

Chapter - III
Compliance Audit Observations
(Tax-Revenue Departments)

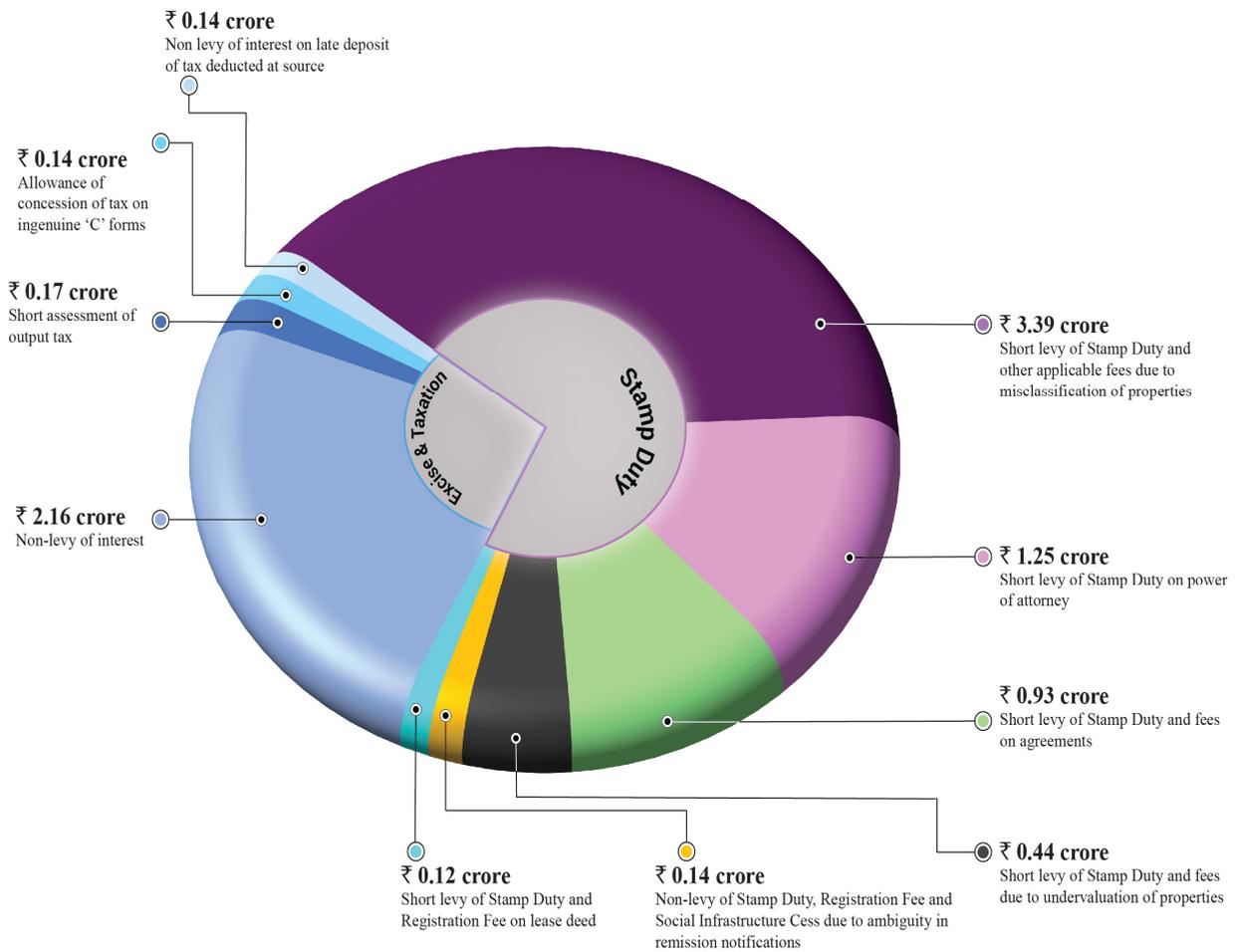
Chapter-III

Compliance Audit Observations (Tax-Revenue Departments)

This chapter contains 10 observations covering compliance issues under Tax Revenue Departments involving financial effect of ₹ 8.88 crore in 62 cases. The Department accepted audit observations involving ₹ 3.18 crore in 21 cases and made recoveries of ₹ 0.62 crore in 11 cases. The replies provided by the authorities have been incorporated in the relevant observations. These are discussed in the following observations from paragraphs 3.1 to 3.10.

The details of audit observations are provided in **Chart 3.1** below:

Chart 3.1: Summary of audit observations



 <p>This Chapter contains 10 Audit Observations involving ₹ 8.88 crore in 62 cases</p>	 <p>Departments accepted 21 cases involving ₹ 3.18 crore</p>	 <p>Recoveries of ₹ 0.62 crore have been made in 11 cases</p>
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Excise and Taxation Department

3.1 Non-levy of interest

The Assessing Authorities under four Assistant Commissioners of State Tax raised additional tax demand of ₹ 5.50 crore in six assessment cases due to non-submission of statutory declarations but did not levy interest of ₹ 2.16 crore.

