery have been issued in 16 cases while remaining 18 cases are under consideration with DIG (Stamps).</p>
3	<p><b><u>Lease deeds issued on the basis of unregistered instruments:</u></b></p> <p>In two cases of SR Jaipur-VI and Jodhpur, lease deeds were irregularly registered (April 2014 and May 2016) on the basis of unregistered/unstamped instruments<sup>39</sup> executed prior to registration. SD of ₹ 8.99 lakh only was charged instead of ₹ 91.85 lakh. This resulted in short levy of SD and RF ₹ 82.86 lakh.</p>	<p>The Government replied that notice for recovery has been issued in one case while another case is under consideration with DIG (Stamps).</p>
4	<p><b><u>Transfer of mining leases:</u></b></p> <p>Two instruments were registered (March 2015 and March 2017) at SR Sawar as lease deeds for transfer of mining rights. The SR charged SD and RF of ₹ 1.83 lakh on amount of two times of the annual dead rent (₹ 8.80 lakh) of the mining leases instead of correct SD and RF of ₹ 16.40 lakh on amount of royalty paid in two preceding years (₹ 2.36 crore) according to notification dated 14 July 2014. This resulted in short levy of SD and RF of ₹ 14.57 lakh.</p>	<p>The Government replied that both the cases are under consideration with DIG (Stamps).</p>
5	<p><b><u>Conversion of partnership firm/companies into Limited Liability Partnership:</u></b></p> <p>Four instruments of immovable properties were registered</p>	<p>The Government replied that</p>

<sup>35</sup> Noticed during PA: SR Bagru, Bhiwadi, Bilara, Deedwana, Jaipur-I, Jaipur-II, Jaipur-V, Jaipur-VI, Jaipur-VII, Jaipur-VIII, Kapasan, Kishangarh, Kolayat, Luni, Madawa, Mojmabad, Mundawa, Neemrana, Sadulsahar, Sanchore and Sujangarh. Noticed during regular Audit: SR Ajmer-I, Alwar-II, Barmer, Behror, Bundi, Kota-I, Ramgarh and Sanganer-I.

<sup>36</sup> Noticed during PA: SR Gajsinghpur, Jaipur-I, Jaipur-III, Laxmangarh, Neemrana, Railmagra, Rajakheda, Sadulshahar, Sangod, Shri Dungargarh. Noticed during regular Audit: SR Sanganer-I.

<sup>37</sup> Like uncle, nephew, sister-in-law, etc as per Article 48(a) of the RS Act.

<sup>38</sup> ₹ 96.30 lakh: ₹ 100.66 lakh (-) ₹ 4.36 lakh.

<sup>39</sup> Consent letter in case of SR Jodhpur and Possession letter in case of Jaipur-VI.

