

CHAPTER - III
STAMP DUTY AND
REGISTRATION FEES

Highlights

Why CAG did this Audit

Receipts from Stamp Duty and Registration Fees in Madhya Pradesh are regulated under the Indian Stamp (IS) Act 1899, the Registration Act 1908, the MP Preparation and Revision of Market Value Guidelines Rules 2000 and notifications/orders issued by the State Government.

Stamp Duty other than duties or fees collected by means of non-judicial stamp is a subject included in the Concurrent List of the Seventh Schedule of the Constitution of India.

The Audit was conducted with a view to assess whether the stamp duty and registration fees were levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and the interests of the Government are safeguarded.

What CAG found

During a test check of records of IGR Office and 33 out of 234 Sub-Registrar Offices, Audit noticed the following:

- *Short realisation of Stamp Duty and Registration Fees due to under-valuation of market value of land and building, and application of incorrect rate of Stamp Duty,*
- *Short realisation of Registration Fees on agreements relating to development of land,*
- *Inadequate controls in the SAMPADA software for determination of proper duties, resulting in short realisation of Municipality duty, and*
- *Non-consideration of whole amount of royalty payable or deliverable under mining lease resulting in short realisation of Stamp Duty and Registration Fees.*

These shortcomings, in aggregate, involved an overall revenue impact of ₹9.94 crore.

