

# Chapter IV

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## **Stamp duty and Registration fee**

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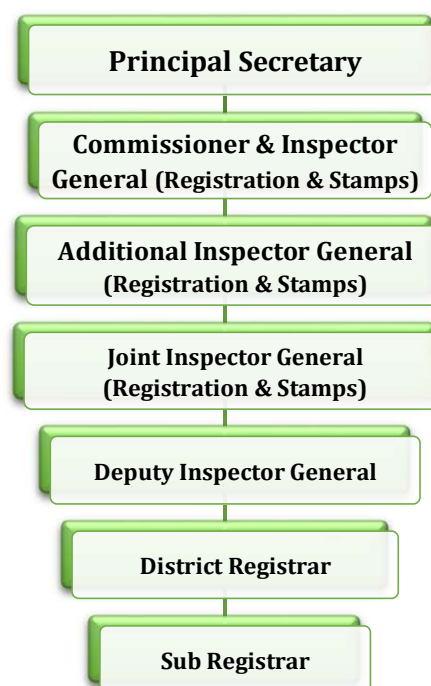


## 4.1 Tax Administration

The Registration and Stamps Department is primarily entrusted 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 therein.

The Commissioner and Inspector General, Registration and Stamps (CIGRS) exercises overall superintendence of all the registration offices in the State. He is assisted by the region-wise Deputy Inspector Generals. The District Registrar (DR) is in charge of the district and supervises the work of Sub-Registrars (SR) in the district concerned. The important functionaries of the Department are depicted in the organogram alongside.

**Figure-4.1: Organogram**



## 4.2 Trend of receipts

Actual receipts from stamp duty and registration fees during the years 2017-18 to 2021-22 along with the total tax receipts during the same period is exhibited in the following **Table**.

**Table 4.1: Receipts from stamp duty and registration fees**

Year	Budget Estimates	Actual Receipts	Variation Excess (+) / Shortfall (-)	Percentage of variation	₹ in crore	
					Total Tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2017-18	3,000.00	4,202.46	(+)1,202.46	40.08	56,519.82	7.44
2018-19	4,700.00	5,344.04	(+)644.04	13.70	64,674.07	8.26
2019-20	6,146.00	6,671.05	(+)525.05	8.54	67,597.49	9.87
2020-21	10,000.00	5,243.28	(-)4,756.72	(-)47.57	66,650.37	7.87
2021-22	12,500.00	12,372.73	(-)127.27	(-)1.02	91,271.38	13.56

*Source: Finance Accounts*

As seen from the above, while the total tax receipts of the State have increased by 61.49 per cent during the last five years, stamp duty and registration fees has increased by 194.42 per cent. There was huge increase in stamp duty and registration fee receipts during

2021-22 due to revision in market values of properties twice during the year coupled with increase in rates of stamp duty, registration fee and structure rates.

### 4.3 Impact of Audit

During the last five years, Audit had pointed out misclassification of documents, under valuation, short levy of stamp duty and registration fee etc., with revenue implication of ₹235.13 crore in 1,991 cases. Of these, the Department / Government had accepted audit observations in 188 cases involving ₹1.73 crore and had recovered ₹1.38 crore in 150 cases. The details are shown in the following **Table**:

**Table 4.2: Impact of Audit on stamp duty and registration fees**

(₹ in crore)

Year	Units Audited	Amount objected		Amount accepted		Amount recovered	
		Cases	Amount	Cases	Amount	Cases	Amount
2017-18	122	504	50.97	53	0.52	15	0.17
2018-19	91	464	46.73	42	0.16	42	0.16
2019-20	94	584	95.72	33	0.10	33	0.10
2020-21	35	250	34.42	27	0.07	27	0.07
2021-22	39	189	7.29	33	0.88	33	0.88
<b>Total</b>	<b>381</b>	<b>1,991</b>	<b>235.13</b>	<b>188</b>	<b>1.73</b>	<b>150</b>	<b>1.38</b>

### 4.4 Working of Internal Audit wing

Internal Audit provides a reasonable assurance of proper enforcement of laws, rules and departmental instructions and this is a vital component of the internal control framework. There is a separate Internal Audit wing in the Department. The team headed by District Registrar (DR), Market Value and Audit and Sub Registrar (SR), Market Value and Audit conducts audit of the offices of Sub Registrar as per audit programs drawn up every month. The Deputy Inspector General (DIG) concerned supervise the progress of audit. Audit reports are reviewed by the DIG and DR zone-wise / sub-zone wise.

