

CHAPTER IV: STAMP DUTY

4.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act, 1899 (IS Act), Registration Act, 1908 (IR Act), 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 65 out of 143 units of the Revenue Department during 2021-22 revealed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 60.13 crore (1.17 per cent of receipt of ₹ 5,157.02 crore for 2020-21), in 1,308 cases, which fall under the following categories as mentioned in Table 4.1.

Table-4.1 – Results of Audit

Revenue			
Sr. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Non/short levy of stamp duty and registration fee due to lease deed	43	0.75
2.	Non/short recovery of stamp duty and registration fee due to undervaluation of immovable property	228	10.75
3.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	10	0.51
4.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	38	1.67
5.	Miscellaneous irregularities	989	46.45
	Total	1,308	60.13

(Source: Data compiled by office)

The Department accepted under assessment and other deficiencies amounting to ₹ 24.73 crore involved in 592 cases which were pointed out during the year 2021-22 and earlier years. The Department recovered ₹ 18.65 lakh in 36 cases, of which ₹ 16.85 lakh in 25 cases pertain to 2021-22 and the rest pertain to earlier years.

Significant cases involving ₹ 26.00 crore are discussed in the following paragraphs.

4.3 Irregular exemption of stamp duty and registration fee due to misclassification of sale deed as release deed

Registering Authorities misclassified sale deeds as release deeds resulting in short levy of stamp duty and registration fee of ₹ 19.91 lakh.

As per Haryana Government clarification in December 2008 regarding Article 55 in Schedule 1-A of Indian Stamp, Act 1899, if an instrument of ancestral property is executed in favour of brother or sister (children of renouncer's parents) or son or daughter or father or mother or spouse or grand children or nephew or niece or co-parcener of the renouncer, stamp duty will be levied at the rate of ₹ 15, and in any other case, the same duty will be levied as that of a conveyance relating to sale of immovable property for the amount equal to the market value of the share, interest or part of claim renounced.

Scrutiny of records (October 2021 to January 2022) of Sub Registrars (SRs) Karnal and Kaithal revealed that in one case a deed was executed (December 2020) as a release deed whereas this property was not an ancestral property. In the other case, the release deed was executed (October 2020) in favour of a person (cousin brother) other than those allowed as per clarification of the Government. Hence, these deeds were required to be treated as sale. The registering authorities, however, treated these deeds as release deeds and incorrectly levied stamp duty (SD) and registration fee (RF) of ₹ 402 (SD: ₹ 202 + RF: ₹ 200) only. The value as per Collector rate for these deeds was ₹ 2.75 crore. SD and RF of ₹ 19.91 lakh (SD ₹ 19.21 lakh + RF ₹ 70,000) was leviable on these deeds. Misclassification of sale deeds as release deeds resulted in short levy of ₹ 19.91 lakh.

On this being pointed out, SR Karnal stated (June 2023) that the case had been decided by the Collector in March 2023 and notice for recovery of ₹ 16.95 lakh had been issued. SR Kaithal stated (June 2023) that the case had been sent to the Collector in May 2022 under Section 47-A of IS Act for final decision.

During the exit conference held in July 2023, the Department admitted the audit observations.

4.4 Irregular exemption of stamp duty in case transfer of immovable property within the family

Irregular remission of stamp duty in 20 instruments of transfer deeds in favour of persons other than blood relations resulted in loss of revenue of ₹ 32.05 lakh to the State exchequer.

As per Section 3 of the Indian Stamp Act 1899 (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 the 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 dated 16 June 2014, the Government may remit the stamp duty chargeable on an instrument pertaining 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. However, in case of other transfer deeds, levy of SD continued as applicable in Schedule-I under Section 3 of the IS Act.

Scrutiny of records (between January 2021 and February 2022) of transfer deeds registered in five¹ SRs/Joint Sub Registrars (JSRs) for the years 2018-2021, revealed that stamp duty was remitted in 20 instruments of transfer deeds that were executed in favour of persons other than those allowed in the order dated 16 June 2014 of the Government. This irregular remission of stamp duty resulted in short-levy of stamp duty and registration fee to the extent of ₹ 32.05 lakh (SD: ₹ 28.95 lakh + RF: ₹ 3.10 lakh).