Section 32(1) of the Punjab Value Added Tax Act, 2005 provides that if a person fails to pay the amount of tax due from him as per provisions of this Act, he shall be liable to pay simple interest on the amount of tax at the rate of half *per cent* per month from the due date of payment till the date he actually pays the amount of tax. Further, Section 9(2B) of the Central Sales Tax Act, 1956 provides that all the provisions of the sales tax law of each State relating to due date for payment of tax, rate of interest, assessment and collection of interest for delayed payment of tax, shall apply in relation to tax due under the Central Sales Tax Act.

Audit scrutiny (May to August 2023) of six assessment cases¹ finalised during September 2021 to November 2022 under four Assistant Commissioners of State Tax revealed that the dealers declared interstate sales and export sales of taxable goods in their annual tax returns for the periods from 2014-15 to 2015-16, and availed exemptions/concessions from Central sales tax on such sales in their annual returns. However, at the time of assessment, the dealers failed to produce the statutory declarations² in respect of transactions on which concession/exemption from the Central sales tax had been availed in annual returns. Consequently, the Assessing Authorities raised additional tax demands of ₹ 5.50 crore on account of differential tax amount due to non-submission of statutory declarations. Since the dealers had failed to produce statutory declarations, they were also liable to pay interest of ₹ 2.16 crore at the rate of 0.5 *per cent* per month on the differential tax amount. However, the Assessing Authorities did not levy the interest of ₹ 2.16 crore (**Appendix 3.1**).

On being pointed out, the State Tax Officer, Sangrur and Assistant Commissioner of State Tax, Ludhiana-IV replied (June 2023 and May 2025) that interest was not leviable for the period prior to the date of assessment as per principles laid down by Hon'ble Supreme Court in the case of J. K. Synthetics Ltd. vs CTO (1994). They also referred to the cases of Eicher Tractor Ltd vs State of Haryana and M/s Eicher Goodearth Ltd. vs State of Haryana, decided by the Hon'ble Punjab and Haryana High Court on 2 December 2010 and

¹ Jalandhar-II (1), Ludhiana-IV (3), Mansa (1) and Sangrur (1)

² Forms applicable for statutory declarations as per Central Sales Tax (Registration & Turnover) Rules, 1957: Form 'C' for interstate sale, Form 'F' for branch transfers and Form 'H' for deemed export. Export documents such as shipping bill, bill of lading, etc. are required against direct export sales.

25 April 2013, respectively, where the Hon'ble court had relied upon the principles laid down by the Apex Court in the case of J. K. Synthetics Ltd.

Reply of the Department was not acceptable because in the pointed-out cases, audit had covered only such demands that were created due to failure of the dealers to produce statutory declarations at the time of assessment, while the dealers had already claimed exemptions and concessions of tax at the time of filing their tax returns. In the case of J. K. Synthetics Ltd., the Apex Court had ruled that tax law cannot expect the assessee to predicate the final assessment and expect him to pay the tax on that basis to avoid the liability to pay interest. That would be asking him to do the near impossible. However, in the cases pointed-out by the audit, the dealers had filed their returns knowing the tax payable under the Punjab Value Added Tax Act as well as under the Central Sales Tax Act. In order to get exemptions/concessions from paying the tax under the Central Sales Tax Act, the dealers knew that they were required to furnish statutory declarations. They also knew that if they failed to furnish the statutory declarations, they would be liable to pay tax under the said Act. Therefore, the cases pointed-out in audit are not such cases where the dealers were not aware of their liability to pay tax.

While expressing the above viewpoint, the audit had relied upon the judgement of Hon'ble High Court of Karnataka in case of M/s Maintec Technologies Pvt. Ltd. vs State of Karnataka decided on 12 June 2014, where the dealer had failed to produce the statutory declaration form. In this case, the Hon'ble Court, after considering the principles laid down by the Apex Court in J. K. Synthetics Ltd., had ruled that the dealer was conscious of his tax liability and was liable to pay interest from the date he was liable to pay tax, to compensate the delay in payment of tax. In a similar case of M/s Fosroc Chemicals (India) Pvt. Ltd. vs State of Karnataka, the Hon'ble High Court of Karnataka upheld on 5 November 2014 that in case of non-submission of statutory declaration forms, levy of interest was justified from the due date of tax payable till the date of assessment as the interest was compensatory in nature.

Assistant Commissioner of State Tax, Mansa stated (May 2025) that revision of assessment was under process.

In addition to the above, the Government in its reply (September 2021) to a similar audit observation raised earlier, had accepted the applicability of interest at the rate of 0.5 *per cent* per month in such cases.

The matter was reported to the Government and Department (December 2023 and July 2024); their replies are awaited (May 2025).