During the year 2021-22, Department conducted audit of 225 offices and issued 3,885 audit observations. Out of this, 1,194 audit observations were settled leaving a balance of 2,691 audit observations pending for settlement.

### 4.5 Audit Methodology and Results of Audit

Registration is being carried out through a computerised system called 'Computer Aided Administration in Registration Department (CARD)' in client server Architecture.

All the documents registered by SRs are scanned and uploaded to a centralized server chronologically and all the scanned image files of the documents are stored in the central server. As per Audit's request to enable the audit teams to download these documents for exercising prescribed checks, the Commissioner and Inspector General (Registration & Stamps) enabled audit access to image files of the documents.

During the year 2021-22, audit of stamp duty and registration fee receipts was conducted through a test check of relevant records and transactional data in 39 out of 158 offices (24.68 per cent) in the State, to gain assurance that the stamp duty and registration fees are levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and that the interests of the Government are safeguarded. Instances of non-levy or short levy of duties / fees, etc., were noticed in 189 cases involving an amount of ₹7.29 crore as detailed in the following **Table**.

**Table 4.3: Categories of Audit observations on Revenue receipts**

(₹ in crore)

Sl. No.	Category of Audit observations	No. of deviations	Amount
1	Short levy / non-levy of Duties	145	5.01
2	Undervaluation of properties	10	0.43
3	Misclassification of documents	30	1.80
4	Loss of revenue	3	0.01
5	Non-registration of Compulsorily Registerable documents	1	0.04
	<b>Total</b>	<b>189</b>	<b>7.29</b>

During the year 2021-22, the Department accepted under-assessments and other deficiencies in 33 cases amounting to ₹0.88 crore and realised the amount. Out of this, five cases amounting to ₹0.02 crore pertained to current year and the remaining 28 cases amounting to ₹0.86 crore pertaining to previous years.

Audit observations can be classified under five broad categories (Table 4.3) and have been intimated to respective Head of Department / auditee organisation for taking remedial action. 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.

Significant cases of non-compliance with the provisions of the Acts / Rules by the Registering Authorities (RA) in the cases brought out in the following paragraphs resulted in short realisation of stamp duty and registration fee of ₹13.84 crore in 128 cases<sup>1</sup>.

#### **4.6 Non levy of duties on documents involving distinct matters**

As per Section 5 of Indian Stamp Act, 1899, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which each separate instrument would be chargeable under the Act.

Audit test-checked registered documents between April 2019 and August 2022. In the offices of three District Registrars (DRs<sup>2</sup>) and seven Sub Registrars (SRs<sup>3</sup>), Audit noticed that in 13 registered documents of Sale Deed, Gift Deed, Agreement of sale cum General Power of Attorney and Development Agreement cum General Power of Attorney, duties

<sup>1</sup> Out of 128 cases, 49 cases (₹2.18 crore) pertained to the year 2021-22, while 79 cases (₹11.66 crore) were prior to 2021-22.

<sup>2</sup> Hyderabad (Red Hills), Hyderabad (South -Banjara Hills) and Ranga Reddy.

<sup>3</sup> Azampura, Chevella, Keesara, Qutubullapur, Shamirpet, Shankarpally and Yadagirigutta.

amounting to ₹8.89 crore were not levied on distinct matters<sup>4</sup>. Details are as given in the **Appendix 4.1**.

District Registrar, Hyderabad (Red Hills) and Sub Registrar, Azampura while justifying the duties levied by them had replied that if any person contracted for purchase of any property (consenting party) and without receiving any conveyance, contracted again in selling the same property to any other person (vendee), the vendee is to be considered as a sub-purchaser and duty is to be levied treating the conveyance as a single transaction from vendor to the vendee.

Replies of above Registering Officers are not acceptable in view of the reason that the vendee is a direct purchaser because the consenting party did not have a registered title deed of the property. Hence payment made to the consenting party by vendee in the current document is a distinct matter of conveyance. The matter was referred to the Government in February 2023. Reply has not been received.

Short levy of duties on the documents involving distinct matters has been repeatedly highlighted in C&AG's Audit Reports. Out of 10 offices mentioned above, the observation was repeated twice in the offices of District Registrar, Ranga Reddy, Sub Registrars, Qutubullapur, Shamirpet<sup>5</sup>; once in District Registrar, Hyderabad (South-Banjara Hills)<sup>6</sup> and Shankarpally<sup>7</sup>. Repeated instances of incorrect levies indicates absence of adequate internal controls.

