

CHAPTER IV: STAMP DUTY

4.1 Tax administration

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

4.2 Results of Audit

Test check of the records of 101 out of 143 units of the Revenue Department during 2019-20 revealed non/short levy of stamp duty and registration fees etc. and other irregularities amounting to ₹ 17.88 crore (0.32 per cent of receipt of ₹ 5,636.16 crore for 2018-19), in 1,271 cases, which fall under the following categories as mentioned in the **Table 4.1**.

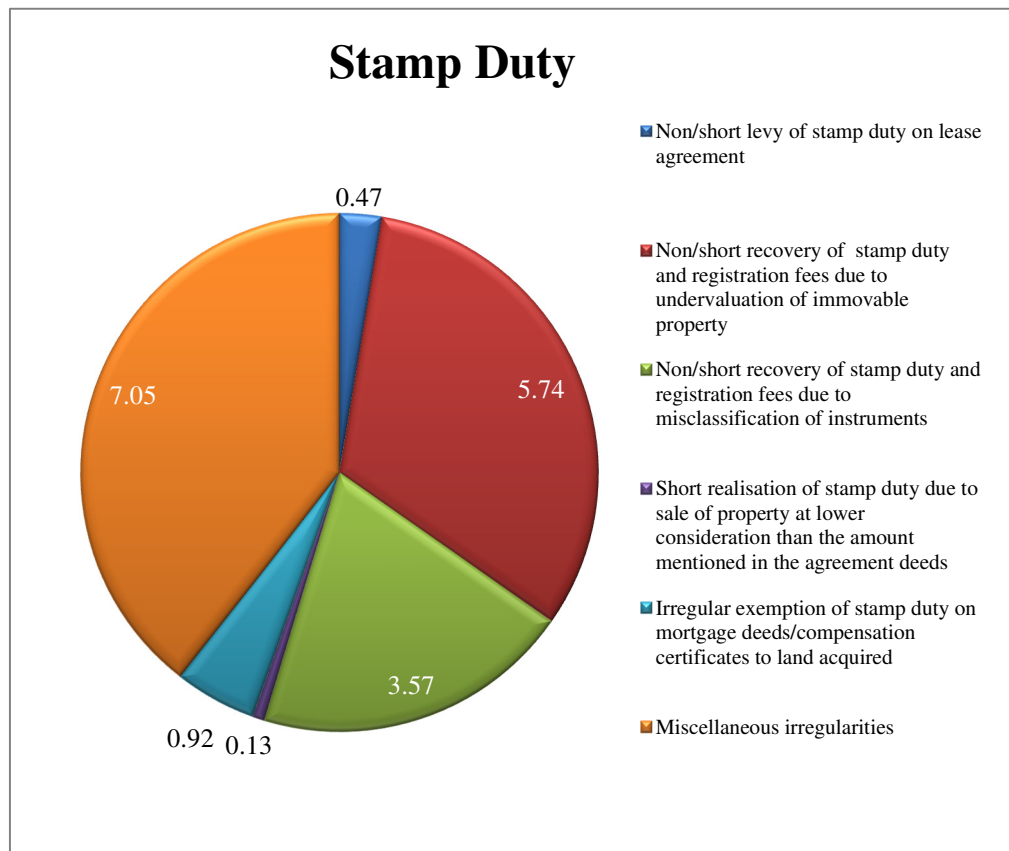
Table 4.1: Results of Audit

Revenue			
Sr. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Non/short levy of stamp duty on lease agreement	191	0.47
2.	Non/short recovery of stamp duty and registration fees due to <ul style="list-style-type: none">• undervaluation of immovable property• misclassification of instruments	299 190	5.74 3.57
3.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	15	0.13
4.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	48	0.92
5.	Miscellaneous irregularities	528	7.05
	Total	1,271	17.88

Source: Data compiled by office

Chart 4.1
Results of Audit

(₹ in crore)



Source: Data compiled by office

The Department accepted under-assessment and other deficiencies amount to ₹ 4.21 crore involved in 469 cases which were pointed out during the years. The Department recovered ₹ 0.69 lakh involved in three cases pertaining to this year.

Significant cases involving ₹ 1.38 crore are discussed in the following paragraphs. The cases pointed out are based on the test checks conducted by Audit. The Department may initiate action to examine similar cases and take necessary corrective action.