3.2 Short assessment of output tax

The Assessing authority, in one case, short-calculated the output tax of ₹ 0.17 crore due to miscalculation in the assessment order.

Rule 48 of the Punjab Value Added Tax Rules, 2005 provides that the designated officer, after considering the objections and documentary evidence, *if any*, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person.

Scrutiny of records (February 2025) of Assistant Commissioner of State Tax, Gurdaspur revealed that Assessing Authority, while assessing a case³ of a dealer for the year 2016-17 in November 2023, assessed the taxable turnover of the dealer as ₹ 8.54 crore, which was classified under three different tax rates⁴. Out of total taxable turnover, the sales of goods valuing ₹ 1.20 crore were taxable at the rate of 14.30 *per cent*. However, at the time of working out of output tax liability, the Assessing Authority calculated the tax on ₹ 11,956 instead of ₹ 1.20 crore resulting in short assessment of output tax of ₹ 0.17 crore⁵.

On being pointed out, Assistant Commissioner stated (May 2025) that recovery of the objected amount was under process.

The matter was reported to the Government and the Department (April 2025); their replies are awaited (May 2025).

3.3 Allowance of concession of tax on ingenuine 'C' forms

The Assessing Authority allowed concession of Central Sales Tax of ₹ 0.14 crore in one assessment case without ensuring genuineness of 'C' forms.

Section 8(4) of the Central Sales Tax Act, 1956 read with Rule 12(1) of Central Sales Tax (Registration and Turnover) Rules, 1957, provides that the concessional rate of tax of two *per cent* on the sales in the course of inter-State trade or commerce shall not be admissible unless the selling dealer furnishes a declaration in form 'C' duly filled in and signed by the registered dealer to whom the goods are sold, in a prescribed form obtained from the prescribed authority. In the case of dry fruits, the concessional rate of Central Sales Tax was one *per cent* effective⁶ from 12 September 2007.

Scrutiny of records (August 2022) in the Assistant Commissioner of State Tax, Ludhiana-III revealed that Assessing Authority allowed the concessional Central Sales Tax of one *per cent* in one assessment case⁷ of a dealer for the

³ Case Disposal No. 73 dated 20 November 2023

⁴ 3.85 *per cent*, 6.05 *per cent* and 14.30 *per cent*

⁵ Actual sale: ₹ 1,19,56,000 *minus* Tax calculations done on sales: ₹ 11,956 = ₹ 1,19,44,044
Short output tax: ₹ 1,19,44,044 x 14.30 *per cent* = ₹ 17,07,999

⁶ Notification No. S.O. 41/C.A.74/56/S.8/2007 dated 11 September 2007

⁷ Assessment Case Disposal No. 35 dated 15 September 2021

year 2014-15 against inter-State sale of dry fruits worth ₹ 2.76 crore on the basis of three 'C' forms⁸ without ensuring their genuineness.

Audit found that these 'C' forms were not verifiable on Tinxsys⁹ portal as well as on the portal of Taxation Authority of Delhi by whom these 'C' forms were stated to have been issued. Audit also verified from the Taxation Authority of Delhi, who confirmed that those forms were not issued by their office. Thus, the Assessing Authority allowed the Central Sales Tax of ₹ 0.03 crore¹⁰ at concessional rate of one *per cent* whereas Central Sales Tax of ₹ 0.17 crore¹¹ at the normal rate of 6.05 *per cent*¹² was leviable on the sale of dry fruits. This resulted in irregular allowance of concession of Central Sales Tax of ₹ 0.14 crore¹³.

On being pointed out, the Assistant Commissioner of State Tax stated (May 2025) that the case had been reassessed¹⁴, wherein out of the three 'C' forms, one¹⁵ was found non-verified while the remaining two were duly verified on the TINXSYS portal.

However, the reply of the Assistant Commissioner was not acceptable as the two 'C' forms¹⁶ stated to have been duly verified by the Department on the TINXSYS portal were different from those¹⁷ objected by the Audit. Ability of the dealer to produce more 'C' forms other than those objected to by the Audit indicates undeclared inter-State sales by the dealer during the same tax period. Therefore, Department needs to initiate enquiry in the matter to ascertain the source of ingenuine 'C' forms as well as actual sales made by the dealer.

The matter was reported to the Government and the Department (October 2024); their replies are awaited (May 2025).

3.4 Non levy of interest on late deposit of tax deducted at source

The Assessing Authority did not levy interest of ₹ 0.14 crore on late deposit of tax deducted at source by the contractee.

Section 27(1) of the Punjab Value Added Tax Act, 2005 provides that a contractee liable to make payment to any contractor for discharge of liability on account of valuable consideration, exceeding rupees five lakh in a single contract for transfer of property in goods under works contract, shall deduct an

⁸ 'C' Forms: (i) 12135174481303 (ii) 12143025721923 (iii) 12146639221378

⁹ Tax Information Exchange System (TinxSys) is online facility for tracking of inter-State transactions.