Sl. No.	Particulars	Reply of the Government
	(between April 2016 and February 2017) as sale deeds. Scrutiny of the recitals of the deeds revealed that in three cases, companies registered under Companies Act, 1956 and in one case partnership firm registered under Partnership Act, 1932 changed their legal entity to Limited Liability Partnership (LLP) under LLP Act, 2008. The SR was required to levy SD retrospectively as per the provision of notification of March 2017. The fact about change in legal entity from partnership firm/companies to LLP was not reviewed by the SRs. This resulted in non-levy of SD and surcharge of ₹ 61.91 lakh <sup>40</sup> .	three cases are under consideration with DIG (Stamps). In one case ₹ 34.04 lakh was recovered against ₹ 55.14 lakh as pointed out by Audit. Reasons for short levy have not been furnished.
6	<b><u>Transfer of lease by way of assignment:</u></b> Four documents were registered (between May 2016 and February 2017) at four SR offices <sup>41</sup> as lease/ <i>supplementary</i> /sale deeds. Scrutiny of the recitals of the deeds revealed that legal entity of the individual, proprietorship/partnership firm was changed to partnership firm/company which should have been categorised as <i>transfer of lease by way of assignment</i> under Article 55 of the Schedule to the RS Act and to be charged with additional SD of ₹ 1.95 crore on market value of ₹ 35.08 crore of the properties.	The Government replied that notices for recovery have been issued in two cases while two cases are under consideration with DIG (Stamps).
7	<b><u>Irregular exemption of SD under Rajasthan Investment Promotion Scheme (RIPS):</u></b> Two instruments were registered (between May 2016 and January 2017) at two SR offices <sup>42</sup> with 50 per cent exemption in SD under RIPS. Scrutiny of the recitals revealed that the beneficiaries were not entitled for the exemption under the Scheme as it was granted on purchase of established unit and on sale of land without establishing the unit. This resulted in irregular exemption of SD of ₹ 20.06 lakh, besides interest of ₹ 4.31 lakh.	The Government replied that both the cases are under consideration with DIG (Stamps).
8	<b><u>Short levy of stamp duty on exchange deed:</u></b> An exchange deed was registered (6 May 2016) at the office of SR Amber (Jaipur) wherein a tenant exchanged his 40.01 <i>bigha</i> (market value ₹ 3 crore <sup>43</sup> ) agricultural land with another tenant having 32.54 <i>bigha</i> land (market value ₹ 10.53 crore <sup>44</sup> ). The SR charged SD and RF of ₹ 3.98 lakh <sup>45</sup> only on market value of ₹ 56.03 lakh <sup>46</sup> of difference area of the lands exchanged <i>i.e.</i> 7.47 <i>bigha</i> , however, SD and RF of ₹ 73.70 lakh <sup>47</sup> was to be levied on market value of the land of greater value exchanged under Article 29 of the Schedule to the RS Act. This resulted in short levy of SD and RF amounting to ₹ 69.72 lakh <sup>48</sup> .	The Government replied that the case is under consideration with DIG (Stamps).

<sup>40</sup> At the rate of 0.5 per cent of value of assets (₹ 103.18 crore) so transferred (According to State Government's notification dated 8 March 2017).

<sup>41</sup> Noticed during PA: SR Bhiwadi, Jaipur-VII and Pali-I. Noticed during regular Audit: SR Sanganeer-I.

<sup>42</sup> Noticed during PA: SR Sawar. Noticed during regular Audit: SR Sawai Madhopur.

<sup>43</sup> ₹ 3 crore: 40.01 *bigha* x ₹ 7.50 lakh per *bigha*.

<sup>44</sup> ₹ 10.53 crore: 32.54 *bigha* x ₹ 32.35 lakh per *bigha*.

<sup>45</sup> ₹ 3.98 lakh: SD of ₹ 2.84 lakh, surcharge of ₹ 0.57 lakh and RF of ₹ 0.57 lakh.

<sup>46</sup> ₹ 56.03 lakh: 7.47 *bigha* x ₹ 7.50 lakh per *bigha*.

<sup>47</sup> ₹ 73.70 lakh: SD of ₹ 52.64 lakh, surcharge of ₹ 10.53 lakh and RF of ₹ 10.53 lakh.

<sup>48</sup> ₹ 69.72 lakh: ₹ 73.70 lakh (-) ₹ 3.98 lakh.

Sl. No.	Particulars	Reply of the Government
9	<p><b><u>Non-registration of powers of attorney:</u></b>  Three POAs were enclosed with a sale deed executed (September 2016) at the office of SR Bhanwari (Sirohi). These POAs were unregistered and had only been notarised on stamp papers worth ₹ 1,100<sup>49</sup>. Non-registration of POAs under Article 44(ee)(ii) of the Schedule to the RS Act resulted in non-levy of SD and RF of ₹ 12.48 lakh<sup>50</sup> on the market value of ₹ 3.67 crore<sup>51</sup> of the properties.</p>	The Government replied that the SR had been instructed for recovery.