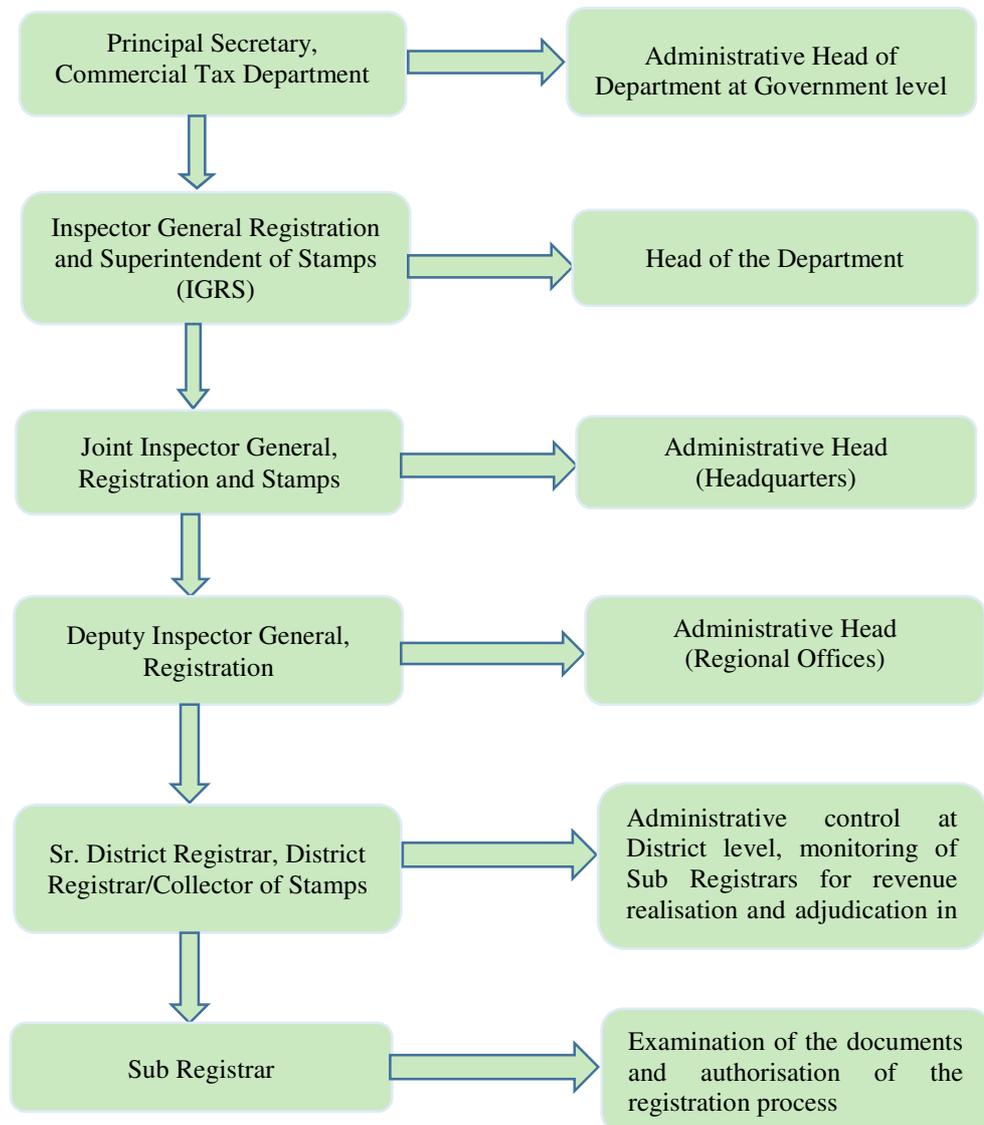
3.1 Introduction

The Department of Registration and Stamps is among the major revenue earning departments of the Government of Madhya Pradesh. It is tasked with registration of documents and is responsible for determining and collecting stamp duty and registration fees on registration of various documents/instruments by the general public. The Department also enforces administration of the Indian Stamp (IS) Act, 1899 and The Registration Act, 1908, as amended from time to time and rules framed thereunder.

3.2 Tax Administration

The Revenue Department is headed by the Principal Secretary at the Government level. The Inspector General Registration and Superintendent of Stamps (IGR) is the Head of the Department of Registration and Stamps and is assisted by a Joint IGR and Deputy IGRs. The Organogram of the Department, along with functions at different levels, is given in **Chart 3.1** below:

Chart 3.1: Organisational set up



3.3 Trend of Receipts

Actual receipts from Stamp Duty (SD) and Registration Fees (RF) during the period from 2015-16 to 2018-19, are given below in **Chart 3.2**.

Chart 3.2: Stamp Duty and Registration Fee receipts



Source: Finance Accounts of Government of Madhya Pradesh

As can be seen from the above Chart, revenue collection through stamp duty (SD) and registration fees (RF) has consistently increased year-on-year during the period 2015-16 to 2018-19, the increase being 36.46 *per cent* during the four-year period. However, the revenue collection of 2015-16 was nominally decreased (0.64 *per cent*) with compared to previous year. Despite the annual increase during 2014-19, except during 2017-18, the actual receipts during this period have not matched the budgetary expectations in any of the years. During 2017-18, the receipts from stamp duty and registration fees increased by ₹ 488.51 crore (₹ 4,788.51 crore) over the budgetary expectations (₹ 4,300 crore).

The Department attributed the 22 *per cent* increase in receipts during 2017-18 compared to the previous year to the recovery of revenue after identification of tax evasion cases and continuous monitoring of e-registration software, which had reduced the registration time and increase of municipality duty from two to three *per cent* in January 2018.

3.4 Audit Approach

Audit of the Department of Registration and Stamps was conducted during August – December 2019 through a test check of the relevant records and transactional data in 33²³ out of 234 (14.10 *per cent*) Sub-Registrar Offices (SROs) in the State, to gain assurance that the SD and RF were levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and the interests of the Government are safeguarded. These 33 units accounted for ₹ 5,349.96 crore (approximately 38.23 *per cent*) of the total revenue