¹⁰ ₹ 2,75,98,158 x 1/100 = ₹ 2,75,982

¹¹ ₹ 2,75,98,158 x 6.05/100 = ₹ 16,69,689

¹² Tax Rate at the rate of 5.5 per cent is applicable on 'Dry Fruits' as per entry 32 of the Schedule 'B' to the Punjab Value Added Tax Act, 2005. In addition, 10 per cent surcharge is payable under Section-8B of the Act.

¹³ ₹ 16,69,689 - ₹ 2,75,982 = ₹ 13,93,707

¹⁴ Assessment Case Disposal No. 1 dated 25 November 2024

¹⁵ 'C' Form: 12135174481303

¹⁶ 'C' Forms: 12135056700515 and 12129511251214

¹⁷ 'C' Forms: 12143025721923 and 12146639221378

amount equal to six *per cent* of such sum payable to a contractor. Further, Section 27(7) of the Act read with Rule 46(3) of Punjab Value Added Tax Rules, 2005 provides that if any contractee after deducting the amount, fails to deposit the same into the Government treasury within 15 days of close of the month, he shall be liable to pay simple interest at the rate of one and half *per cent* per month on the amount so deducted, from the actual date of deduction till the date on which such amount is actually deposited.

Audit noticed (December 2023) from an assessment case¹⁸ of a contractor for the year 2013-14, finalised in December 2020, under the Assistant Commissioner of State Tax, Pathankot, that a contractee¹⁹ under the jurisdiction of Assistant Commissioner of State Tax, Gurdaspur had deducted tax of ₹ 5.82 crore between May 2013 and April 2014 from 12 bills of the contractor. The deducted tax was required to be deposited by the contractee within 15 days of close of the respective months but the contractee deposited the deducted tax in Government treasury after due dates as seen from the TDS certificates issued to the contractor. Audit further verified from the Assistant Commissioner of State Tax, Gurdaspur and found that the contractee had not paid any interest on belated deposit of deducted tax. As per provisions of Punjab Value Added Tax Act, the contractee was liable to pay interest of ₹ 0.14 crore (**Appendix 3.2**) on the belated deposit of tax for delays²⁰ ranging between 41 and 58 days but the same was not paid.

On being pointed out, the Assistant Commissioner stated (May 2025) that proceedings had been initiated to recover the interest amount.

The matter was reported to the Government and the Department (August 2024 and October 2024); their replies are awaited (May 2025).

¹⁸ Assessment Disposal No. 194 dated 14 December 2022

¹⁹ TIN: 03392075396

²⁰ Delay has been worked out from the date of deduction as per provisions of Section 27(7) of the Punjab VAT Act.

Department of Revenue, Rehabilitation and Disaster Management

3.5 Short levy of Stamp Duty and other applicable fees due to misclassification of properties

Nine Sub-Registrars/Joint Sub-Registrars short-levied Stamp Duty and other applicable fees of ₹ 3.39 crore in 29 cases due to misclassification of properties.

Rule 3-A of the Punjab Stamp (Dealing of under-valued instruments) Rules, 1983 empowers the Collector of a district to fix the minimum market value of land/properties located in his district, locality-wise and category-wise and convey the same to the Registering Officer(s) for the purpose of levying Stamp Duty and Registration Fee on instruments of transfer of property.

The instruments of transfer on account of sale of property are chargeable to Stamp Duty at the rate of five *per cent*²¹ as per entry 23 of Schedule 1-A of the Indian Stamp Act, 1899 as applicable to the State of Punjab. Further, a Registration Fee at the rate of one *per cent* of the value of the document, subject to minimum of ₹ 50 and maximum of ₹ 2 lakh has been fixed by the Government of Punjab on such instruments in exercise of powers conferred by Section 78 of the Registration Act, 1908.

In addition to above, the Government of Punjab levied Social Infrastructure Cess²² (SIC) at the rate of one *per cent* under Schedule 1-C of the Indian Stamp Act, 1899, Infrastructure Development Fee²³ (IDF) at the rate of one *per cent* and Special Infrastructure Development Fee²⁴ (SIDF) at the rate of 0.25 *per cent* under Section 25 of the Punjab Industrial Development Act, 2002. However, in February 2023, the Government of Punjab remitted²⁵ Social Infrastructure Cess, Infrastructure Development Fee and Special Infrastructure Development Fee on the value of purchase of any immovable property within the State from 1 March 2023 to 31 March 2023.

Scrutiny of records (between May 2023 and March 2024) of nine Sub-Registrars/Joint Sub-Registrars revealed that 29 instruments²⁶ of transfer of properties, valued at ₹ 31.21 crore, were registered by applying rates for agricultural/industrial/farmhouse properties on which Stamp Duty, Social Infrastructure Cess, Registration Fee, Infrastructure Development Fee and Special Infrastructure Development Fee of ₹ 2.10 crore were levied. However,

²¹ In case of female, the Stamp Duty is applicable at the rate of three *per cent* as Government had reduced the Stamp Duty by two *per cent* when instruments of conveyance are executed in favour of female buyers in the State of Punjab.

