

CHAPTER – VII
STAMPS & REGISTRATION
DEPARTMENT



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7.1 Administration

The Stamps & Registration Department is responsible for collection of revenue under the Indian Stamps Act, 1899 and the Indian Stamps (Meghalaya Amendment) Act, 1993.

The Additional Chief Secretary to the Government of Meghalaya, Excise, Registration, Taxation & Stamps (ERTS) Department is in overall charge of the Stamps & Registration Department at the Government level. The Inspector General of Stamps is the administrative head of the Department. There are District Registrars/ Sub-registrars at the district level for levy and collection of stamp duty and registration fee.

7.2 Results of Audit

Test check of the records of four units out of eight relating to the Stamps & Registration Department during 2017-18 revealed non-realisation of taxes and duties *etc.* involving ₹14.86 crore in 10 cases which fall under the following categories:

Table 7.1 Results of Audit

| (₹ in crore) | | | |
|--------------|-------------------------------------|-----------------|--------------|
| Sl. No. | Category | Number of cases | Amount |
| 1. | Non/Short realisation of stamp duty | 05 | 12.94 |
| 2. | Other irregularities | 05 | 0.92 |
| Total | | 10 | 13.86 |

During the course of the year, the Department accepted under assessments and other deficiencies of ₹13.00 crore in six out of 10 cases. An amount of ₹8.35 crore was realized in two cases during the year 2017-18.

A few illustrative cases having financial impact of ₹13.00 crore in terms of underassessment/short levy/non-levy of tax and other provisions of the Acts are discussed in the paragraphs 7.3 and 7.4.

7.3 Short realisation of stamp duty in mining leases due to incorrect calculation by the District Registrar

District Registrar incorrectly calculated stamp duty in respect of a cement company resulting in short realisation of stamp duty and registration fee amounting to ₹12.91 crore out of which ₹8.35 crore was realised.

[District Registrar, Khliehriat; December 2017]

Under Section 26 of the Indian Stamp Act, 1899, in case of lease of a mine in which royalty is received as rent, such royalty shall be considered for computing stamp duty. Clause 35(a)(vi) of the Indian Stamp (Meghalaya Amendment) Act, 1993 lays down that stamp duty on lease, where the lease is executed for a term exceeding 30 years and not exceeding 100 years shall be calculated at the rate of ₹99 per thousand for a consideration equal to four times the value of the subject matter. Additionally, registration of leases of immovable property for any term exceeding one year, or reserving a yearly rent is compulsory under Section 17 of the Indian Registration Act, 1908. The Stamps & Registration Department, Government of Meghalaya (GoM) fixed (June 2011) the fees for registration of documents at ₹15 per thousand¹.

The Mining & Geology Department, GoM had granted five limestone mining leases to three² cement companies between December 2016 and January 2017. The Mining Department had also stipulated that these mining lease agreements had to be executed and registered before 11 January 2017. In this context, the Mining Department communicated the amount of anticipated royalty for each lease to the Deputy Commissioner, Khliehriat for the purpose of calculation of stamp duty. The Sub-Registrar, accordingly calculated the stamp duty and registration fees due and forwarded the same to the cement companies. The lease agreements were executed between December 2016 and January 2017.

Audit scrutiny of the records of District Registrar, Khliehriat (December 2017) revealed that the Sub-Registrar failed to correctly calculate the stamp duty and registration fees for all five leases. The actual realisation of stamp duty and registration fee against the applicable stamp duty and registration is shown in the *Table 7.2*.

¹ Upto ₹1000 Registration Fee is ₹26. Above ₹1000, Registration Fee is ₹15 per thousand for every additional 1000 plus ₹26.