### 5.3.15 Procurement, Sale and accounting of Stamps

Procurement, sale and accounting of stamp, is regulated under Rajasthan Treasury Rules, 2012 and Rajasthan Stamps Disposal Rules, 1962. Additional Inspector General (AIG) of Stamps is *ex-officio* Superintendent of Stamps in the office of IGRS. Treasury Headquarters, Ajmer is nominated as Nodal Treasury in Rajasthan for receipt of stamps from the printing press Nasik Road, their custody and issue to other treasuries. There are 41 Treasuries in Rajasthan, out of which 34 Treasuries deals in procurement, storage, sale and issue of stamps.

#### 5.3.15.1 Inaccurate accounting of receipt, issue and stock of Stamps

Rule 245 of Rajasthan Treasury Rules provides that each treasury officer shall prepare monthly plus minus memoranda of stamps and send it to AIG under the provisions of Rajasthan Stamps Disposal Rules.

Reconciliation of balances of stamps shown in the accounts of treasury Ajmer for the year 2013-14 to 2016-17 varied from the balances shown in accounts of IGRS, as detailed below:

(Amount in ₹)

Year	Balances	Judicial		Non-judicial	
		Treasury Ajmer	IGRS	Treasury Ajmer	IGRS
2013-14	Opening	89,04,51,410	90,36,54,745	14,16,94,69,952	14,28,18,82,372
	Closing	1,09,35,40,920	1,09,68,53,050	17,98,19,79,814	18,06,34,14,514
2014-15	Opening	1,09,35,40,920	1,09,68,53,050	17,98,19,79,814	18,06,34,14,514
	Closing	1,02,45,63,350	1,02,81,51,300	19,89,54,53,837	19,95,16,82,447
2015-16	Opening	1,02,45,63,350	1,02,81,51,300	19,89,54,53,837	19,95,16,82,447
	Closing	2,05,13,89,240	2,05,39,43,795	42,01,05,79,972	42,06,01,00,572
2016-17	Opening	2,05,13,89,240	2,05,39,43,795	42,01,05,79,972	42,06,01,00,572
	Closing	1,77,34,97,025	1,77,52,31,905	32,80,59,35,664	32,85,16,91,306

As the accounts of IGRS did not reconcile with accounts of treasury Ajmer, the correct position of judicial and non-judicial stamps could not be ascertained in Audit.

During exit conference the IGRS stated that modified statement regarding procurement, sale and accounting of stamp papers has been prepared and would be sent to Audit shortly. Thereafter, the Department provided

<sup>49</sup> ₹ 1,100: ₹ 500 + ₹ 500 + ₹ 100.

<sup>50</sup> ₹ 12.48 lakh: SD of ₹ 7.34 lakh, surcharge of ₹ 1.47 lakh and RF of ₹ 3.67 lakh.

<sup>51</sup> ₹ 3.67 crore: 1,79,089.44 (16,644 square metre X 10.76) square feet X 205 per square feet as per DLC rates.

(October 2018) the reconciled statement, however, difference in the balances for the year 2013-14 could not be reconciled by the Department.

Further, the Government replied that balances of three sub-treasuries were not included in the balances of treasury Ajmer while in the plus-minus memorandum of IGRS, it was shown including the balances of these sub-treasuries.

*There is a need for regular reconciliation of the balances of stock of stamps.*

### **5.3.15.2 Mechanism to prevent use of forged stamps**

The judicial and non-judicial stamps are printed containing specific series of numbers. Adequate provisions to prevent use of forged stamps have not been developed by the Department. The 'E-Panjiyan' has not been made compatible to identify use of forged stamps as serial numbers of stamps are not linked with it.

News was published on 4 June 2018 in newspaper, *Dainik Bhaskar* in Rajasthan, that three persons were arrested for selling forged stamps worth ₹ 3.60 lakh. In order to analyse the issue, information regarding security features introduced to identify forged stamps, guideline and instructions issued to SRs to prevent use of forged stamps at the time of registration of documents and instructions to DIGs for action to be taken on detection of use of forged stamps was called for (July 2018) from IGRS.