²² SIC levied vide Notification No. 12-Leg./2013 dated 6 February 2013

²³ IDF levied vide Notification No. S.O. 25/P.A.8/2002/S.25/2015 dated 24 June 2015

²⁴ SIDF levied vide Notification No. S.O. 33/P.A.8/2002/S.25-A/2021 dated 5 April 2021

²⁵ Remission of one *per cent* IDF and 0.25 *per cent* SIDF vide Notification No. S.O. 25/PA.8/2002/Ss.25 and 25-A/2023 dated 28 February 2023

²⁶ Remission of one *per cent* SIC vide Notification No. S.O. 26/CA.2/1899/S.9/2023 dated 28 February 2023

²⁶ Amritsar-I (2), Dhariwal (1), Jalandhar-II (1), Ludhiana South-Central (6), Ludhiana West (3), Mullanpur Dakha (6), Raikot (2), Sahnewal (4) and Zirakpur (4)

as per revenue records, the category of these properties was residential/commercial at the time of registration, hence properties were required to be valued at ₹ 80.64 crore with levy of Stamp Duty and other applicable fees of ₹ 5.49 crore. The misclassification of properties resulted in short levy of Stamp Duty and other applicable fees of ₹ 3.39 crore (**Appendix 3.3**).

On being pointed out, Sub-Registrar Zirakpur stated (May 2025) that recoveries of ₹ 0.43 crore have been made in two cases²⁷ and two cases²⁸ have been sent under Section 47-A of the Indian Stamp Act, 1899. Six Sub-Registrars²⁹ stated (December 2024 to June 2025) that the cases have been sent to the Collector under Section 47-A of the Indian Stamp Act, 1899. Sub-registrar Ludhiana South-Central stated (August 2023) that action would be taken after verification of records. Sub-Registrar Raikot stated (April 2025) that action was being taken for recovery.

The matter was reported to the Government and the Department (October 2024 and January 2025); their replies are awaited (May 2025).

3.6 Short levy of Stamp Duty and fees on agreements

The Sub-Registrar, Kharar and Joint Sub-Registrar, Majri short-levied Stamp Duty and fees of ₹ 0.93 crore on the agreements in which owners of the properties bound themselves to register the conveyance deeds in favour of developers or their nominees and delivered physical possession of the properties to the developers in lieu of agreed cash and developed plots.

Entry 5(c) of Schedule I-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab, levies Stamp Duty of ₹ 4,000 on the agreement relating to the sale of immovable property. However, in case of an ‘agreement to sell’³⁰ is followed by or evidencing delivery of possession of the immovable property, the Entry 5(cc) of the Schedule provides that the same Stamp Duty would be applicable as is leviable in case of other conveyances³¹ as per Entry 23 of Schedule I-A, subject to the adjustment of duty chargeable at the time of execution of conveyance made in pursuance of such agreement. Further, as per Entry 23 of Schedule I-A read with Rule 3-A of the Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983, the Stamp Duty is payable on the consideration set forth in the instrument subject to minimum market value of the land or property fixed by the Collector of the district.

Section 78 of the Registration Act, 1908 empowers the State Government to fix the fees for registration of documents. In exercise of this power, the Government of Punjab fixed Registration Fee at the rate of one *per cent* of the

²⁷ Deed No. 3056 dated 27 May 2022 (₹ 39,08,040), Deed No. 3057 dated 27 May 2022 (₹ 3,85,231)

²⁸ Deed No. 10824 and 10825 dated 2 January 2023

²⁹ Amritsar-I, Dhariwal, Jalandhar-II, Ludhiana West, Mullanpur Dakha and Sahnewal

³⁰ An ‘agreement to sell’ is a contractual document that outlines the terms and conditions including price for the transfer of ownership of a property at a future date.

³¹ Stamp Duty at the rate of three *per cent* is applicable on other conveyances as per Entry 23 of Schedule I-A.

value of the document, subject to minimum of ₹ 50 and maximum of ₹ 2 lakh on all compulsorily registrable³² documents.

The Government of Punjab levied Social Infrastructure Cess at the rate of one *per cent* in February 2013 on the value of purchase of any immovable property mentioned under Entry 23 of Schedule I-A. Additionally, it also levied Infrastructure Development Fee at the rate of one *per cent* in June 2015 and Special Infrastructure Development Fee at the rate of 0.25 *per cent* from 5 April 2021 on the value of purchase of any immovable property within the State of Punjab. However, in February 2023, the Government of Punjab remitted³³ Social Infrastructure Cess, Infrastructure Development Fee and Special Infrastructure Development Fee on the value of purchase of any immovable property within the State from 1 March 2023 to 31 March 2023.

