

## CHAPTER-IV: STAMP DUTY AND REGISTRATION FEE

### 4.1 Tax administration

Receipts from Stamp Duty and Registration Fee in the state are regulated under the Registration Act, 1908, the Rajasthan Stamp Act, 1998 and the rules made thereunder. According to section 3 of the Rajasthan Stamp Act, every instrument shall be chargeable with duty according to the rates mentioned in the schedule to the Rajasthan Stamp Act. The Stamp Duty is leviable on execution of instruments and Registration Fee is payable on registration of instruments. Surcharge is also chargeable on Stamp Duty with effect from 9 March 2011.

### 4.2 Results of audit

There are 559 units<sup>1</sup> (including 19 administrative units) in the Registration and Stamps Department. Out of these, audit selected 21 units (including one administrative unit) for audit during 2021-22. In these units, 3,39,323 instruments were registered, out of which 93,516 instruments (approximately 27.56 *per cent*) were selected for test check. During scrutiny, audit noticed instances of incorrect determination of market value of properties, short/non-realisation of Stamp duty and Registration Fee, *etc.* aggregating to ₹ 22.68 crore in 479 instruments.

These cases are illustrative only and are based on test check of records. Though audit pointed out similar omissions in earlier years, these irregularities persist and remain undetected till next audit is conducted. Irregularities noticed broadly fall under the categories as shown in **Table 4.1**.

**Table 4.1: Category-wise irregularities**

(₹ in crore)			
Sl. No.	Category	Number of Cases	Amount
1	Incorrect determination of market value of properties	193	7.29
2	Non/ Short levy of stamp duty and registration fee	144	11.57
3	Other irregularities related to:		
	(i) Revenue	140	3.81
	(ii) Expenditure	2	0.01
<b>Total</b>		<b>479</b>	<b>22.68</b>

During the year 2021-22, the Department accepted under assessment and other deficiencies of ₹ 25.46 crore pertaining to 775 cases, of which 338 cases involving ₹ 18.19 crore were pointed out during the year 2021-22 and the rest in the earlier years. The Department recovered ₹ 3.80 crore in 422 cases during the year 2021-22, of which six cases involving ₹ 0.10 crore pertained to the year 2021-22 and rest to the earlier years.

1 559 units: 540 Sub Registrar (Registering authorities) and 19 Administrative offices. Out of 540 Sub Registrar Offices, registration work was not started in newly opened 17 Sub Registrar Offices.

A Subject Specific Compliance Audit (SSCA) on ‘*Procedure for determination of market value of Immovable Properties*’ was conducted during 2021-22. The observations of the chapter involving monetary value of ₹13.27 crore (₹ 6.82 crore related to SSCA, ₹ 1.49 crore related to deficiencies in IT system and ₹ 4.96 crore related to other observations) noticed in the selected units of the Department are discussed in the succeeding paragraphs. It is pertinent to mention that most of these issues have been raised earlier and published in the CAG’s Audit Report of previous years wherein the State Government accepted the observations and initiated action/recoveries. However, it is seen that the Department took action only in cases which were pointed out by Audit and failed to strengthen the internal control system which has led to recurrence of similar issues in subsequent years.

#### **4.3 Subject Specific Compliance Audit on ‘Procedure for determination of market value of Immovable Properties’**

##### **4.3.1 Introduction**

According to clause (xxiii) of section 2 of the Rajasthan Stamp Act, 1998 the “*Market value*” in relation to any property, which is the subject matter of an instrument, means the price, such property would have fetched or would fetch if sold in the open market on the date of execution of such instrument as determined by such manner under this Act or the consideration stated in the instrument, whichever is higher.

The State Government constituted the District Level Committee<sup>2</sup> for the districts for determination of market value of land *vide* order dated 7 March 1996. The market value of agriculture, residential and commercial categories of land is assessed on the basis of the rates recommended by District Level Committee. The market value of other categories of land is assessed on the basis of the rates determined by Inspector General of Registration and Stamps with the approval of the State Government or determined by State Government through a notification published in the official Gazette. The market value of constructed portion is assessed on the basis of the rates determined by State Government separately.