²³ Badnawar (Dhar), Batiyagarh (Damoh), Betul, Bhind, Bhopal, Dewas, Dhar, Dharampuri (Dhar), Ganjbasoda (Vidisha), Gwalior I, Harda, Indore I, Indore II, Indore IV, Jabalpur II, Keolari (Seoni), Khandwa, Morena, Nagda, Niwari (Tikamgarh), Obedullaganj (Raisen), Raghurajnagar (Satna), Rajnagar (Chhatarpur), Ratlam, Sagar, Saunsar (Chhindwara), Shajapur, Shivpuri, Sidhi, Silwani (Raisen), Sohagpur (Shahdol), Sonkachh (Dewas) and Vijayaraghavgarh (Katni).

collection of ₹ 13,991.94 crore of the Department during the audit period. These units were selected based on risk perception, which included inherent risk, revenue collection, reported cases of loss/fraud/embezzlement cases and internal assessment etc. Besides, agreements for mining leases executed by 27 District Mining Officers²⁴ (DMOs) out of the total 52 DMOs under the Mineral Resources Department, were also test checked to gain assurance that mining agreements were duly registered and stamped by the SRs.

Audit covered the transactions of the Department during the three-year period 2016-2019. Audit findings were benchmarked against the criteria sourced from the Indian Stamp Act, 1899; the Registration Act, 1908; Market Value Guidelines issued by IGR; Madhya Pradesh Municipalities Act, 1961 and various circulars and orders issued by the State Government/IGRS from time to time.

3.5 Results of Audit

Registration and stamping of documents is being carried out online through a computerised system “SAMPADA” with effect from August 2015 onwards. SAMPADA provides facilities such as valuation of property situated anywhere in the State, calculation of SD and RF chargeable on various types of documents, and slot booking in the offices of Sub-Registrars (SRs).

Audit of registered documents was carried out through the SAMPADA software. However, basic records relating to manual collection of revenue, such as cash book, fees book, challan book, etc. were examined at the unit level. There were a total of 5,77,343 documents registered in the selected units, out of which, 24,307 were test-checked based on professional judgement.

At the conclusion of audit, the findings were forwarded to the Government (February 2020). While the Department provided reply in August 2020, exit meeting at Government level could not be held.

Audit brought out instances of short levy of SD and/ or RF, in 220 cases involving an amount of ₹ 9.94 crore, as detailed in **Table 3.1**.

Table 3.1: Categories of Audit observations on Stamp Duty and Registration Fee receipts

(₹ in crore)			
Sl. No.	Category of Audit observations	No. of deviations	Amount
1	Undervaluation of properties	113	3.93
2	Application of incorrect rate of stamp duty	3	0.12
3	Short levy of registration fee	35	0.51
4	Non- application of revised rate	44	0.17
5	Non-levy of duty/fee on entire amount of royalty payable or deliverable under lease agreement	25	5.21
	Total	220	9.94

²⁴ Alirajpur, Anuppur, Bhopal, Burhanpur, Chhatarpur, Chhindwara, Damoh, Dewas, Dindori, Gwalior, Harda, Hoshangabad, Indore, Katni, Khargone, Morena, Narsinghpur, Rajgarh, Ratlam, Rewa, Sagar, Satna, Shajapur, Shahdol, Shivpuri, Sidhi and Ujjain.

The five broad categories of audit observations under SD and RF which are listed above, are discussed in the succeeding paragraphs. There may be similar irregularities, errors/omissions in other units under the Department but not covered in the test audit. Department may, therefore, examine all the units to ensure that the taxes are levied as per provisions of the Act and Rules.

The Department in its reply has accepted short levy of duties/fees in 13 cases and effected recovery of ₹ 57.59 lakh.

Audit Findings

3.6 Short levy of Stamp Duty and Registration Fees due to under valuation of properties

Under Section 47-A of Indian Stamp (IS) Act, 1899, if the registering officer, while registering any instrument, finds that the market value of any property set forth was less than the market value shown in the Market Value Guidelines (MVGs), before registering such instruments, he should refer the same to the Collector of Stamps for determining the correct market value of such property and duty leviable thereon.