The Government replied that all DIGs are instructed (9 August 2018) to examine stamps properly before registration of instruments. In the matter of use of forged stamps an enquiry was conducted by DIG Jaipur-I. As per report of enquiry, forged stamps worth ₹ 1.39 lakh were found to be sold instead ₹ 3.60 lakh and the stamp vendor arrested was not appointed by the Department, stock registers of stamp vendors are being checked. During Exit Conference, the Secretary (Finance) agreed to look into the feasibility to link the series and serial number of all the stamp papers with 'E-Panjiyan' system for preventing possible use of forged stamps.

Further, the Government replied that instructions have been issued to the Departmental Authorities to take preventive measures against the use of forged stamps. Further, it was also stated that action for linking of series and serial number of stamps with the 'E-Panjiyan' would be taken soon.

### **5.3.15.3 Inspection of treasuries by AIG (Stamps)**

Rule 13 of Rajasthan Stamps Disposal Rules provides that Superintendent of Stamps shall inspect the records and registers required to be kept in local stamps depot at regular interval of not exceeding one year. It was noticed that 10 treasuries<sup>52</sup> were not inspected even once and nine treasuries<sup>53</sup> were inspected only once during 2012-13 to 2016-17. Information about inspection of five treasuries<sup>54</sup> was not available with the Department. Remaining ten treasuries were inspected more than one times during 2012-13 to 2016-17.

The Government replied that in order to ensure timely inspection of treasuries, a proposal has been sent to Finance Department to delegate inspection powers to all DIGs.

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<sup>52</sup> Alwar, Baran, Barmer, Bharatpur, Bundi, Churu, Dausa, Dholpur, Jaisalmer and Kota.

<sup>53</sup> Bhilwara, Bikaner, Chittorgarh, Dungarpur, Hanumangarh, Jaipur, Jalore, Sriganganagar and Tonk.

<sup>54</sup> Jhalawar, Jhunjhunu, Karauli, Sawai Madhopur and Sikar.

### 5.3.16 Monitoring and Inspection

#### 5.3.16.1 Inadequate manpower

Scrutiny of information relating to manpower available in Stamps and Registration Department revealed that 92 posts (81 *per cent*) out of 114 sanctioned posts of fulltime SRs and 675 posts (53 *per cent*) out of 1,271 of subordinate staff's posts (Clerk Grade I & II, Information Assistant, Inspector Land Record and Class IV) were vacant as on May 2018.

The Government replied that Revenue Board has been requested for appointment of SRs and 308 sub ordinate staff have been appointed, out of these 259 have been posted on their duties.

#### 5.3.16.2 Inspection of SR offices

Rule 12 of Rajasthan Registration Rules (Volume-II) provides that each DIG (Stamps) must inspect every SR office in his jurisdiction at least once a year.

Information regarding inspections of SR offices conducted by DIGs (Stamps) during the year 2012-13 to 2016-17 was called for from the selected DIGs (Stamps). The details of inspections conducted are given in the table below:

Sl. No.	Name of DIG office	Total number of SRs under jurisdiction	Inspections to be conducted	Inspections carried out	Shortfall	Percentage of Shortfall
1	Jodhpur	8	40	14	26	65
2	Bikaner	11	50	44	6	12
3	Udaipur	27	118	57	61	52
4	Alwar-I	27 (24 SR offices upto 2014-15 and 3 from 2015-16 to 2016-17)	87	70	17	20
5	Alwar-II	24 (From 2015-16 to 2016-17 )	48	47	1	2
6	Kota	47	235	106	129	55
7	Jaipur-I	6	30	20	10	33
8	Jaipur-II	41	147	57	90	61
9	Jaipur-III	34	170	64	106	62

Source: Information provided by selected DIGs (Stamps).

This shows that inspections of SR offices are not being conducted as per norms as shortfall in inspections was upto 65 *per cent*.

The Government replied that inspections could not be conducted as per norms due to vacant posts of DIGs and the norms of inspections are being revised.

