

CHAPTER-IV
STAMP DUTY

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4.1 Tax administration

Receipts of stamp duty and registration fee are regulated under the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908, 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 fee 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 43 out of 143 units of the Revenue Department during 2020-21 revealed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 20.47 crore (0.34 per cent of receipt of ₹ 6,013.30 crore for 2019-20), in 715 cases, which fall under the following categories as mentioned in the Table 4.1.

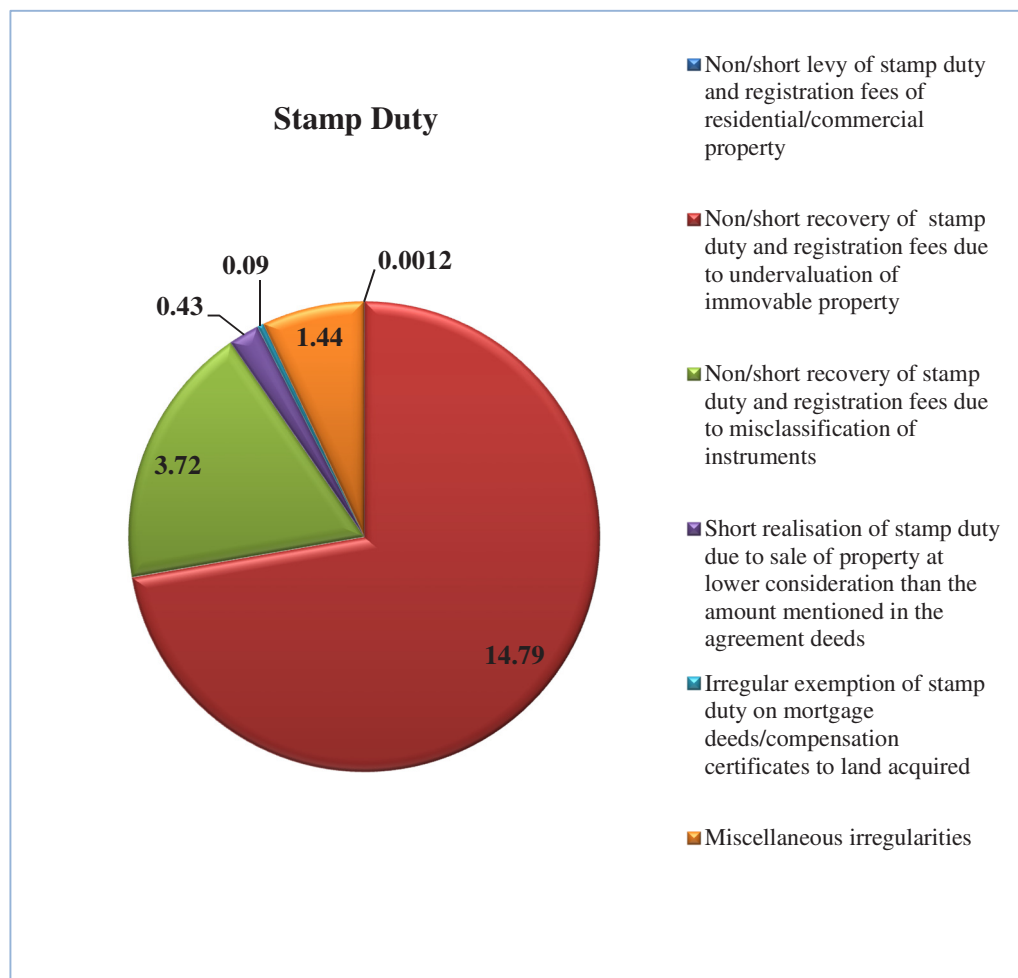
Table-4.1: Result of Audit

Revenue			
Sr. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Non/short levy of stamp duty and registration fee on registration of residential/commercial property	1	0.0012
2.	Non/short recovery of stamp duty and registration fee due to <ul style="list-style-type: none">undervaluation of immovable propertymisclassification of instruments	337 258	14.79 3.72
3.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	23	0.43
4.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	10	0.09
5.	Miscellaneous irregularities	86	1.44
	Total	715	20.47

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 ₹ 11.84 crore involved in 328 cases which were pointed out during the year. The Department recovered ₹ 0.06 crore involved in 15 cases pertaining to previous years.