² M/s Adhunik Cement Ltd (2 leases), M/s Star Cement Limited (2 leases) and M/s Meghalaya Cement Ltd. (1 lease)

Table 7.2 Actual realisation of stamp duty and registration fee against the applicable stamp duty and registration

(₹ in lakh)

| Name of the lessee | Amount of Royalty to be realised | Stamp duty | | Registration fee | | Short realisation | |
|-------------------------------------|----------------------------------|-------------------|--------------------|-------------------|--------------------|-------------------|-------------------------|
| | | Applicable amount | Actual realisation | Applicable amount | Actual realisation | Stamp Duty amount | Registration Fee amount |
| 1 | 2 | 3 | 4 | 5 | 6 | 7=(3-4) | 8=(5-6) |
| M/s Adhunik Cement Ltd. (2 leases) | 346.24 | 137.11 | 2.74 | 5.19 | 0.52 | 134.37 | 4.67 |
| | 1288.02 | 510.06 | 10.20 | 19.32 | 1.93 | 499.86 | 17.39 |
| M/s Star Cement Limited (2 leases) | 30.96 | 12.26 | 0.24 | 0.46 | 0.05 | 12.02 | 0.41 |
| | 395.97 | 156.80 | 3.14 | 5.94 | 0.60 | 153.66 | 5.34 |
| M/s Meghalaya Cement Ltd. (1 lease) | 1154.68 | 457.25 | 9.15 | 17.32 | 1.73 | 448.10 | 15.59 |
| Total | 3215.87 | 1273.48 | 25.47 | 48.23 | 4.83 | 1248.01 | 43.40 |

As against applicable stamp duty of ₹12.73 crore³ and registration fee⁴ of ₹48.24 lakh, the Sub-Registrar realised only ₹25.47 lakh and ₹4.83 lakh respectively. Thus, the Sub-Registrar collected only 2.3 per cent of stamp duty and registration fee due for executing these instruments.

The methodology adopted for calculating these stamp duties which led to such a massive short realization of government revenue was not intimated to Audit. Failure of the Sub-Registrar to correctly apply the provisions of the Indian Stamp Act, thereby resulted in short realisation of stamp duty and registration fee amounting to ₹12.91 crore.

The case was referred to the Stamps & Registration Department, Government of Meghalaya in February 2018. The District Registrar, while accepting the facts (March 2018) stated that in respect of two lessees⁵, stamp duty and registration fee amounting to ₹6.35 crore had been realised (stamp duty ₹6.14 crore and registration fee ₹0.21 crore) at the instance of Audit. In respect of the third lessee⁶, demand notice had been issued to the lessee for payment of stamp duty and registration fee. Further, the Inspector General of Stamps in his reply (January 2019) stated that the third lessee had paid stamp duty of ₹2 crore against his dues of ₹6.56 crore (stamp duty ₹6.34 crore and registration fee ₹0.22 crore). He further reported that the lessee will pay the remaining amount of ₹4.56 crore (stamp duty ₹ 4.34 crore and registration fee ₹ 0.22 crore) by May 2019. The status of recovery was awaited (June 2019).

Audit noticed short realisation of stamp duty in mining leases due to incorrect calculation by the District Registrar on verification of the records of one unit out of 8 unit offices in the State. The Department should look into the similar issues in other unit offices also.

Recommendation: *The Department should fix responsibility on the District Registrar, Khliehriat for causing huge revenue loss to the Government. The Government should internally check the wrong calculation and short realisation of Registration fees in the office of the District Registrar.*

³ Stamp Duty = ₹321587812 X (99/1000) x 4 = ₹127348774

⁴ Registration Fee = {(₹321587812 - ₹1000) x (15/1000)} + ₹26 = ₹4823872

⁵ M/s Star Cement Limited and M/s Meghalaya Cement Ltd.

⁶ M/s Adhunik Cement Ltd.

7.4 Under assessment of stamp duty due to failure of the District Registrar to correctly assess the value of the property

Failure of the District Registrar to correctly assess the value of property resulted in under-assessment of stamp duty and registration fee amounting to ₹8.72 lakh.