On this being pointed out, all the SRs/JSRs stated (February 2023) that the cases had been sent to the Collector concerned under Section 47-A of the Indian Stamp Act for decision and in one case notice had been issued for recovery.

During the exit conference held in July 2023, the Department admitted the audit observations.

¹ Jagadhri, Khanpur Kalan, Kharkhoda, Rania and Thanesar.

4.5 Short levy of stamp duty due to undervaluation of immovable property with reference to agreement to sale

Registering Authorities assessed nine conveyance deeds less than what had been agreed between the parties. Undervaluation of immovable properties in the conveyance deeds resulted in short levy of stamp duty and registration fee of ₹ 12.27 lakh.

Section 27 of the Indian Stamp Act, 1899 stipulates that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, should be fully or truly set forth therein.

Audit noticed in nine SRs/JSRs² that in nine conveyance deeds registered between July 2018 and November 2020, SD and RF of ₹ 26.69 lakh (SD: ₹ 24.64 lakh + RF: ₹ 2.05 lakh) was levied on the sale deed of immovable properties valued at ₹ 5.55 crore. Cross verification of these sale deeds with the agreements executed between the parties concerned and the records of deed writers between June 2018 and September 2020 showed that the total sale value was ₹ 8.02 crore on which SD and RF of ₹ 38.96 lakh (SD: ₹ 36.46 lakh + RF ₹ 2.50 lakh) was leviable. Thus, the conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties. Under-valuation of immovable properties in conveyance deeds resulted in short levy of SD and RF of ₹ 12.27 lakh (SD: ₹ 11.82 lakh + RF: ₹ 0.45 lakh).

On this being pointed out, all SRs/JSRs stated (February 2023) that the cases had been sent to the Collector under Section 47-A of the Indian Stamp Act for decision and decision was pending.

During the exit conference held in July 2023, the Department admitted the audit observations.

4.6 Non levy of stamp duty and registration fee on instruments executed in favour of Autonomous Bodies/Public Sector Undertaking

Registering Authorities allowed irregular exemption from payment of stamp duty and registration fee of ₹ 3.11 crore to Market Committee, Gurugram Metropolitan Development Authority and Uttar Haryana Vidyut Prasaran Nigam Limited treating them as Government entities.

As per provision contained in Section 3 (1) of the Indian Stamp Act 1899, as applicable to Haryana, no stamp duty shall be chargeable in respect of any instrument executed by or on behalf of or in favour of Government. However, there is no provision in the Act/Rules for specific exemption/remission on the

² Gurugram, Hodal, Jagadhri, Kaithal, Kalayat, Naraingarh, Saha, Sohna and Sonipat.

instruments executed in favour of State-owned enterprises or autonomous bodies.

Scrutiny of records of SRs/JSRs offices of Harsaru, Karnal and Rai revealed that eight sale deeds were registered between May 2019 and July 2020. It was noticed that the land was registered in favour of Market Committee, Gurugram Metropolitan Development Authority (GMDA) and Uttar Haryana Vidyut Prasaran Nigam Limited (UHVPNL). The value of these immovable properties for levy of stamp duty worked out to ₹ 63.69 crore on which stamp duty of ₹ 3.07 crore and registration fee of ₹ 0.04 crore were leviable. As the Market Committee/GMDA and UHVPNL are autonomous bodies/State owned enterprises, SD and RF was required to be levied but the registering authorities allowed exemption which was not correct. This resulted in non-levy of SD and RF of ₹ 3.11 crore.

On this being pointed out, the Sub-Registrars concerned stated (February 2023) that the cases had been sent to the Collector under section 47-A of the IS Act for decision.

During the exit conference held in July 2023, the Department admitted the audit observations.

4.7 Short levy of stamp duty and registration fee due to application of agricultural rate on land with area less than 1,000 square yards falling within municipal limit

Registering Authorities incorrectly assessed 14 sale deeds of plots with area less than 1,000 square yards falling within Municipal limits at rates fixed for agricultural land instead of residential land resulting in short levy of stamp duty and registration fee of ₹ 0.57 crore.