#### **4.7 Short levy of duties and registration fees on agricultural lands converted for non-agricultural purposes**

As per Section 27 of Indian Stamp Act, 1899, the consideration, market value of property and all other facts and circumstances affecting the levy of duty on any instrument shall be fully and truly set forth therein. To this effect, the registering officer or any other officer appointed / authorised under the Registration Act, 1908 may inspect the related property, make necessary local enquiries, call for and examine all the connected records to satisfy that the above provisions are complied with. The Telangana Revision of Market Value Guidelines 1998 stipulates different market value rates for agriculture lands, agricultural lands fit for house sites and non-agriculture lands (residential plot, etc.) on acreage / square yard basis for the purpose of valuation, levy of stamp duty and registration fee.

Audit test-checked (between April 2019 and July 2021) the registered documents in two District Registrar<sup>8</sup> and 18 Sub Registrar<sup>9</sup> offices and found that in 44 documents the registering officers had adopted a lesser rate applicable to agricultural lands in respect of lands whose conversion for non-agricultural purposes had already been approved by the Revenue Authorities. Due to suppression of fact of conversion by the executants and non-

<sup>4</sup> Cash conveyance, release of shares / rights.

<sup>5</sup> Audit Reports 2019 and 2021.

<sup>6</sup> Audit Report 2018.

<sup>7</sup> Audit Report 2019.

<sup>8</sup> Medchal-Malkajgiri and Nalgonda.

<sup>9</sup> Achampet, Bhongir, Devarkonda, Dubbaka, Farooq Nagar, Gangadhara, Ibrahimpatnam, Kalwakurthy, Keesara, Medak, Nagar Kurnool, Parigi, Peddamberpeta, Peddapalli, Sadasivapet, Shamirpet, Toopran and Yadagirigutta.

verification of the same by registering authorities, the properties were valued at ₹ 6.64 crore instead of ₹ 29.46 crore resulting in undervaluation of the properties by ₹ 22.82 crore. Short levy of stamp duty and registration fee in this regard was to the tune of ₹1.36 crore. Details are given in *Appendix 4.2*.

Sub Registrars, Peddapalli and Keesara replied that due to non-receipt of conversion orders from the Revenue Divisional Officers concerned, agricultural rates were adopted. Reply is not acceptable as these registering authorities did not exercise required checks to obtain relevant records connected to the properties from the Revenue Authorities in compliance to the provisions mentioned *ibid*. Remaining Sub Registrars and District Registrars assured detailed reply.

The matter was referred to the Government in December 2022. Reply has not been received.

Short levy of duties due to misclassification has been repeatedly highlighted in C&AG's Audit Reports of previous years. Out of 20 offices mentioned above, the observation has been repeated in six Sub Registrar offices<sup>10</sup>. Repeated instances of incorrect levies indicate absence of adequate internal controls.

#### **4.8 Short levy of duties and registration fees due to undervaluation of properties / chargeability in registered documents**

As per Section 3 of Indian Stamp Act, 1899 read with the Indian Stamp (Telangana Amendment) Act, 1922 as amended from time to time, instruments mentioned in Schedule I-A of the Act shall be chargeable with prescribed duties<sup>11</sup>. Further the chargeability set forth in the document shall be duly derived from the values of the property based on the Market Value (MV) guidelines of the property<sup>12</sup> / clarifications<sup>13</sup> issued by Commissioner and Inspector General (Registration and Stamps).

Audit test checked registered documents between April 2019 and September 2021. In 22 documents pertaining to two District Registrars (DRs)<sup>14</sup> and 10 Sub Registrars (SRs)<sup>15</sup>, the chargeability of instruments was undervalued due to,

<sup>10</sup> Bhongir, Devarakonda, Farooq Nagar and Medak appeared in 2018 Report while Kalwakurthy and Nagar Kurnool in 2019 Report.

<sup>11</sup> (i) As per Article 16 of Schedule I-A to Indian Stamp Act, 1899, duties leviable on sale certificate is equal to duties leviable to sale deed under Article 47-A of Schedule I-A of IS Act (ii) As per Article 47-A, Stamp duty for sale deed is four *per cent*, transfer duty 1.5 *per cent* and Registration fee is 0.5 *per cent* (iii) As per Article 41-B, when immovable property contributed as share by a partner / partners remains with the firm at the time of outgoing of such partner, the stamp duty shall be levied at three *per cent* on the market value of the immovable property remaining with the firm (iv) As per Article 6-B, stamp duty for Development Agreement cum General Power of Attorney is one *per cent* on the market value or the estimated cost of the proposed development of such property (v) As per Article 31(a)(vi), stamp duty leviable on lease deed for a term of 5 to 10 years is two *per cent* on the Average Annual Rent.