4.3 Short levy of stamp duty due to misclassification of sale deeds as collaboration agreements

Misclassification of sale deeds as collaboration agreements instead of agreement to sell in case of five agreements resulted in short levy of stamp duty and registration fees of ₹ 0.45 crore.

As per Haryana Government notification issued in October 2013, any agreement that relates to giving authority or power to a promoter or a

developer, by whatever name called, for construction on, development of or, sale or transfer (in any manner whatsoever) of, any immovable property shall be liable to stamp duty as is leviable on a conveyance, on the market value of the property mentioned in the agreement.

Scrutiny of records of Panipat and Rohtak Sub Registrars (SRs) revealed that five collaboration agreements¹ were registered between February and May 2017 on which stamp duty and registration fees (SD and RF) of ₹ 2.50 lakh was levied. Scrutiny of these agreements revealed that the owners of land had authorised the developers to take possession of the land with the right to construct, build-up shop-cum-flats and residential houses. These agreements were, therefore, liable to be levied for stamp duty as per Notification issued in October 2013. As per rates fixed by the Collector, value of land transferred to the developers worked out to ₹ 9.40 crore on which stamp duty and registration fees leviable was ₹ 47.75 lakh. Thus, misclassification of these documents as collaboration agreements resulted in short levy of SD and RF of ₹ 45.25 lakh.

The matter was pointed out to the Government in August 2020. During exit conference (April 2021), the Department accepted the audit observations and stated that strenuous efforts would be made to expedite the cases pending in courts of Collectors under Section 47-A, of the IS Act for early decision and recovery thereof.

The Department may follow the notification issued by the Government, status report for collaboration agreement be submitted within stipulated time frame. The Department may consider holding of special campaign in order to effect timely recovery, in all cases.

4.4 Irregular exemption of Stamp Duty to autonomous bodies

Registering authorities allowed irregular exemption from payment of stamp duty and registration fees of ₹ 24.11 lakh to Haryana State Agriculture Marketing Board and Municipal Corporation, treating them as Government entities.

As per provision contained in Section 3 (1) of the IS Act, as applicable to the State of Haryana, no SD shall be chargeable in respect of any instrument executed by, or on behalf of or in favour of Government.

Scrutiny of the records in the offices of SRs Jagadhri and Kharkhoda revealed that two sale deeds were registered without charging SD and RF amounting to

¹ An agreement between at least two parties looking to work together on a commercial project on a collaborative or cooperative basis. The agreement spells out the specific terms and conditions of the parties' working relationship including allocation of responsibilities and division of revenues derived from the exploitation of the work.

₹ 24.11 lakh on total consideration of ₹ 4.58 crore (February and October 2019) in respect of Haryana State Agriculture Marketing Board (HSAMB), Panchkula and Municipal Corporation (MC), Jagadhri. As the HSAMB and MC, are autonomous bodies and SD and RF was required to be levied, the registering authorities allowed exemptions from payment of SD and RF, treating these as Government body, whereas these orders were not applicable on Local bodies. This resulted in irregular exemption of SD and RF of ₹ 24.11 lakh.

The matter was reported to the Government in December 2020. During exit conference (April 2021), the Department accepted the audit observations and stated that strenuous efforts would be made to expedite the cases pending in courts of Collectors under Section 47-A of the IS Act for early decision and recovery thereof.

The Department may follow up the provision of Indian Stamp Act, 1890 strictly.

4.5 Irregular exemption of Stamp Duty to farmers

The exemption of stamp duty in 11 cases was allowed to farmers, though they purchased residential/commercial land from compensation received, which was not permitted as per Government's order dated January 2011, resulting in non/short levy of stamp duty and registration fees of ₹ 12.25 lakh.

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

Scrutiny of records of five Sub Registrars (SRs)² revealed that in eleven cases, farmers whose land had been acquired by the Government for public purposes, purchased residential/commercial land valued at ₹ 1.71 crore. SD and RF of ₹ 12.34 lakh was to be levied in these cases, as exemption of SD was available only for purchasing of agricultural land. The Department had, however, levied SD and RF amounting to ₹ 0.09 lakh only in respect of SR Jind, which resulted in irregular exemption of SD and RF of ₹ 12.25 lakh to the farmers for purchase of residential plot from the compensation amount received.

² Ellanabad, Fatehabad, Jagadhri, Jind and Sirsa.

