

CHAPTER 5
STAMPS AND
REGISTRATION FEES

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5.1 Tax administration

The levy and collection of Stamp duty and Registration fee in the State is governed by the provisions of the Indian Stamp Act, 1899, the Registration Act, 1908, the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Undervaluation of Instruments) Rules, 1995.

The Prohibition, Excise and Registration Department (Registration) is headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Additional Chief Secretary/ Principal Secretary of the Registration Department. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General (AIGs) at the division level. At the field level, 38 District Sub-Registrars (DSRs), 88 Sub-Registrars (SRs) and 26 Joint Sub-Registrars (JSRs) at the districts/primary units are responsible for levy and collection of Stamp duty and Registration fee.

5.2 Results of audit

During the year 2020-21, Audit test checked the records of Inspector General, Registration (IGR), Patna. Out of 161 units of the Registration Department, four units¹ of Assistant Inspector General (AIG) at Division level and six units² of District Sub-Registrar were audited during July 2020 and February 2021. Audit observed short realisation and other irregularities involving ₹ 88.19 crore in 79 cases during April 2020 to March 2021. The Department accepted short levy, short realisation and other irregularities of ₹ 14.52 crore in 127 cases during April 2020 to March 2021, which were pointed out in earlier years. The Department reported recovery of ₹ 1.08 crore in 12 cases. The replies of cases pointed out during 2020-21 and those of earlier years were not received (March 2022).

5.3 Short realisation of Stamp duty and Registration fee due to undervaluation of land

Five Registering Authorities failed to detect undervaluation of land in nine instruments executed during June 2016 to August 2021 which resulted in short realisation of Stamp duty and Registration fee of ₹ 2.08 crore.

The Indian Stamp (IS) Act, 1899 is a fiscal Statute. Its primary objective is to increase the revenue of the State. It seeks to realise this objective by imposing a duty in respect of various instruments executed by members of public. The revenue derived from such duties forms a considerable part of the revenue of the State. Under the provision of Section 47(A) of the IS Act, where the registering authority has reason to believe that the market value of the property has not been rightly set forth in the instrument, he may refer the same to the Collector for determination of market value of such property.

The land is categorised as Commercial, Residential, Irrigated/do fasla *etc.* The rate of land is determined on the basis of above categories of land ward/circle-wise in every district. The minimum value of a land shall be fixed in every district every

¹ Darbhanga, Muzaffarpur, Patna and Saran.

² Darbhanga, Madhubani, Muzaffarpur, Patna, Samastipur and Saran.

year on the recommendation of District Valuation Committee established for this purpose. The Committee shall function under the overall guidance and supervision of Central Valuation Committee constituted at State level.

- During scrutiny (September 2021) of a partition deed (Token No. 10658/2019) executed in August 2019 at the District Sub-Registrar (DSR), Motihari, it was noticed that the land was classified as Residential. This partition deed gave the ownership of 1,365 Decimal of land to seven sisters. It was noticed that these seven sisters sold 588.38 Decimal of land out of 1,365 Decimal by executing a deed (Token No. 2896/2020) in March 2020 wherein the land was classified as irrigated/do fasla instead of Residential. However, this plot should have been considered as Residential category and accordingly, the Stamp duty and Registration fee³ should have been considered on value of ₹ 23.54 crore (588.38 Decimal x ₹ 4,00,000 per Decimal), arrived at on the basis of market value of applicable Minimum Value Register (MVR) for residential category, instead of consideration value of ₹ 5.30 crore. This lead to undervaluation of property by ₹ 18.24 crore and resulted in short levy of Stamp duty and Registration fee amounting to ₹ 1.46 crore⁴.

The matter was reported to the Department (January 2022); the Department replied that the case has been referred for recovery to Assistant Inspector General (AIG) Tirhut Division, Muzaffarpur.

- During scrutiny (July to September 2021) of sale deeds in the offices of four DSR⁵ and one SR⁶, executed during June 2016 to August 2021, it was noticed that eight plots were categorised at lower category value of MVR, despite their location pertaining to higher category value of MVR. Further, it was noticed that same plots along with same seller in different deeds were shown in different categories. Therefore, these plots should have been considered as higher category, and accordingly, the Stamp duty and Registration fee should have been considered on value of ₹10.64 crore arrived at on the basis of market value of applicable MVR for higher category instead of consideration value of ₹ 2.73 crore. This lead to undervaluation of property by ₹ 7.91 crore and short levy of Stamp duty and Registration fee amounting to ₹ 62.54 lakh (**Annexure-XIII**).

The matter was reported to the Government (January 2022). Government replied that the recovery has been done in the case of Patna City and the cases of Banka, Gopalganj and Motihari have been referred to the District Magistrate (DM) for recovery. The Government, in the case of Buxar, refuted the Audit observation stating that the Stamp duty was charged on the class of land less than five Decimal. The reply is not acceptable since the registered part of land was 31 Decimal as mentioned in the deed.

³ Rate of Stamp duty is six per cent and Registration fee is two per cent of value of all categories of land.

⁴ (Amount in ₹)

Cost as per MVR	Stamp duty			Registration fee			Total short realisation (A+B)
	Leviable	Paid	Short Realisation (A)	Leviable	Paid	Short Realisation (B)	
235352000	14121120	3177300	10943820	4707040	1059100	3647940	14591760

⁵ One plot at Banka, one plot at Buxar, four plots at Gopalganj and one plot at Motihari.

⁶ One plot in Patna City.

5.4 Short realisation of Stamp duty and Registration fee on Mining lease

Failure of the Registering Officer to detect misclassification of mining lease of stone resulted in short realisation of Stamp duty and Registration fee of ₹ 6.95 crore.

The Indian Stamp (IS) Act, 1899 is a fiscal Statute. Its primary objective is to increase the revenue of the State. It seeks to realise this objective by imposing duty in respect of various instruments executed by members of public. The revenue derived from such duties forms a considerable part of the revenue of the State. Article 35 (b) of Schedule-1 of the Indian Stamp (IS) Act, 1899 provides that where the lease is granted for a fine or premium or for money advanced and where no rent is reserved, the Stamp duty at the rate of six *per cent* and Registration fee at the rate of two *per cent* on premium value would be payable treating them as conveyance.

Audit observed (December 2021) during test check of lease deeds in the office of the District Sub-Registrar (DSR), Sheikhpura that five lease deeds of stone quarry executed (between April 2016 and June 2017) by the District Magistrate, Sheikhpura were registered for a period of five years for an amount of ₹ 91.45 crore. The leviable Stamp duty and Registration fee in these cases were ₹ 5.49 crore and ₹ 1.83 crore respectively as per the above schedule. However, the DSR failed to assess the duty in these cases and levied Stamp duty and Registration fee of ₹ 27.46 lakh and ₹ 9.17 lakh respectively. These under assessments resulted in short realisation of Stamp duty and Registration fee amounting to ₹ 6.95 crore (**Annexure-XIV**).

The matter was reported to the Government (February 2022). In reply (March 2022), Government stated that demand notices were issued by DSR Sheikhpura for recovery of short paid duty.

Patna
The 19 July 2022

(RAMAWATAR SHARMA)
Accountant General (Audit), Bihar

Countersigned

New Delhi
The 22 July 2022

(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India

ANNEXURES