<sup>12</sup> The Telangana Revision of Market value Guidelines Rules, 1998.

<sup>13</sup> C&IG proceedings No. MV1/20363-A/90, dated 10 August 1990.

<sup>14</sup> Karimnagar and Medchal-Malkajiri.

<sup>15</sup> Balanagar, Ibrahimpatnam, Kukatpally, Malkajiri, Peddapalli, Secunderabad, Serlingampally, Shadnagar, Shamirpet and Tandur.

- i. incorrect adoption of market value rates (17 cases)
- ii. suppression of built-up area (three cases)
- iii. non-adoption of previous higher value of the property (one case)
- iv. incorrect adoption of consideration amount received by vendor (one case)

The undervaluation of instruments chargeable with duties explained above resulted in short levy of duties amounting to ₹1.14 crore as detailed in **Appendix 4.3**.

In reply to Audit, all the Registering Authorities assured detailed reply. The matter was referred to the Government in February 2023. Reply has not been received.

Short levy of duties due to undervaluation of properties has been repeatedly highlighted in the C&AG's Audit Reports of previous years. Out of 12 offices mentioned above, the observation was repeated in the Offices of District Registrar (DR), Medchal-Malkajgiri, Sub Registrars (SRs), Ibrahimpatnam<sup>16</sup>; Secunderabad, Serlingampally<sup>17</sup>; DR, Karimnagar and SR, Balanagar<sup>18</sup>. Repetition of incorrect levies indicates absence of adequate internal controls.

#### **4.9 Short levy of duties in Development Agreement cum General Power of Attorney documents**

According to Article 6(B) of Schedule I-A to Indian Stamp Act read with Government Order<sup>19</sup>, stamp duty shall be levied at one *per cent* on the land value or estimated cost of the proposed construction / development of the property whichever is higher on documents registered as Development Agreement cum General Power of Attorney (DGPA). Further, as per Commissioner and Inspector General's Circular<sup>20</sup>, if a certain (higher) value was adopted in respect of a specific property in an earlier transaction, the same would be adopted for the purpose of chargeability for any future transaction(s) relating to that property.

Audit test checked DGPA documents between January 2019 and December 2020. In three documents pertaining to District Registrar, Ranga Reddy and Sub Registrar, L.B.Nagar, the chargeability of documents was undervalued due to,

- i. incorrect adoption of the total cost of the proposed construction - (two documents)
- ii. non-consideration of earlier higher value of the properties registered - (one document)

Incorrect valuation of the chargeability of registered DGPAs resulted in short levy of duties amounting to ₹64.56 lakh as detailed in **Appendix 4.4**. All the Registering Officers assured detailed reply. The matter was referred to the Government in February 2023. Reply has not been received.

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<sup>16</sup> 2018 Report.

<sup>17</sup> 2019 Report.

<sup>18</sup> 2021 Report.

<sup>19</sup> G.O. Ms No. 581 Revenue (Registration-I) Department dated 30 November 2012.

<sup>20</sup> Memo No. MV1/20363-A/90 dated 10 August 1990.



Short levy of duties in DGPA's has been repeatedly highlighted in C&AG's Audit Reports of previous years. Out of two offices mentioned above, the observation was repeated in the office of District Registrar, Ranga Reddy<sup>21</sup>. Repetition of incorrect levies indicates absence of adequate internal controls.

#### **4.10 Short levy of duties due to non-adoption of market value rates in respect of rural properties**

Schedule I-A of Indian Stamp Act, 1899 provides rates of duties and fees to be adopted based on classification of documents. As per the instructions of Commissioner and Inspector General of Registration and Stamps<sup>22</sup>, when a survey number for a particular rural property prescribing market value rate for that property is not found in the schedule of the property in Form IV<sup>23</sup>, market value available for the survey numbers mentioned in the boundaries is to be adopted.

Audit test checked (between February 2021 and August 2021) the registered documents of District Registrar Office, Ranga Reddy and six Sub Registrar Offices<sup>24</sup> and found that in respect of 27 documents, the Registration Authorities, while levying duties, did not adopt the rate fixed for the survey numbers in the boundaries as per Form-IV where the rate for valuation was not found for the survey numbers mentioned in the schedule of property. This resulted in short levy of duties and fee amounting to ₹ 81.31 lakh as detailed in the **Appendix 4.5**. In reply to Audit, all the Registering Authorities assured detailed reply.

The matter was referred to the Government in February 2022. Reply has not been received.