#### 5.3.16.3 Internal Audit Wing

The Department has an Internal Audit Wing (IAW) under the charge of the Financial Advisor. There are six Internal Audit Parties. Planning for Internal Audit of units is made on the basis of importance and revenue realisation. The position of the Internal Audit conducted and units remaining unaudited during 2012-13 to 2016-17 was as under:

Year	Total units due for audit	Total number of units audited	Unaudited units	Shortfall ( <i>per cent</i> )
2012-13	369	183	186	50
2013-14	369	117	252	68
2014-15	523	16	507	97
2015-16	523	125	398	76
2016-17	527	82	445	84

Source: Information provided by IGRS

The table above shows that arrear of units for audit varied from 50 to 97 per cent during 2012-13 to 2016-17. The Department stated that arrears were due to shortage of manpower as only four audit parties during 2013-14 and two audit parties during 2015-16 and 2016-17 were available against the sanctioned six audit parties. The Department stated that neither any guideline was framed nor any manual for the working of IAW was prescribed. The Internal Audit did not conduct inspection of any of the Public offices during 2012-13 to 2016-17.

The Government replied that guidelines have been issued and action plan has been prepared for conducting Internal Audit in time. SRs and DIGs are authorised for inspection of Public offices and inspections are being done by them.

#### 5.3.16.4 Compliance of internal inspection reports

The Department had not prescribed the procedure and returns to monitor the cases pointed out in internal inspection reports (IIRs) of IAW. On being asked for the status reports in this regard, the IGRS stated that no records were maintained or compiled at the Headquarter level in respect of recoveries pointed out in cases of IIRs.

On being asked, year wise position of paras and amount involved therein, the IGRS provided the information after collected from DIGs is as under:

(₹ in crore)

Year	Observations raised during the year		Up to date position of clearance of paras		Outstanding paras (as on July 2018)	
	Paras	Amount	Paras	Amount	Paras	Amount
Outstanding before 2012-13	--	--	--	--	5,424	56.10
2012-13	1,407	18.94	724	0.76	683	18.17
2013-14	925	15.99	473	0.78	452	15.21
2014-15	208	2.48	123	0.81	85	1.67
2015-16	1,056	9.47	548	1.14	508	8.33
2016-17	730	11.56	276	5.30	454	6.26
<b>Total</b>	<b>4,326</b>	<b>58.44</b>	<b>2,144</b>	<b>8.79</b>	<b>7,606</b>	<b>105.74</b>

Source: Information provided by IGRS

It is seen from the table above that ₹ 8.79 crore was only realised in 2,144 cases out of total ₹ 58.44 crore in 4,326 cases raised during 2012-17. Amount recovered consists 15 per cent of total recoveries pointed out by IAW, while 50 per cent cases were settled. This indicates that cases involving heavy amount were pending for settlement. Information regarding year wise position of recovery and action taken for speedy settlement of 7,606 cases involving amount of ₹ 105.74 crore outstanding up to 2016-17 was called for and the same is awaited (February 2019).

The Government replied that due to huge number of pending cases, the record is not being maintained at Headquarters level. Further, it was also intimated that a committee has been constituted at each DIG level and instructions have been issued for timely compliance of outstanding paragraphs.

*It is recommended that the Department may consider maintaining electronic database that would ensure compliance and proper monitoring of Internal Inspection Reports (IIRs) at Headquarters level.*

### 5.3.16.5 Cases pending for adjudication and their monitoring

According to Rule 64 to 66 of the RS Rules, cases of under stamped/unstamped instruments chargeable with duty and where the value of the instruments is not correctly determined for levy of stamp duty are referred to Collector (Stamps) for adjudication by Registering Authorities. Collector (Stamps) issued notices to the persons liable to pay duty on these documents, on receipt of reference, Collector (Stamps) shall issue concerned party a notice to show cause and produce the original instrument within 21 days. After expiry of 21 days Collector (Stamp) shall summarily examine the matter and pass an order to collect the difference in the amount of SD along with penalty, if any and complete the summary enquiries within a period of three months.