[District Registrar, Jowai; March 2018]

Rule 3 of the Meghalaya (Prevention of Under-Valuation of Property) Rules, 1983 states that when an instrument is presented for registration before any registering authority, the person or persons executing the same shall state the full market value of the property. Further section 47A (1) of the Indian Stamp (Meghalaya Amendment) Act, 1993 provides that if the District Registrar, while registering any instrument for transferring any property, has reason to believe that the value of the property or the consideration has not been truly determined in the instrument, he may refer the case to the Deputy Commissioner (DC) for determination of value or consideration and payment of stamp duty thereon.

Clause 23 of the Indian Stamp (Meghalaya Amendment) Act, 1993 lays down that stamp duty on sale deed shall be calculated at the rate of ₹99 per thousand for the consideration value of the subject matter. The Stamps & Registration Department, GoM vide notification dated 11 July 1983 exempted 50 per cent of stamp duty and registration fee payable in respect of all instruments of conveyance executed by or in favour of members of Scheduled Castes/Tribes.

The Deputy Commissioner (DC), West Jaintia Hills district, Jowai, on 1 July 2015 fixed the minimum value of land per square meter (sq. m.) for different localities within the district.

The District Registrar, Jowai registered a sale deed for a parcel of land measuring 122508 sq. m. in respect of a scheduled tribe buyer⁷ in July 2016 for a consideration of ₹2.45 crore. Stamp duty and registration fee amounting to ₹13.97 lakh (Stamp duty of ₹12.13 lakh and Registration fee of ₹1.84 lakh) were collected on the consideration value.

Scrutiny of records of the District Registrar, Jowai by Audit (March 2018) revealed that as per the rate fixed by the DC, the valuation of the property was ₹3.98 crore⁸. Thus, the stamp duty and registration fees due on the execution of sale deed was ₹22.69 lakh⁹.

The failure of the District Registrar to consider the prevailing rate of the land value at the time of registration, resulted in incorrect assessment of the land value for the purpose of payment of stamp duty. This had resulted in under-assessment of stamp duty and registration fee amounting to ₹8.72 lakh.

⁷ Rocky Dhar

⁸ Location: Wahiajer. Minimum price determined by DC for the area concerned was ₹325 per sq. m. Hence, property valuation was 122508 sq. m. x ₹325 = ₹39815100.

| | | |
|------------------|---|------------|
| Stamp Duty | = 50 % of (₹39815100 x 99/1000) | = ₹1970847 |
| Registration Fee | = 50 % of {(₹39815100 - ₹1000) x 15/1000 + ₹26} | ₹298619 |
| Total | | = ₹2269466 |

The audit observations were referred to the Stamps & Registration Department, Government of Meghalaya in July 2018. The District Registrar in his reply (January 2019) to the audit observation stated that the land was situated in the remote part of the Wahiajer village and hence the rate used for the determining the value of the land under consideration was taken as ₹200 per sq.m. (which brought the land price to ₹2.45 crore). The reply was not acceptable since the land deed record showed that the land was registered as situated in Wahiajer village and it shared its boundary with a public road also, for which the notified rates for land valuation were available. Thus, the Department did not communicate to Audit that how the land was valued at the time of registration (July 2016) in absence of any benchmark for the land valuation (January 2019).

Audit noticed under assessment of stamp duty due to failure of the District Registrar to correctly assess the value of the property on verification of the records of one unit out of 8 unit offices in the State. The Department should look into the similar issues in other unit offices also.

Recommendation: The Department should instruct the District Registrars to apply stamp duty rates as per the government approved rates. Reasons for any deviations should be duly recorded by the Assessing Officer prior to the registration. The Department should fix responsibility of the official responsible for the short collection of stamp duty and registration fee.



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Shillong
The 20th August 2019

Countersigned



(RAJIV MEHRISHI)

Comptroller & Auditor General of India

New Delhi
The 21st August 2019