In order to check evasion of stamp duty (SD) in sale deeds, the Government of Haryana 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 of less than 1,000 square yards or in case where the 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 of stamp duty and registration fee (RF).

Scrutiny of 11,186 registered deeds out of a total of 1,06,980 deeds (between August 2021 and February 2022) of eight Registering Offices³ revealed that 14 sale deeds of plots falling within the parameters of the notification *ibid*, were registered between April 2019 and January 2021. These deeds were liable to be assessed at a total value of ₹ 12.88 crore based on the rates fixed for residential areas and SD and RF of ₹ 85.71 lakh (SD: ₹ 80.75 lakh and RF:

³ Ambala, Badhkal, Gurugram, Karnal, Palwal, Rai, Rania and Uklana.

₹ 4.96 lakh) was leviable. However, the registering authorities assessed these deeds for ₹ 4.13 crore based on the rates fixed for agricultural land and levied SD and RF of ₹ 28.32 lakh (SD ₹ 26.31 lakh + RF ₹ 2.01 lakh). This resulted in short levy of SD and RF of ₹ 57.39 lakh (SD: ₹ 54.44 lakh + RF: ₹ 2.95 lakh).

On this being pointed out, the respective SRs/JSRs stated (February 2023) that the cases had been sent to the Collector under Section 47 A of the IS Act for decision.

During the exit conference held in July 2023, the Department admitted the audit observations.

4.8 Irregular exemption of stamp duty and registration fee in case of immovable properties purchased from compensation amount

Exemption of stamp duty in 50 cases was allowed to farmers, though they purchased residential/commercial land from compensation received, which was not permitted as per Government's order issued in November 2010, resulting in non/short levy of stamp duty and registration fee of ₹ 1.61 crore.

(A) As per Government order issued in November 2010 under the Indian Stamp Act, 1899, the Government of Haryana exempted levy of stamp duty and registration fee (SD and RF) in respect of sale deeds executed by farmers whose land had been acquired by Haryana Government for public purposes and who purchased agricultural land in the State within two years of the compensation received by them. The exemption was to be limited to the compensation amount and the additional amount involved in the purchase of agricultural land was liable to SD and RF as per rules.

Scrutiny of records of eight Sub Registrars (SRs)/Joint Sub-Registrars(JSRs)⁴ revealed that in eight cases, farmers, whose land had been acquired by the Government for public purposes, purchased residential/commercial land instead of agricultural land. The corresponding deeds were required to be assessed at a total value of ₹ 1.07 crore on which SD and RF amounting to ₹ 6.51 lakh (SD: ₹ 5.92 lakh + RF ₹ 58,500) was leviable. The Department levied ₹ 5,000 of RF in one case and in the remaining cases SD and RF was exempted. This resulted in non/short levy of SD and RF of ₹ 6.46 lakh (SD ₹ 5.92 lakh + RF ₹ 53,500).

On this being pointed out, seven SRs/JSRs⁵ stated (February and March 2023) that the cases had been sent to the Collector under Section 47-A of IS Act for

⁴ Ambala City, Assandh, Barara, Gulha, Kaithal, Kalayat, Mulana and Pundri.

⁵ Ambala City, Barara, Gulha, Kaithal, Kalayat, Mulana and Pundri.

decision. SR Assandh stated (February 2023) that the case has been decided by the Collector but recovery is pending.

(B) As per memo no. 12171-CFMS-MS-2019/11214 dated 23-10-2019, issued by Revenue and Disaster Management Department of Government of Haryana, the amount of compensation awarded to the landowners was two to four times of market rate after implementation of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act (RFCTLARR Act), 2013, hence no other benefit of the policy of November 2010 was admissible which included exemption from SD and RF to such landowners. Thus, the Government withdrew this exemption from 1 January 2014 onwards. Hence, in those cases in which award was sanctioned on or after 1 January 2014, the applicable SD and RF was required to be levied on such deeds.