Significant cases involving ₹ 12.12 crore are discussed in the following paragraphs.

4.3 Irregular remission of stamp duty

Irregular remission of stamp duty in 23 instruments of transfer deeds in favour of persons other than blood relations resulted in loss of revenue of ₹ 23.64 lakh to the State exchequer.

As per Section 3 of the IS Act, instruments are chargeable with duty subject to the provisions of the IS Act and the exemptions contained in Schedule-I of the

IS Act, of the amount indicated in that Schedule as the proper duty. The State Government has power to reduce, remit or compound duties as per Section 9 of the IS Act by rule or order published in the Official Gazette. As per Government order of 16 June 2014, the Government would remit the stamp duty chargeable on the instrument if it pertained to transfer of immovable property within the family by an owner during his lifetime to any of the blood relations namely parents, children, grandchildren, brother (s), sister (s) and between spouse.

Scrutiny of records (13,471 cases out of 69,656 cases) of the registered documents of transfer deeds in respect of nine Sub Registrars/Joint Sub Registrars (SRs/JSRs)¹ (between March 2019 and December 2020) for the years 2017-20 revealed that 23 instruments of transfer deeds were executed in favour of persons (“cousin brother”, “chachera uncle”, “bhanja”, “nephew” and “bua” as verified from the deed/document of transfer of immovable properties) other than those allowed in the above orders of Government. The Government remitted the stamp duty (SD) in these instruments. This irregular remission of stamp duty resulted in loss of revenue to the State exchequer of ₹ 23.64 lakh (SD ₹ 21.29 lakh + RF ₹ 2.35 lakh).

On this being pointed out, SR Pundri intimated (February 2022) that an amount of ₹ 0.07 lakh had been recovered in one case. SR Thanesar intimated (February 2022) that Collector had decided the case for ₹ 2.58 lakh and notice for recovery had been issued. SR Nilokheri intimated (February 2022) that the case would be sent to the Collector under Section 47-A of the IS Act for decision. Remaining SRs/JSRs² intimated (February 2022) that the cases had been sent to the Collectors between May 2018 and February 2021 under Section 47-A of the IS Act for decision.

During exit conference held in March 2022, the Department admitted the audit observations.

The Department may design its systems in such a way that any registration made beyond permitted blood relations are identified automatically and stamp duty may be evaluated accordingly.

¹ Guhla, Ismailabad, Kaithal, Kalayat, Nilokheri, Pundri, Rajound, Siwan and Thanaser.

² Guhla, Ismailabad, Kaithal, Kalayat, Pundri, Rajound and Siwan.

4.4 Short levy/collection of two per cent additional stamp duty levied by/for Municipal Corporations/Gram Panchayats and Zila Parishads

Registering Authorities registered 197 Sale Deed in areas of Municipal Corporations/Gram Panchayats without charging/levies at the rate of two per cent on transaction value in addition to Stamp duty under Haryana Municipal Corporation Act, 1994 resulting into short levy of Stamp Duty of ₹ 5.71 crore.

A. As per Section 87 (1) (C) of the Haryana Municipal Corporation Act 1994, a duty is charged on the transfer of immovable properties situated within the limits of the municipal area in addition to the duty imposed under the IS Act, as in force for the time being in the State of Haryana, on every instrument of the description specified there in and at such rate, as the Government may, by notification direct. The Departmental web-HALRIS system compute/calculate due amount of the Stamp Duty payable for the registration of the documents. The system itself identifies the villages falling within the Municipal Corporation (MC) limits for levy of additional Stamp Duty of two per cent.

The Registrar or Sub Registrar collects the said duty in the shape of non-judicial stamp paper at the time of registration of the document and intimation thereof is to be sent to the MC immediately. This duty so collected is to be paid to the MC vide Notification No. 9/33/2000-5CI dated 11 March 2004, Government levied two per cent duty for the purpose of above said clause with effect from 25 February 2004.

The Urban Local Body (ULB) Department, Government of Haryana vide Notification³ constituted a new Municipal Corporation, Manesar with 29 villages and vide Notification⁴, included 16 villages in Municipal limits of Municipal Corporation, Gurugram.