We observed that 4,332 cases were pending for adjudication in 18 circles<sup>55</sup> involving SD and RF of ₹ 253.36 crore as on 31st March 2017. The year wise details of disposal of adjudicated cases during the years 2012-13 to 2016-17 are as under:

(₹ in crore)

Year	Opening balance		Addition during the year		Clearance during the year		Pending at the end of the year	
	Number of cases	Amount involved	Number of cases	Amount involved	Number of cases	Amount involve	Number of cases	Amount involved
2012-13	5,091	138.64	8,002	60.47	7,343	27.91	5,750	171.20
2013-14	5,750	171.20	5,378	77.12	4,288	46.43	6,840	201.89
2014-15	6,840	201.89	6,094	191.80	6,863	184.78	6,071	208.91
2015-16	6,071	208.91	5,272	106.53	6,525	101.50	4,818	213.94
2016-17	4,818	213.94	5,189	134.29	5,675	94.87	4,332	253.36

Source: Information provided by IGRS

It was noticed that 2,833 cases were pending beyond the prescribed time limit of three months involving SD and RF of ₹ 219.25 crore as on 31 March 2017. The age wise pendency of adjudicated cases is as under:

(₹ in crore)

Sl. No.	Period of Pendency	Number of cases	Amount involved
1	More than three months and up to one year	778	102.64
2	More than one year and up to three years	1,580	66.70
3	More than three years and up to five years	263	32.88
4	More than five years	212	17.03
<b>Total</b>		<b>2,833</b>	<b>219.25</b>

Source: Information provided by IGRS

It was also observed that IGRS had not maintained the complete information *i.e.* number of cases, amount involved *etc.* at Headquarters level so as to monitor timely disposal of adjudication cases. The above information was provided to Audit after compilation of data received from DIGs (Stamps). The Department had not prescribed any returns for monitoring of pending adjudication cases.

The Government replied that all DIGs have been instructed time to time for deciding cases in prescribed time frame. A DIG module has been prepared in 'E-Panjyan' system in this regard and is being monitored. Further, it was also intimated that out of 2,833 cases (₹ 219.25 crore), 1,127 cases (₹ 91.10 crore) were pending (October 2018) for disposal.

<sup>55</sup> DIG Ajmer-I, II, Alwar-I, II, Banswara, Barmer, Bharatpur, Bhilwara, Bikaner, Hanumangarh, Jaipur-I, II, III, Jodhpur, Kota, Pali, Sikar and Udaipur.

### 5.3.17 Conclusion and Recommendations

Stamp duty and Registration Fee is an important component of tax revenue for the State. Audit revealed that system of fixation of DLC rates was not working properly; *khasra* numbers were not listed in the IT system and there was lack of enforcement of the prescribed monitoring system in the Department for transactions carried out by Public offices. Several cases of evasion of Stamp Duty and Registration Fee through undervaluation of properties, non-presentation of documents in the office of the registering authority and short payment of stamp duty due to misinterpretation of rules, inadequate implementation of provisions of Act and incorrect application of DLC rates were noticed. The persons-in-charge of Public offices did not fulfil their obligation regarding instruments presented in their offices. The internal control of the Department is weak as evidenced by non-maintenance of consolidated information at the level of IGRS, shortfall in the number of inspections required to be conducted, poor compliance of objections pointed out by IAW and non-compilation of records for the stamps *etc.* The time limit prescribed for disposal of the cases under adjudication was not adhered and there was no mechanism available with IGRS to monitor the delays in this process which resulted in huge pendency of cases. Inadequate deployment of human resources adversely affected the efficient working of the Department.

The Government may:

- *ensure the determination of DLC rates on the basis of proper price indices within the prescribed time limit and khasra numbers of agricultural lands situated on NH/SH/other major roads and prime locations are listed in the DLC rates;*
- *ensure strict compliance of the provision of the Act and rules by the Departmental authorities;*
- *ensure effective inspections of public offices according to norms and the Public offices should be directed to comply with the registration rules prescribed;*
- *strengthen the internal control and Internal Audit mechanism to ensure proper inspections of its field offices; and*
- *deploy adequate staff to enable smooth and efficient working of the Department.*