The matter was pointed out to the Government in December 2020. During exit conference (April 2021), the Department accepted the audit observations and stated that strenuous efforts would be made to expedite the cases pending in courts of Collectors under Section 47-A of the IS Act for early decision and recovery thereof. In two cases the farmers purchased the plot and residential house without paying SD and RF amounting to ₹ 7.73 lakh out of compensation amount received and the Collector finalised these cases and exempted the stamp duty on July 2019 which is against the order of the Government, *ibid*. As per direction issued by the Government in November 2013, if the decision of the Collector made against the Government then the Sub Registrar should file appeal against these. However, no appeal was filed by the SR.

The Government may ensure that exemption in SD and RF was allowed to farmers only for purchases of agricultural land from the compensation amount received.

4.6 Short levy of stamp duty due to application of incorrect rates of immovable property

Registering Authorities assessed 16 sale deeds of plots falling within municipal limits with an area less than 1,000 square yards at rates fixed for agricultural land instead of residential land, resulting in short levy of stamp duty and registration fees of ₹ 0.39 crore.

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

Scrutiny of the records (February to December 2018) of seven registering offices³ revealed that 16 sale deeds of plots falling within the parameter of notification, *ibid*, were registered between April 2016 and January 2018. These deeds were liable to be assessed for ₹ 8.48 crore based on the rates fixed for residential areas and SD and RF of ₹ 0.53 crore was leviable. However, the registering authorities assessed these deeds for ₹ 1.76 crore based on the rates fixed for agricultural land and levied SD and RF of ₹ 0.15 crore. This resulted in short levy of SD and RF of ₹ 0.39 crore.

The matter was reported to the Government in January 2021. During exit conference (April 2021), the Department accepted the audit observations and

³ Ambala Cantt., Ambala City, Bhuna, Kalanwali, Rohtak, Safidon and Tohana.

stated that strenuous efforts would be made by the Department to expedite the cases pending in courts of Collectors under Section 47-A of the IS Act for early decision and recovery thereof.

The Department should design its software in such a way that if share of an individual in the property is less than 1,000 sq. yards then it should automatically be evaluated at residential rates.

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

Registering Authorities incorrectly assessed prime khasra land at normal rates fixed for agricultural land, resulting in short levy of stamp duty of ₹ 18.06 lakh.

Government of Haryana vide instructions (November 2000) directed all the Registration Authorities of state to identify the Khasra numbers of agricultural/residential/commercial lands situated on National Highways, State Highways and link roads by District Level Evaluation committee. Further, Haryana Government issued instructions in September 2013 for constituting district level committees comprising of officers of Revenue Department and Municipal Committees for evaluating different categories of land for fixing collector rates. Further, Section 27 of the Indian Stamp Act, 1899 (IS Act) as applicable to the State of Haryana, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty chargeable, should be fully or truly set forth therein.

Scrutiny of the records of six SRs/JSRs⁴ revealed (January 2017 and March 2018) that 32 conveyance deeds were registered between April 2016 and March 2017 in prime khasra as per land revenue record which were liable to be assessed for ₹ 9.53 crore based on the higher rate fixed for prime land on which Stamp Duty of ₹ 38.66 lakh and Registration Fees of ₹ 2.40 lakh was leviable. However, the immovable properties was incorrectly assessed at ₹ 5.38 crore on the basis of normal rates and SD of ₹ 21.55 lakh and RF of ₹ 1.45 lakh was levied, which resulted in short levy of SD and RF for ₹ 18.06 lakh.

The matter was reported to the Government in January 2021. During exit conference (April 2021), the Department accepted the audit observations and stated that strenuous efforts would be made to expedite the cases pending in courts of Collectors under Section 47-A of the IS Act for early decision and recovery thereof.

⁴ Bahadurgarh, Barara, Mullana, Naraingarh, Sampla and Shehzadpur.

The Department may identify and record the Khasra number of prime land, colonies/ward/sectors in software HARIS for proper evaluation of stamp duty. The Department may consider to adopt a foolproof system for mapping of business processes in accordance with the provisions of various Acts and Rules applicable, so as to prevent leakages of revenue by way of evasion of stamp duty and registration fees.

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Chandigarh
The 18 August 2021

Principal Accountant General (Audit), Haryana

Countersigned



New Delhi
The 31 August 2021

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