Short levy of duties due to non-adoption of market value rates in respect of rural properties has been repeatedly highlighted in C&AG's Audit Reports of the previous years. Out of seven offices mentioned above, the observation was repeated in DR, Ranga Reddy (2019 report) and SRs, Chevella and Yadagirigutta (2021 Report). This indicates lack of compliance with CIG's instructions and inadequate internal controls.

#### **4.11 Short levy of registration fee on instruments creating 'Paripassu' charge**

*Paripassu* is a latin phrase which means "equal footing". *Paripassu* charge means that when a borrower company goes into dissolution, the assets over which the charge has been created will be distributed in proportion to the lenders' respective holdings. *Paripassu* Agreements come into existence when an industrial firm / company obtains credit facilities from more than one financial institution by offering securities on *Paripassu* basis in the form of 'Simple Mortgage', 'Mortgage by Deposit of Title Deeds' and 'hypothecation of immovable properties'.

<sup>21</sup> Audit Report 2021.

<sup>22</sup> Circular Memo No. MV1/8483/2013-2 dated 10 October 2013.

<sup>23</sup> A register presenting values for rural properties as per survey numbers and classification of land of village for the survey numbers mentioned in the boundaries.

<sup>24</sup> Chevella, Devarakonda, Gadwal, Maheshwaram, Sadasivapet and Yadagirigutta.

Government had prescribed<sup>25</sup> levy of registration fee at 0.5 *per cent* on the amount of loans secured by instruments which create charge on *paripassu* basis.

During the test check (between July 2021 and August 2021) of the registered documents in the offices of two District Registrars<sup>26</sup> and Sub Registrar Office, Maheshwaram, Audit noticed that, in respect of four documents, the Registering Officer collected registration fee of ₹ 10,000 each instead of charging the fee at 0.5 *per cent* on the loan amount of ₹ 136.85 crore. This resulted in short levy of registration fee of ₹ 68.03 lakh as detailed in **Appendix 4.6**. All the registering officers assured detailed reply.

The matter was referred to the Government in November 2022. Reply has not been received.

#### **4.12 Short levy of duties due to misclassification of documents**

Schedule I-A of Indian Stamp Act, 1899 provides rates of duties and fees to be adopted based on classification of documents. Further, the Commissioner and Inspector General of Registration and Stamps had issued instructions<sup>27</sup> that the Sub Registrar should thoroughly scrutinise the recitals of the document presented for Registration so as to arrive at the correct classification of the documents for adoption of the applicable rates of duties and fees.

During the test-check (between July 2021 and September 2021) of registered documents in two District Registrar (DR) Offices<sup>28</sup> and three Sub Registrar (SR) Offices<sup>29</sup>, Audit noticed that in respect of 13 documents, there was short levy of duties due to misclassification of documents amounting to ₹ 26.50 lakh as detailed in the **Appendix 4.7**.

All the Registering officers assured detailed reply. The matter was referred to the Government in December 2022. Reply has not been received.

Short levy of duties due to misclassification of documents has been repeatedly highlighted in C&AG's Audit Reports of previous years. Out of five offices mentioned above, the observation was underlined twice in DR, Ranga Reddy<sup>30</sup> and once in SRs, LB Nagar and Maheshwaram<sup>31</sup>. Repetition of incorrect levies indicates absence of adequate internal controls.

#### **4.13 Short levy of duties on lease deeds**

According to Article 31(a)(iii) of Schedule I-A to Indian Stamp Act read with Government Order<sup>32</sup> issued in November 2013, in respect of lease deeds for five to 10 years, stamp duty is to be levied at two *per cent* of the Average Annual Rent of the lease period.

<sup>25</sup> G.O. Ms. No.463 Revenue (Registration-I) Department, dated 17 August 2013.

<sup>26</sup> Hyderabad (South-Banjara Hills) and Warangal.

<sup>27</sup> Memo No.FR1/1A/4946/96 dated 16 October 2000.

<sup>28</sup> Adilabad and Ranga Reddy.

<sup>29</sup> Gadwal, LB Nagar and Maheshwaram.

<sup>30</sup> 2018 and 2021 Reports.

<sup>31</sup> 2019 Report.

<sup>32</sup> G.O.Ms.No. 588, Revenue (Regn-I) Department, dated 04 December 2013.

During the test-check (November 2020) of registered documents in the Office of the District Registrar, Ranga Reddy, Audit noticed that in respect of two lease deeds, duties leviable as per the lease period and Average Annual Rent were incorrectly computed. This resulted in short levy of duties amounting to ₹5.32 lakh. Department assured detailed reply.

The matter was referred to the Government in December 2022. Reply has not been received.