

## CHAPTER-III: STAMPS AND REGISTRATION FEES

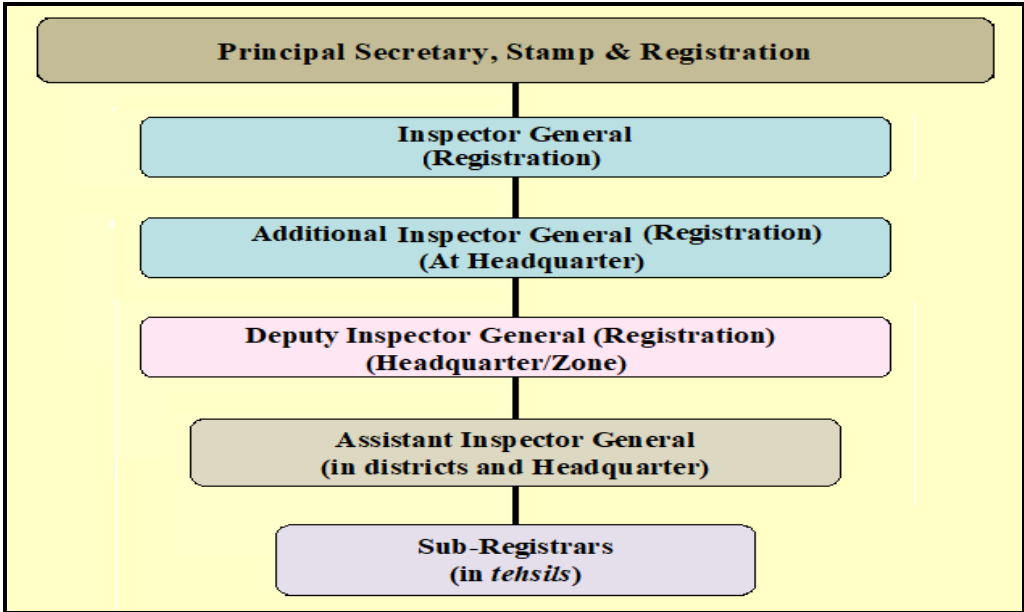
### 3.1 Tax administration

The levy and collection of stamp duty and registration fees in the State is governed by the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the rules framed thereunder as applicable in Uttar Pradesh. Stamp duty and registration fees are levied on the execution of instruments at the prescribed rates fixed under the above Acts. Such duties are paid by executors of instruments by using impressed stamp paper or e-stamp. The Registration Act, 1908 and rules made thereunder by the State Government, broadly outline the system of assessment and collection of registration fees. Valuation of properties is decided as per the circle rates fixed by the Collector of the district as per the provisions of the Uttar Pradesh Stamp (Valuation of Property) Rules, 1997. The Sub-Registrar or the Registering Authority examines the documents presented before them to see that they have been presented within the time allowed and that the instruments have been properly stamped as required under the IS Act, 1899.

### 3.2 Organisational Set-up

The determination of policy, monitoring and control at the Government level is carried out by the Principal Secretary, Stamps and Registration. The Inspector General, Registration (IGR) is the head of the Stamps and Registration Department. He/she is empowered with the task of superintendence and administration of the registration work. The IG is assisted by four Additional Inspectors General at headquarter level, 23 Deputy Inspectors General (DIsG) at headquarter/Zonal level, 92 Assistant Inspectors General (AIsG) at the district/headquarters level and 372 Sub-Registrars (SRs) at the *tehsil* level. The organisational setup is described below in **Chart-3.1**.

Chart 3.1-Organisational setup



### 3.3 Results of Audit

During the year 2022-23, audit test-checked records at the office of the Inspector General of Stamps and Registration Department and 64 Sub-Registrar Offices (SROs) out of 438 auditable units (15 per cent) of the Stamps and Registration Department. Compliance Audit was conducted in 65 Units. Audit noticed deficiencies and irregularities amounting to ₹ 149.11 crore in 316 cases, as detailed in the **Table-3.1**.

**Table-3.1**

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Short levy of stamp duty and registration fees due to undervaluation of properties	204	24.02
2.	Short levy of stamp duty and registration fees due to misclassification of documents	34	11.78
3.	Other irregularities <sup>1</sup>	78	113.31
<b>Total</b>		<b>316</b>	<b>149.11</b>

### 3.4 Stamp duty and additional stamp duty short/not levied on mortgage deeds

**Stamp duty and additional stamp duty amounting to ₹ 2.57 crore was short/not levied on mortgage deeds due to non-compliance with the provisions of Indian Stamp Act, 1899 and Uttar Pradesh Urban Planning and Development Act, 1973.**

Stamp duty on mortgage deeds (without possession) is leviable under Article 40 of Schedule 1B of the Indian Stamp (IS) Act, 1899. Vide notification<sup>2</sup> dated 25 May 2001, the State Government remitted the stamp duty chargeable<sup>3</sup> on instruments of mortgage to the extent of amount of stamp duty that exceeds ₹ five lakh. Vide a subsequent notification<sup>4</sup> dated 10 July 2008, in partial modification of the earlier notification, the Government remitted the stamp duty chargeable (on any instrument of mortgage without possession), to the extent of the amount that exceeds the amount of duty calculated at the rate of five for every one thousand (0.5 per cent) rupees or part thereof on the amount secured by such deeds without any mention of the limit of ₹ five lakh.

<sup>1</sup> Short levy of stamp duty and registration fee due to violation of Section 27 of the Indian Stamp Act, 1899, revenue target had not achieved and revised assessment list of Gata Number of road and population was not be made part of the rate list etc.