Test-check of 21,958 registered instruments under 33 SROs revealed that in 113 registered instruments under 29 SROs, the market value as per MVG worked out to ₹ 142.21 crore. However, the SRs registered those instruments at market value of ₹ 98.13 crore only. This resulted in short levy of SD of ₹ 3.59 crore and RF of ₹ 0.34 crore aggregating ₹ 3.93 crore as detailed in **Appendix IX**.

The SRs did not consider the various factors mentioned in the instruments affecting valuation of property in all these cases and did not refer these instruments to the Collector of Stamps for determination of correct value of properties and duty leviable thereon.

The Department informed (August 2020) that recovery of ₹ 0.28 lakh in one case was effected and in the remaining cases, action for disposal was under progress.

3.7 Application of incorrect rate of Stamp Duty

As per Article 36 of Schedule 1A of IS Act, 1899, when property is gifted to family member, SD is leviable on the market value of the property at the rate of 2.5 *per cent* and in all other cases, at the rate of five *per cent*. For this purpose, family means “mother, father, wife, husband, son, daughter, brother, sister, grandfather and grandson”.

- Test check revealed that in four cases of gift deeds, under three SROs, the property was gifted to other than family member, but SD was incorrectly levied at 2.5 *per cent* instead of at five *per cent*. This resulted in short levy of SD of ₹ 0.03 crore.
- In another case due to misclassification of conveyance deed as power of attorney, SD was short levied by ₹ 0.09 crore.

The Department informed that (August 2020) that action for disposal was under progress in these cases.

3.8 Short realisation of Registration Fees on agreements relating to development of land

Article 6 (d) (i) of Schedule I-A to the IS (Madhya Pradesh) Amendment Act, 2014 issued on 07 January 2015 provided that, if an agreement relating to the development of land has the stipulation that after development, such developed property or part thereof shall be held/sold by the developer, either severally or jointly with the owner, duty shall be levied treating this transaction as the conveyance²⁵ at the rates given therein.

Further, as per Article-1 of the Registration Act, 1908, the RF shall be calculated at the rate of 0.8 *per cent*²⁶ of the amount on which the SD is chargeable.

Test-check of 2,349 developers' agreements revealed that in 35 agreements under six SROs²⁷, the developer's share was equal to or less than 50 *per cent* of the entire land. The Department charged SD in these cases at the rate of 2.5 *per cent* of the market value of the land proposed to be developed. However, the RF was not charged at the rate of 0.8 *per cent* of the amount on which the SD was charged, i.e. on the market value of entire land proposed to be developed.

Audit observed that the market value of the entire land proposed to be developed under these agreements was ₹ 126.86 crore against which RF was leviable at the rate of 0.8 *per cent*. However, the SRs levied RF on fifty *per cent* of the value of the entire land only. This resulted in short levy of RF of ₹ 50.74 lakh (Appendix X).

Similar observation of "Incorrect levy of Registration Fees" by the SRs in the cases where the developer's share was equal to or less than 50 *per cent* of the entire land, was also pointed out in the C&AG's Audit Report No. 5 for the year ended 31 March 2016. Department had previously accepted (during exit conference in September 2016) the irregularities in the objected cases and assured to take appropriate action. However, the irregularities have been found to persist. Clearly, the Department has not acted on its assurances and appropriate mechanism was not put in place to ensure second level verification by SRs, as pointed out in the Audit Report for the year ended 31 March 2016.

The Department informed (August 2020) that recovery of ₹ 1.59 lakh in three cases was effected and in the remaining 32 cases, action for disposal was under progress. Final action is awaited in audit (December 2020).

3.9 Inadequate controls in software

The *Nagar Nigam/Nagar Palika shulk* (Municipality duty) was increased from two *per cent* to three *per cent* vide Gazette notification dated 19 January 2018 issued by the Govt. of Madhya Pradesh Registration Department and was effected from mid night of 18 and 19 January 2018 in SAMPADA software.