During Scrutiny of records (2,358 cases out of 1,44,582 cases) of seven⁵ SRs/JSRs (between June and August 2021) of Gurugram District for the year 2019-21, it was revealed that 173 instruments falling within area of these two MCs were registered with a value of ₹ 277.19 crore and stamp duty of ₹ 12.44 crore was levied against leviable amount of ₹ 17.94 crore. These MC villages were not updated timely in the Web-HALRIS system which resulted

³ No. S.O.58/H.A. 16/1994/S.3/2020 dated 24 December 2020

⁴ No. S.O.59/H.A.16/1994/S.3/2020 dated 28 December 2020

⁵ Badshahpur, Farukh Nagar, Gurugram, Harsaru, Kadipur, Manesar and Wazirabad.

in short levy of SD of ₹ 5.50 crore in respect of areas falling in these two Municipal Corporations.

On this being pointed out, SR Manesar intimated (February 2022) that an amount of ₹ 42.78 lakh had been recovered in 20 cases. Remaining SRs/JSRs intimated (February 2022) that the cases had been sent to the Collector under Section 47-A of the IS Act for decision.

B. The Government of Haryana vide Notification⁶ imposed a duty at two *per cent* of the amount specified on each instrument i.e. sale, gift, mortgage and other transfer of immovable property for transfer of property in the form of surcharge on the stamp duty situated in Sabha Area effective after 15 days from the date of publication under Section 41 of The Haryana Panchayati Raj Act, 1994. The duty so collected by the Registrar or Sub Registrar was to be remitted in equal proportion to the concerned Gram Panchayat and Zila Parishad. The amounts collected in areas falling within Gurugram Metropolitan Development Authority (GMDA) was required to be remitted, in equal proportion, to the concerned Gram Panchayat and GMDA.

During scrutiny of records (157 cases out of 15,484 cases) of SR, Sohna (July 2021) of Gurugram District for the year 2019-21, it was observed that 24 instruments falling outside the area of the concerned Municipal Corporation i.e. falling under the Sabha area were registered valuing the instruments at ₹ 10.85 crore and levying stamp duty of ₹ 0.42 crore. However, in these cases, stamp duty of ₹ 0.63 crore was leviable. Thus, non-levy of additional two *per cent* stamp duty resulted in short levy of stamp duty ₹ 0.21 crore.

On this being pointed out, SR Sohna intimated (February 2022) that an amount of ₹ 3.52 lakh had been recovered in two cases. Remaining SRs/JSRs intimated (February 2022) that the cases had been sent to the Collector under Section 47-A of the IS Act for decision.

During exit conference in March 2022, the Department admitted the audit observations.

The Department may put in place systems and procedures to ensure that the notifications of the Government are implemented from the effective dates to prevent loss of revenue.

⁶ No. S.O.4/H.A. 11/1994/S.41/2021 dated 09 February 2021.

4.5 Short levy of stamp duty due to under valuation of immovable property

Eighty-three deeds were registered on the rates fixed by the Collector for agricultural land on which stamp duty and registration fee of ₹ 2.36 crore was levied instead of leviable at ₹ 7.29 crore as per land records (Jamabandis), resulting in short levy of stamp duty and registration fee of ₹ 4.93 crore.

Section 27 of the IS Act stipulates that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall fully and truly set forth therein. Further, Section 47-A of the IS Act, if the registering officer has reasons to believe that the value of the property or the consideration, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be and the proper duty payable thereon.

On scrutiny of records (23,990 cases out of 1,20,076 cases) of 11 SRs/JSRs⁷ (between July 2020 and January 2021), it was noticed that 83 sale deeds registered between April 2018 and June 2020 were assessed at the rates fixed by the Collector for agricultural land valuing these properties at ₹ 42.79 crore, on which stamp duty (SD) and registration fee (RF) of ₹ 2.36 crore (SD ₹ 2.25 crore + RF ₹ 0.11 crore) were levied. However, as per land record/khasra numbers given in the Collector's rate lists/records of registered document/Patwari site inspection report, these immovable properties were residential/commercial properties. The value of these immovable properties were liable to be assessed by the Collector at the rates fixed for residential/commercial properties at ₹ 114.83 crore on which stamp duty and registration fee of ₹ 7.29 crore (SD ₹ 7.01 crore + RF ₹ 0.28 crore) were leviable. This resulted in short levy of stamp duty and registration fee of ₹ 4.93 crore (SD ₹ 4.76 crore + RF ₹ 0.17 crore).