Scrutiny of records (January 2024) of Sub-Registrar, Kharar and Joint Sub-Registrar, Majri revealed that nine³⁴ agreements were registered between April 2022 and March 2023 in favour of three developers by levying Stamp Duty and fees of ₹ 0.11 crore³⁵. In these agreements, the owners of the properties bound themselves to register the conveyance deeds in favour of developers or their nominees and delivered physical possession of the properties to the developers in lieu of agreed cash and developed plots having consideration value of ₹ 19.78 crore. As per the provisions of Entry 5(cc) of Schedule I-A, these agreements were required to be levied with Stamp Duty and fees of ₹ 1.03 crore³⁶ on the consideration value of ₹ 19.78 crore³⁷. However, the Sub-Registrar/Joint Sub-Registrar levied Stamp Duty of ₹ 4,000 in each case apart from short levy of other fees, resulting in short levy of Stamp Duty and fees of ₹ 0.93 crore³⁸ (**Appendix 3.4**).

On being pointed out, the Sub-Registrar, Kharar and Joint Sub-Registrar Majri stated (May 2025) that the cases have been sent to the Collector under Section 47-A of the Indian Stamp Act, 1899.

The matter was reported to the Government and the Department (July and August 2024); their replies are awaited (May 2025).

The Government may direct the Department to recover the Stamp Duty and fees of ₹ 0.93 crore in the cases referred to in this paragraph and ensure

³² Other than leases of immovable property.

³³ Remission of one *per cent* IDF and 0.25 *per cent* SIDF vide Notification No. S.O. 25/PA.8/2002/Ss.25 and 25-A/2023 dated 28 February 2023
Remission of one *per cent* SIC vide Notification No. S.O. 26/CA.2/1899/S.9/2023 dated 28 February 2023

³⁴ Kharar (8) and Majri (1)

³⁵ Stamp Duty: ₹ 36,000, Registration Fee: ₹ 10,41,617

³⁶ Stamp Duty: ₹ 59,35,202, Registration Fee: ₹ 10,60,503, Social Infrastructure Cess: ₹ 14,89,151, Infrastructure Development Fee: ₹ 14,89,151 and Special Infrastructure Development Fee: ₹ 3,72,288

³⁷ Consideration value is higher of the collector value of the property agreed to be sold or consideration value agreed/received which comprises cash and minimum collector value of the developed plots.

³⁸ Stamp Duty: ₹ 58,99,202, Registration Fee: ₹ 18,886, Social Infrastructure Cess: ₹ 14,89,151, Infrastructure Development Fee: ₹ 14,89,151 and Special Infrastructure Development Fee: ₹ 3,72,288

that the duties leviable at the time of execution of agreements with delivery of possession of properties are correctly levied.

3.7 Short levy of Stamp Duty and fees due to undervaluation of properties

The Joint Sub-Registrar, Zirakpur, in three cases, undervalued the properties and short-levied Stamp Duty, Social Infrastructure Cess, Registration Fee, Infrastructure Development Fee and Special Infrastructure Development Fee of ₹ 0.44 crore.

Rule 3-A of the Punjab Stamp (Dealing of under-valued instruments) Rules, 1983 empowers the Collector of a district to fix the minimum market value of land/properties located in his district, locality-wise and category-wise and convey the same to the Registering Officer(s) for the purpose of levying Stamp Duty and Registration Fee on instruments of transfer of property.

As per condition number four of the rate list fixed by the Collector, SAS Nagar for Zirakpur, the rates of residential property were applicable, in case there were multiple buyers/sellers, and the share per buyer/seller was less than 500 square meter.

Scrutiny of records (January 2024) of Joint Sub-Registrar Zirakpur for the period 2022-23 revealed that three instruments of transfer of properties were valued at ₹ 1.82 crore at the time of registration by applying agricultural rates, on which Stamp Duty, Social Infrastructure Cess, Registration Fee, Infrastructure Development Fee and Special Infrastructure Development Fee of ₹ 0.15 crore were levied. Audit observed that there were multiple buyers in all the three instruments and share of each buyer was less than 500 square meters³⁹, hence as per condition of collector rate list, the properties were required to be valued at ₹ 7.54 crore by applying residential rates with levy of Stamp Duty, Social Infrastructure Cess, Registration Fee, Infrastructure Development Fee and Special Infrastructure Development Fee of ₹ 0.59 crore. The undervaluation of properties resulted in short levy of Stamp Duty, Social Infrastructure Cess, Registration Fee, Infrastructure Development Fee and Special Infrastructure Development Fee of ₹ 0.44 crore (**Appendix 3.5**).

On being pointed out, the Joint Sub-Registrar, Zirakpur stated (May 2025) that the cases have been sent for proceedings under Section 47-A of the Indian Stamp Act, 1899.

The matter was reported to the Government and the Department (October 2024), their replies are awaited (May 2025).