Scrutiny of records of five Sub-Registrars (SRs)/Joint Sub-Registrars (JSRs)⁶ revealed that there were 42 cases wherein farmers had acquired properties including agricultural land from the proceeds of acquisition of the awards declared after 1 January 2014. Their documents were registered between May 2019 and February 2021. Therefore, these deeds were required to be assessed at a total value of ₹ 29.84 crore on which SD and RF of ₹ 1.55 crore (SD ₹ 1.44 crore + RF ₹ 11.20 lakh) was leviable. The Department levied SD of ₹ 1.08 lakh in three cases. In the remaining cases SD and RF was exempted. This resulted in non/short levy of SD and RF of ₹ 1.54 crore (SD ₹ 1.43 crore + RF ₹ 11.20 lakh).

On this being pointed out, all five SRs/JSRs stated (February and March 2023) that the cases had been sent to the Collector under Section 47-A of the IS Act for decision.

During the exit conference held in July 2023, the Department admitted the audit observations.

The Department may investigate the exemption given to ineligible beneficiaries and fix responsibility.

4.9 Short levy of stamp duty due to application of non-prime rate on land containing 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 ₹ 64.28 lakh.

Section 27 of the Indian Stamp Act, 1899 (IS Act) as applicable to the State of Haryana, provides that the consideration (if any) and all other facts and

⁶ Manesar, Narwana, Pataudi, Rai and Sohna.

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, Financial Commissioner Revenue (FCR), Government of Haryana had issued FCR Standing order number 74 in September 2013 to all registering authorities in the State, constituting 'Evaluation Committees' for fixation of minimum market value of properties in various areas of the State from time to time for the guidance of Registering Authorities and a copy of these rates was supplied to them by the Department. The Evaluation Committees had fixed separate rates for prime land in their respective jurisdictional areas.

Scrutiny of records (between August 2021 and February 2022) of 15 SRs/JSRs⁷ revealed that 41 conveyance deeds were registered for sale at normal *khasra* rates for agricultural land during the period from April 2019 to March 2021. The *khasra* of these deeds as per land revenue records were prime *khasra* having higher land rates. The Collector rate for the land involved was ₹ 45.29 crore on which stamp duty and registration fee of ₹ 1.99 crore (SD: ₹ 1.88 crore + RF: ₹ 11.00 lakh) was leviable. The SRs/JSRs, assessed this land at rates fixed for normal *khasra* amounting to ₹ 30.12 crore and levied SD and RF of ₹ 1.35 crore (SD: ₹ 1.26 crore + RF: ₹ 8.64 lakh). This resulted in short levy of stamp duty of ₹ 64.28 lakh (SD: ₹ 61.82 lakh + RF: ₹ 2.46 lakh).

On this being pointed out, fourteen SRs/JSRs⁸ stated (between February and April 2023) that 37 cases had been sent to the Collector under Section 47-A of the IS Act for decision. SR Gharaunda (two cases) and SR Ganaur (two cases) stated (February 2023) that four cases were decided by the Collector but recovery was still pending.

During the exit conference held in July 2023, the Department admitted the audit observations.

⁷ Adampur-07, Ambala-03, Ambala Cantt-04, Balasamand-01, Dabwali-02, Ellanabad-02, Gharunda-02, Ganaur-01, Gohana-03, Hisar-03, Kheri Jalab-02, Palwal-02, Sonipat-01, Rania-05, Sirsa-03

⁸ Ambala-03, Ambala Cantt 04, Adampur-07, Balasamand-01, Dabwali-02, Ellanabad-02, Ganaur-01, Gohana-01, Hisar-03, Kheri Jalab-02, Palwal-02, Rania-05, Sirsa-03, Sonipat-01

4.10 Non-levy of two per cent additional Gram Panchayat and Zila Parishad duty due to non-implementation of Government notification in time

Registering Authorities registered 176 sale deeds in areas of Gram Panchayat and Zila Parishad without charging duty at the rate of two per cent on transaction value in addition to stamp duty under Haryana Panchayati Raj Act 1994 resulting in short levy of stamp duty of ₹ 68.17 lakh.