On this being pointed out, SR Jagadhri intimated (February 2022) that four cases had been decided by the Collector but recovery was pending. All remaining SRs/JSRs intimated (February 2022) that cases had been sent to the Collector (between April 2018 and February 2021) under Section 47-A of the IS Act for decision.

⁷ Ambala Cantt-10, Naraingarh-10, Bilaspur-2, Jagadhri-9, Pratap Nagar-6, Chchrouli-7, Saraswati Nagar-6, Kaithal-22, Dhand-3, Karnal-5 and Asandh-3.

The Department stated in the Exit Conference held in March 2022 and in response in April 2022 that an amount of ₹ 17.64 lakh had been recovered in two cases of SR Dhand and also stated that the matter was under consideration and directed all the District Revenue Officers (DROs) to verify all the cases.

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

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

Registering Authorities assessed 18 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 fee of ₹ 0.53 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 were more than one and the share of each purchaser was less than 1,000 square yards, be valued at the rates fixed for residential property of that locality for the purpose of levying stamp duty and Registration Fee (RF).

Scrutiny of records of 17,749 cases out of 87,536 cases (between February 2019 and December 2020) of nine registering offices⁸ showed that 18 sale deeds of plots falling within the parameter of notification, *ibid*, were registered between May 2017 and February 2020. These deeds were liable to be assessed for ₹ 10.12 crore based on the rates fixed for residential areas and SD and RF of ₹ 0.74 crore (SD ₹ 0.69 crore and RF ₹ 0.05 crore) was leviable. However, the registering authorities assessed these deeds for ₹ 3.66 crore based on the rates fixed for agricultural land and levied SD of ₹ 0.21 crore (SD ₹ 0.19 crore + RF ₹ 0.02 crore). This resulted in short levy of SD and RF ₹ 0.53 crore (SD ₹ 0.50 crore + RF ₹ 0.03 crore).

On this being pointed out, SR Jagadhri intimated (February 2022) that three cases had been decided by the Collector but recovery was pending. All remaining SRs/JSRs intimated (February 2022) that cases had been sent to the Collector (between June 2020 and October 2021) under Section 47-A of the IS Act for decision.

⁸ Ambala City, Ambala Cantt, Assandh, Jagadhri, Kalka, Karnal, Panchkula, Rai and Rajaund.

The Department stated in the Exit Conference held in March 2022 and in reply in April 2022 that an amount of ₹ 2.13 lakh had been recovered in one case of SR Rai. It further stated that the matter was already under consideration for amendments in the instructions.

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 ₹ 0.50 crore.

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 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 in the instrument.

Scrutiny of the records of 24 SRs/JSRs⁹ revealed (between January 2018 and January 2021) that 83 conveyance deeds were registered between July 2016 and February 2020 situated in prime khasra as per land revenue record which were liable to be assessed for ₹ 33.73 crore based on the higher rate fixed for prime land on which Stamp Duty (SD) of ₹ 1.36 crore and Registration Fee (RF) of ₹ 0.13 crore were leviable. However, due to non-mapping of prime khasra in the concerned IT application used by the Departments, the immovable properties were incorrectly valued at ₹ 23.99 crore on the basis of normal rates and SD of ₹ 0.90 crore and RF of ₹ 0.09 crore were levied, which resulted in short levy of SD and RF of ₹ 0.50 crore.

⁹ Ambala Cantt, Asandh, Barara, Balsmand, Bilaspur, Chchhrouli, Dhand, Ganaur, Indri, Ismailabad, Kalayat, Kharnpur Kalan, Madlauda, Mullana, Nigdhu, Nilokheri, Partap Nagar, Pehwa, Pundri, Saha, Sampla, Shahbad, Sadhaura and Shazadpur.

On this being pointed out, eight SRs/JSRs¹⁰ intimated (February 2022) that an amount of ₹ 5.20 lakh had been recovered in 16 cases. 15 cases SRs/JSRs¹¹ intimated (February 2022) that cases had been sent to the Collector under Section 47-A of the IS Act for decision. SRs/JSR Nilokheri intimated that cases would be sent to Collector under Section 47-A of the IS Act for decision.

The Department in the Exit Conference held in March 2022 and in reply, in April 2022, admitted the audit observations.