<sup>2</sup> Notification No. Ka. Ni. -5-3139/II-2001-500 (121)/2000 TC dated May 25, 2001.

<sup>3</sup> Clauses (b) and (c) of Article 40 of Schedule 1B.

<sup>4</sup> Notification No. Ka. Ni. -5-2758/XI-2008-500-(159)-2006 Lucknow dated July 10, 2008.

Further, the Uttar Pradesh Urban Planning and Development Act, 1973<sup>5</sup> (UPUPD Act, 1973) stipulates that the duty imposed by the IS Act, 1899 on any deed of transfer of immovable property shall, in case of an immovable property situated within a development area, be increased by two *per cent* on the amount or value of the consideration with reference to which the duty is calculated under the said Act.

Audit test-checked (August 2022) 480 mortgage deeds (out of total 50,995 registered documents) registered during the period from August 2021 to July 2022 in the office of the Sub Registrar, Sarojini Nagar, Lucknow and noticed that four mortgage deeds (without possession) having secured amount more than ₹ 10 crore, were executed and registered as documents for securing the repayment of loan/timely completion of the projects. In view of the provision of the above mentioned Acts and notifications issued thereunder regarding the mortgage deeds (without possession), stamp duty and additional stamp duty were to be calculated at the rate of 0.5 *per cent* and two *per cent* respectively on the amount secured by such deeds.

However, in these deeds, stamp duty and additional stamp duty had been limited to ₹ five lakh by applying the old notification dated 25 May 2001. This was not correct in view of the modified notification dated 10 July 2008, which provides for levy of stamp duty at the rate of 0.5 *per cent* without any mention of the limit of ₹ five lakh. Further, additional stamp duty leviable under the authority of UPUPD Act, 1973 was not to be remitted/reduced under provisions of IS Act, 1899. Thus, the Sub Registrar Office failed to comply with the provisions of Acts and notification dated 10 July 2008. This resulted in short levy of stamp duty and not levy of additional stamp duty amounting to ₹ 2.57 crore as shown in **Appendix-XV**.

Audit reported the matter to the Department (January 2023). Their reply was awaited (January 2024).

### **3.5 Short Levy of stamp duty and registration fee due to violation of Section 27 of the Indian Stamp Act, 1899**

**Full/correct particulars of the lands in the documents presented for registration was not declared which resulted in short levy of stamp duty and registration fee amounting to ₹ 2.28 crore.**

Section 27 of the Indian Stamp (IS) Act, 1899 specifically provides that "the consideration (if any) 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 be fully and truly set forth therein" which means that all the facts affecting the valuation of the property i.e. nature of land (agricultural/residential/commercial), construction, distance from road, etc.,

<sup>5</sup> Clause (1) of Section 39.

are required to be mentioned truthfully in the instrument by the executants. Stamp duty on a deed of conveyance is chargeable either on the value of the consideration, as set forth therein or the market value of the immovable property, which is higher. As per Guidelines dated 5 June 2003 issued by the Inspector General of Registration (IGR), registration of plots in the same *Gata*<sup>6</sup> number with levy of stamp duty at different rates i.e. residential and agricultural rates was declared wrong. As per the Circular dated 27 November 2018 issued by the IGR, the authority of fixing market value and imposing the short stamp duty vests in Collector Stamp as per valuation of property. Collector Stamp shall check the market value keeping in view the potentiality of transferred property with reference to date of execution of deed at the time of determining the market value.

Audit test-checked (between August 2022 and November 2022) the records for the period (March 2017 to September 2022) of nine Sub Registrar Offices (SROs)<sup>7</sup>. It was noticed in these nine SROs that 40 sale deeds (Out of 23,305 test checked) mentioned the land under sale as away from main road and *Abadi*, existence of agricultural activity in radius of 200 meters and purpose of purchase of land as farming. Further, scrutiny of the other sale deeds registered in respective SROs revealed that in same *Araji* numbers shown in questioned<sup>8</sup> deeds, residential plots were sold before and after the registration of questioned sale deeds. In some cases, there were houses and plots in the same *Araji* number. These facts indicated that the executants had concealed the facts for evasion of tax, which is violation of Section 27 of IS Act, 1899.

Though, the documents are registered in on-line mode through the *PRERNA* software, the registering authorities failed to utilize the facility available in the system to determine the potentiality of land presented for registration vis-a vis sale deeds executed in the same *Araji* number. This resulted in short levy of stamp duty and registration fees amounting to ₹ 2.28 crore, as shown in **Appendix-XVI**.

Audit reported the matter to the Department (January 2023 to March 2023). In two cases of Sub Registrar Pindra, Varanasi, and in seven cases of Sub Registrar, Ballia, the Department accepted (May 2023 and July 2023 respectively) the audit observation and filed stamp suit in the Court of District Magistrate, Varanasi and Ballia respectively. In the remaining 31 cases, no reply was furnished by the Department (January 2024).

---

<sup>6</sup> *Araji/Khasra/Gata* indicate the particular number of a land holding in a locality.

<sup>7</sup> SR Sadar IV Lucknow, Sarojini Nagar Lucknow, Pindra Varanasi, Sadar Mau, Sadar Chandauli, Sadar Ballia, Sadar Karchhana Prayagrah, Sadar-III Aligarh, Sadar Greater Noida, G.B. Nagar.

<sup>8</sup> Questioned deeds are deeds on which short levy of stamp duty and registration fee has been pointed out. These deeds have been mentioned in bold in Appendix-XVI of the paragraph.