³⁹ 500 square meter is equal to 597.995 square yards

3.8 Non-levy of Stamp Duty, Registration Fee and Social Infrastructure Cess due to ambiguity in remission notifications

Two Sub-Registrars granted remission of ₹ 0.14 crore to Hindu Undivided Families on account of Stamp Duty, Registration Fee and Social Infrastructure Cess in 10 cases of transfer of properties due to ambiguity in remission notifications.

When an immovable property is transferred by way of conveyances other than those amounting to sale of immovable property, Stamp Duty at the rate of three per cent⁴⁰ on such instruments becomes leviable under Entry 23 of Schedule 1-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab. Further, Registration Fee at the rate of one per cent⁴¹ and Social Infrastructure Cess at the rate of one per cent⁴² is also chargeable on such instruments as per provisions of the respective⁴³ Acts. However, above duties and fees are not payable on the instruments which are executed by owners during their lifetime for transfer of immovable property to any of their blood relations or spouse due to remissions allowed by the Government of Punjab. Remissions from Stamp Duty, Registration Fee and Social Infrastructure Cess on such instruments were allowed through three notifications⁴⁴ issued by the Government of Punjab in May 2014 and November 2015.

Audit noticed (May 2023) from the records of two Sub-Registrars for the year 2022-23 that Sub-Registrars allowed remission from the Stamp Duty and other fees on 10 instruments⁴⁵ executed for transfer of immovable properties to blood relations and spouse. On further scrutiny of these instruments, Audit observed that the instruments for transfers of properties were not executed by the persons concerned as individuals in their personal capacity but were executed by the *karta* of Hindu Undivided Families (HUF). As the instruments were executed by the *karta* of Hindu Undivided Families, the remissions should not have been available but were granted on the basis of family relations between the executing parties. Further, in a clarification sought by the Audit from the Government, it was informed to the Audit that exemption should be applicable on direct transfer of properties between family members, and Hindu Undivided Family should not qualify for such exemptions as the same was considered as separate entity from its members.

⁴⁰ In case of female, Government had reduced the Stamp Duty by two per cent when instruments of conveyance are executed in favour of female buyers in the State of Punjab.

⁴¹ Subject to minimum of ₹ 50 and maximum of ₹ 2 lakh

⁴² Social Infrastructure Cess levied vide Notification No. 12-Leg./2013 dated 6 February 2013

⁴³ Registration Fee under Section 78 of the Registration Act, 1908 and Social Infrastructure Cess under Schedule-1C of the Indian Stamp Act, 1899 as applicable the State of Punjab.

⁴⁴ Notification No. S.O.28/C.A.2/1899/S.9/2014 dated 7 May 2014 for remission of Stamp Duty. Notification No. S.O.47/C.A.XVI/1908/Ss.78 and 79/2015 dated 2 November 2015 for remission of Registration Fee and Notification No. S.O.48/C.A.2/1899/S.9/2015 dated 2 November 2015 for remission of Social Infrastructure Cess.

⁴⁵ **Dera Bassi:** Deed No. 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016 and 5017 dated 9 February 2023
SAS Nagar: Deed No. 1309 dated 2 May 2022

Audit analysed the language of the remission notifications and noted that only requirement mentioned in the notifications to become eligible for remission was relation of blood or spouse between the owner and transferee. The intent of the Government to consider HUF as separate entity and to not allow remissions on transfers made by HUF to blood relations or spouse, was not ingrained in the notifications, whereas it is a prime requirement that notifications issued by the Government disseminate the clear intent of the Government so that implementing agencies and beneficiaries are able to understand it easily to avoid any dispute in the matter. In the absence of clarity in the remission notifications *ibid*, the action of the Sub-Registrars to grant remissions on property transfers executed by the *karta* of HUF resulted in non-levy of Stamp Duty, Registration Fee and Social Infrastructure Cess of ₹ 0.14 crore (**Appendix 3.6**) on the pointed out 10 instruments involving consideration value of ₹ 3.12 crore for the transferred properties.

On being pointed out, Sub-Registrar, Dera Bassi stated (May 2025) that recoveries of ₹ 0.13 crore have been made in nine cases. Sub-Registrar, SAS Nagar stated that recoveries would be made after verification of records. This impresses the audit point necessitating a need of issuing clarification against the remission notifications.

The matter was reported to the Government and the Department (November 2024 and February 2025); their replies are awaited (May 2025).

3.9 Short levy of Stamp Duty and Registration Fee on lease deed

The Joint Sub-Registrar, Koom Kalan short-levied Stamp Duty and Registration Fee of ₹ 0.12 crore on one instrument of lease.

Section 17(d) of the Registration Act, 1908 provides that leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, should be compulsorily registered. The rate of Registration Fee prescribed⁴⁶ by the Government of Punjab is one *per cent* subject to maximum of rupees two lakh on the registration of lease agreements.