The Department may identify and record the khasra number of prime land and colonies/ward/sectors in the concerned IT application for proper evaluation of stamp duty.

4.8 Irregular exemption of Stamp Duty treating the non-bonafide decrees as bonafide

Thirteen compromise decrees which were not bonafide, were registered without charging any stamp duty and by charging nominal registration fee of ₹ 650 on total consideration of ₹ 3.73 crore. This resulted in irregular exemption of stamp duty and registration fee of ₹ 21.84 lakh.

Under Section 17 of the Registration Act, 1908, non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of ₹ 100 and upwards, to or in immovable property are compulsory registrable documents. Thus, a compromise decree¹² which is not bonafide¹³ is liable to be charged as an instrument of conveyance. The Financial Commissioner and Secretary to Haryana Government, Revenue Department had issued instructions in September 1996, to all the registering authorities that mutated property registered on the basis of a compromise decree which was not bonafide, was liable to be charged as an instrument of conveyance as per Schedule 1-A of the IS Act. The Sub Registrars (SRs) were asked to carefully examine each document so as to ensure that there was no deliberate attempt for evasion of stamp duty and the same was properly stamped under the Act.

¹⁰ Asandh, Balsmand, Bilaspur, Dhand, Kharnpur Kalan, Nigdhu, Sadhaura and Saha.

¹¹ Ambala Cantt, Barara, Bilaspur, Chchhrouli, Ganaur, Indri, Ismailabad, Kalayat, Madlauda, Mullana, Partap nagar, Pehwa, Pundri, Sampla, Shahbad and Shazadpur.

¹² Settlement of property by mutual consent.

¹³ Among blood relations.

A. On scrutiny of the records of SR Panipat in November 2018, it was noticed that immovable properties were transferred through court in favour of plaintiff. The deed was registered in March 2018. The registering authority registered the deed as bonafide without charging any stamp duty (SD) and charged nominal Registration Fee (RF) of ₹ 50 on total consideration of ₹ 0.60 crore. Though, in this deed, land was transferred to plaintiff through decree, sale agreement had been executed by the parties. Hence, it was required to be treated as sale and stamp duty and registration fee were leviable for ₹ 4.35 lakh as per Schedule 1-A of the IS Act and the deed was also not bonafide. The Registering Authority did not comply with the above instructions of September 1996 and allowed exemptions from payment of SD and RF without verifying the facts. This resulted in irregular exemption of SD and RF of ₹ 4.35 lakh (SD ₹ 4.20 lakh and RF ₹ 0.15 lakh).

On this being pointed out, SR Panipat intimated in February 2022 that the case had been sent to the Collector under Section 47-A of the IS Act for decision in March 2018 and was pending at the level of the Collector.

(B) Compromise Deeds involving exchange of immovable properties

As per Schedule 1 A of the IS Act, two parties can exchange their immovable properties and the same can be registered under category 'exchange' on which Stamp Duty will be leviable on the property having higher value.

Scrutiny of the records of five SRs/JSRs¹⁴ (between January 2019 and October 2020) showed that twelve compromise decrees (through process of civil court orders) involving exchange of immovable properties were registered between July 2017 and January 2019 without charging any stamp duty (SD) and by charging nominal Registration Fee (RF) of ₹ 600 on total consideration of ₹ 3.13 crore. The parties had mutually exchanged their possession of properties and hence, SD and RF of ₹ 17.50 lakh¹⁵ had to be levied. This resulted in irregular exemption of SD and RF of ₹ 17.49 lakh (SD ₹ 16 lakh and RF ₹ 1.49 lakh).

On this being pointed out, SR Jagadhri intimated in February 2022 that two cases had been sent to the Collector for decision in August and November 2021. SR Karnal stated in October 2021 that the case had been sent to Collector under Section 47-A of the Act for decision. SRs/JSRs Balla, Guhla and Kaithal stated

¹⁴ Balla, Guhla, Jagadhri, Kaithal and Karnal.

¹⁵ Calculated on the basis of valuation on Collector rates for that land.

(between September and October 2020) that cases would be sent to the Collector under Section 47-A of the Act for decision.

The Department, in the Exit Conference held in March 2022 and in reply in April 2022, admitted the audit observations.


The Government may strengthen the internal controls for ensuring compliance with the instructions issued.

Chandigarh
The 21 June 2022

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The 28 June 2022


(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India