²⁵ The Stamp Duty shall be levied at the rate of five *per cent* on the market value of only that portion of the entire land, which is proposed to be developed, which is proportionate to the developed property to be held/sold by the developer jointly or severally, or at the rate of 2.5 *per cent* on the market value of the entire land proposed to be developed, whichever is higher.

²⁶ The Notification of the State Government came into force from 15 August 2014.

²⁷ Badnawar, Bhopal II, Indore I, Jabalpur II, Khandwa and Sonkachh.

Test check of 4,595 deeds pertaining to conveyance in 11 SROs²⁸ revealed that in 44 cases, deeds of immovable property situated within the limits of Municipality were executed on or after 19 January 2018. However, the municipality duty was calculated by the software at the old rate of two *per cent* on the value of the property instead of at three *per cent*. This resulted in short realisation of Municipality Duty amounting to ₹ 16.85 lakh (**Appendix XI**).

This observation was noticed in test-checked instruments only. The Department may therefore, like to internally examine all other instruments and evolve a suitable mechanism to ensure development of proper business logic and adequate application controls in SAMPADA software.

The Department in its reply stated (August 2020) that recovery of ₹ 6.62 lakh in six cases was effected, one case was found duly stamped and in the remaining 37 cases, action for disposal was under progress.

3.10 Non-levy of duty/fee on whole amount of royalty payable or deliverable under lease agreement

Article 38(b) of Schedule I-A to the IS Act, 1899 (amended on 14 January 2016) provides for levy of SD on mining lease at the rate of 0.75 *per cent* of the whole amount payable or deliverable under such lease. Further, as per Article II of Registration Act, 1908, the RF shall be calculated at the rate of three-fourth of the value of the Stamp Duty on the lease.

Test-check of 502 (25.44 *per cent*) out of the total 1973 registered lease deeds in 10 District Mining Offices (DMOs)²⁹, revealed that in 25 lease deeds registered between April 2016 and March 2019, 10 SRs did not levy SD and RF correctly.

Out of the 25 lease deeds, in 24 cases, the nine SRs³⁰ did not consider the whole amount of royalty payable or deliverable under the lease, as mentioned in the approved Mining Plan, for determination of SD and RF. In another case, SR, Khargone levied SD on market value of mining land instead of royalty payable during the entire lease period.

Audit observed that SD and RF of ₹ 10.40 crore was leviable in these 25 cases but the SRs levied ₹ 5.19 crore only. This resulted in short realisation of SD and RF of ₹ 5.21 crore (**Appendix XII**).

The Department stated (August 2020) that recovery of ₹ 49.10 lakh in three cases was effected, RRCs in three cases were issued and in the remaining cases, DRs concerned were instructed for early recovery and that, efforts were being made for quick disposal of cases.

3.11 Conclusion

Audit of the Department of Registration and Stamps through a test check of selected SROs and DMOs brought out significant shortcomings relating to valuation of property, controls in the SAMPADA software, monitoring and

²⁸ Bhopal II, Dhar, Ganjbasoda, Gwalior I, Indore I, Indore II, Indore IV, Jabalpur II, Obedullaganj, Ratlam and Sagar I.

²⁹ Anuppur, Bhopal, Chhatarpur, Damoh, Indore, Khargone, Rewa, Sagar, Sidhi and Ujjain.

³⁰ Anuppur, Bhopal, Chhatarpur, Damoh, Indore, Rewa, Sagar, Sidhi and Ujjain.

calculation of correct royalty as per approved Mining Plan, as summarised below:

- Valuation of property was not done in accordance with the facts/information mentioned in the instruments, resulting in short levy of SD and RF due to undervaluation of property;
- The Department did not ensure provision of adequate controls in the SAMPADA software for correct application and calculation of rate of duty/fee and manual interventions were required at different levels, which resulted in short levy of duty/fee;
- The registration authorities did not consider the whole amount of royalty payable or deliverable under the lease, as mentioned in the approved Mining Plan, for determination of SD and RF, resulting in short levy of the same.