Further, Entry 35(b) of Schedule-I-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab, provides for levy of Stamp Duty on instruments of lease at the rate of three *per cent* of consideration equal to the amount or value of premium or advance set forth in the instrument of lease, where the lease is granted for a fine or premium or for money advanced and where no rent is reserved.

Scrutiny of records (October 2023) of Joint Sub-Registrar, Koom Kalan for the period 2019-23 revealed that an instrument of lease⁴⁷ was registered on

⁴⁶ Notification No. S.O.90/C.A.16/1908/Ss.78 and 79/2012 dated 23 October 2012

⁴⁷ Deed No. 343 dated 23 August 2022

23 August 2022 by levying Stamp Duty and Registration Fee of ₹ 0.02 crore⁴⁸. In this instrument, a lease of two acre land was granted to a lessee for a period of 33 years against lump sum amount of ₹ 4.00 crore payable at the time of signing the lease and no periodical rent was reserved. As per Entry 35(b) of the Schedule 1-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab, the Stamp Duty and Registration Fee of ₹ 0.14 crore⁴⁹ was leviable on the instrument, however, the Joint Sub-Registrar registered the instrument by levying Stamp Duty and Registration Fee of ₹ 0.02 crore resulting in short levy of Stamp Duty and Registration Fee of ₹ 0.12 crore⁵⁰.

On being pointed out, the Joint Sub Registrar, Koom Kalan stated (November 2024) that the case has been sent for proceedings under Section 47-A of the Indian Stamp Act, 1899.

The matter was reported to the Government and the Department (June 2024 and September 2024), their replies are awaited (May 2025).

3.10 Short levy of Stamp Duty on power of attorney

The Joint Sub-Registrar, Majri short-levied Stamp Duty of ₹ 1.25 crore on power of attorney authorising developer for sale of immovable property in lieu of consideration.

Entry 48(f) of Schedule I-A of the Indian Stamp Act, 1899 as applicable to the State of Punjab levied Stamp Duty on power of attorney at the rate as applicable to conveyances (Entry 23), when power of attorney was given for consideration and the attorney was authorised to sell any immovable property. Stamp Duty at the rate of five *per cent* on instruments of conveyance is leviable under Entry 23 of Schedule 1-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab.

Scrutiny of records of Joint Sub-Registrar, Majri (January 2024) for the year 2022-23, revealed that a Joint Development Agreement⁵¹ along with a Power of Attorney⁵² was executed on 15 March 2023 between a landowner and a developer for developing a project on land measuring 11.10 acres. By virtue of Joint Development Agreement and Power of Attorney, the landowner granted irrevocable rights on land to the developer for the development, construction, and sale of residential and commercial properties. As a consideration, the landowner agreed to receive 30 *per cent* of net sale proceeds from the sale of developed residential and commercial inventory. Before execution of power of attorney, the landowner received an advance payment of ₹ 12.00 crore and agreed to receive further advance payment of ₹ 13.00 crore in tranches, to be

⁴⁸ Stamp Duty: ₹ 1,45,500 and Registration Fee: ₹ 48,485

⁴⁹ Stamp Duty: ₹ 12,00,000 and Registration Fee: ₹ 2,00,000

⁵⁰ Stamp Duty: ₹ 10,54,500 and Registration Fee: ₹ 1,51,515

⁵¹ Deed No. 5055 dated 15 March 2023

⁵² Deed No. 1378 dated 15 March 2023

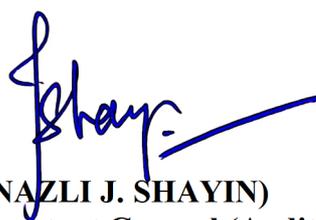
adjusted from the share of net proceeds. As power of attorney was given in lieu of consideration and authorising attorney to sell the immovable properties, the registering authority was required to levy Stamp Duty of ₹ 1.25 crore on the minimum consideration of ₹ 25.00 crore⁵³ agreed as advance to the landowner. However, the power of attorney was registered by levying Stamp Duty of only ₹ 2,000. This resulted in short levy of Stamp Duty of ₹ 1.25 crore.

On being pointed out, the Joint Sub-Registrar, Majri stated (May 2025) that the case has been sent to the Collector under Section 47-A of the Indian Stamp Act, 1899.

The matter was reported to the Government and the Department (October 2024 and November 2024); their replies are awaited (May 2025).

Chandigarh

The 14 November 2025



(NAZLI J. SHAYIN)

Principal Accountant General (Audit), Punjab

Countersigned



New Delhi

The 28 November 2025

(K. SANJAY MURTHY)

Comptroller and Auditor General of India

⁵³ Minimum anticipated sale proceeds were not mentioned in the Joint Development Agreement. Hence, adjustable advance of ₹ 25 crore as agreed in Annexure-J of the Joint Development Agreement has been taken as 'Consideration' for working out Stamp Duty.