The Government of Haryana vide notification⁹ 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 Gram Panchayat and Zila Parishad concerned.

During scrutiny of records of 14 Sub Registrars/Joint Sub-Registrar offices¹⁰ for the year 2020-21, it was observed that 176 instruments were registered on 24 and 25 February 2021 falling under Gram Sabha area valuing ₹ 34.74 crore and stamp duty of ₹ 1.40 crore was levied. However, in these cases, stamp duty of ₹ 2.08 crore was leviable. Thus, non levy of additional two per cent stamp duty resulted in short levy of stamp duty of ₹ 68.17 lakh.

On this being pointed out, 13 SRs¹¹ stated (February and April 2023) that all the cases had been sent to the Collector under Section 47 A of the IS Act for decision, while SR Bahadurgarh stated (February 2023) that all the cases would be sent to the Collector under Section 47 A of the IS Act for decision.

During the exit conference held in July 2023, the Department admitted the audit observations.

⁹ No. S.O.4/H.A.11/1994/S.41/2021 dated 09 February 2021.

¹⁰ Badli, Bahadurgarh, Fatehabad, Ganaur, Gharaunda, Gohana, Israna, Jhajjar, Karnal, Narwana, Panipat, Rai, Samalkha and Sonipat.

¹¹ Badli, Fatehabad, Ganaur, Gharaunda, Gohana, Israna, Jhajjar, Karnal, Narwana, Panipat, Rai, Samalkha and Sonipat.

4.11 Short/non levy of stamp duty due to undervaluation of immovable properties

142 deeds were registered on the rates fixed by the Collector for agricultural land on which stamp duty and registration fee of ₹ 18.22 crore was levied instead of ₹ 36.97 crore leviable as per land record (Jamabandis), resulting in short levy of stamp duty and registration fee of ₹ 18.75 crore.

Section 27 of the Indian Stamp Act, 1899 as applicable to Haryana provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, should be fully or truly set forth therein. Further as per Section 47-A of the IS Act, if the registering officer has reason 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 and duty payable.

During scrutiny of the records (between January 2021 and March 2022) of 23 Sub-Registrar/Joint Sub Registrar (SRs/JSRs) offices¹² for the years 2019-20 and 2020-21, it was noticed that 142 documents were registered undervalued by taking residential, commercial, industrial or institutional land/ plot as agricultural or otherwise with lower Collector rate(s). In some cases, stamp duty for covered area was not levied or short levied. The value of these properties was to be assessed as ₹ 642 crore, on which stamp duty of ₹ 36.53 crore and registration fee of ₹ 44.32 lakh was required to be levied. However, the Department assessed the value of these properties at ₹ 315.52 crore and levied stamp duty of ₹ 17.92 crore and registration fee of ₹ 30.58 lakh, which resulted in short levy of stamp duty of ₹ 18.61 crore and registration fee of ₹ 13.74 lakh totalling ₹ 18.75 crore.

On this being pointed out, twenty two SR/JSR offices¹³ stated (February 2023) that all cases have been sent to the Collector under Section 47-A of the Indian Stamp Act for decision. SR Hisar, in one case, has recovered a sum of ₹ 62,525 out of ₹ 97,700. SR Kaithal stated (January 2021) that the cases would be sent to the Collector under Section 47-A of the IS Act for decision and the audit would be intimated with the action taken as per the decision.

During the exit conference (July 2023), the Department accepted the audit observation.

¹² Adampur, Barwala Dabwali, Ellenabad, Fatehabad, Gharaunda, Gurugram, Hansi, Hodal, Hisar, Israna, Jagadhri, Kadipur, Kaithal, Pataudi, Palwal, Rai, Rania, Rohtak, Sirsa, Thanesar, Uklana and Wazirabad.

¹³ Adampur, Barwala, Dabwali, Ellenabad, Fatehabad, Gharaunda, Hansi, Hodal, Hisar, Gurugram, Israna, Jagadhri, Kadipur, Pataudi, Palwal, Rai, Rania, Rohtak, Sirsa, Thanesar, Uklana and Wazirabad.