Receipts from Registration Fee and Stamp Duty in the State are regulated under the Registration Act, 1908, the Rajasthan Stamp Act, 1998 and the Rules made thereunder. According to Section 3 of the Rajasthan Stamp Act, every instrument shall be chargeable with duty according to the rates mentioned in the Schedule to the Act. The Stamp Duty<sup>3</sup> is leviable on execution of instruments and Registration Fee is payable on registration of instruments.

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2 The DLCs were constituted under Rule 2(b) of RS Rules by the State Government for each district for determination of the market value of land. As per order dated 7 March 1996, DLC consists of District Collector as chairman, *Pradhan* of each *Panchayat Samiti*, members of Legislative Assembly, Secretary of Urban Improvement Trust, Representative of local authorities, Secretary of Development Authorities, concerned DIGs (Stamps) and SRs of that area as members.

3 Stamp Duty: At the rate of five *per cent* w.e.f. 8 July 2009 and six *per cent* w.e.f. 20 February 2020.

Surcharge is chargeable on the Stamp Duty at the rate of 10 *per cent* w.e.f. 9 March 2011 and 20 *per cent* w.e.f. 8 March 2016. Further, it was revised to 30 *per cent* of Stamp Duty w.e.f. 15 May 2020.

The Registration Fee is also chargeable at the rate of one *per cent* of the market value of property subject to maximum of ₹ 50,000 since 9 April 2010 and one *per cent* with effect from 9 March 2015. The maximum limit was fixed as rupees four lakh w.e.f. 8 March 2017, which was revised to rupees three lakh w.e.f. 12 February 2018 and the maximum limit was removed w.e.f. 27 May 2019.

#### 4.3.2 Organizational set-up

The Department functions under the overall administrative control of Finance Department. The Inspector General, Registration and Stamp is the administrative head of the Department. The Additional Inspector General is the *Ex-officio* superintendent (Stamps) at headquarter and assists the Inspector General in administrative matters whereas the Financial Advisor assists the Inspector General in financial matters. The entire State has been divided into 17 circles<sup>4</sup> headed by Deputy Inspector General cum *Ex-officio* Collector (Stamps). There were 540 Sub Registrar Offices as on 31 March 2021, out of which 113 full time Sub Registrar Offices are headed by Sub Registrars and 427 offices are headed by *Tehsildars* or *Naib Tehsildars* working under Land Revenue Department in *ex-officio* capacity.

#### 4.3.3 Audit Objectives

The objectives of Subject Specific Compliance Audit were to assess whether:

- prescribed rules and procedures were applied uniformly in determination of market value of properties.
- correct procedure was adopted for determination of rates and market value of immovable properties.
- the Information Technology system fulfilled the requirements of the department.

#### 4.3.4 Audit Criteria

The Audit criteria were derived from the following sources:

- (i) The Rajasthan Stamp Act, 1998
- (ii) The Rajasthan Stamp Rules, 2004
- (iii) The Registration Act, 1908
- (iv) The Rajasthan Registration Rules, 1955
- (v) Circulars/Notifications issued by Inspector General of Registration and Stamps/State Government from time to time.

4 DIG Ajmer-I, Alwar-I, II, Banswara, Barmer, Bharatpur, Bhilwara, Bikaner, Hanumangarh, Jaipur-I, II, III, Jodhpur, Kota, Pali, Sikar and Udaipur.

#### **4.3.5 Scope of Audit**

Audit of functioning and control of the Registration & Stamps Department regarding the systems and procedures for determination of market value of Immovable Properties was conducted from June 2021 to February 2022. Audit findings are based on the information supplied by the Department along with the test check of records of the selected units.

There were total 541 auditable units under the Registration & Stamps Department of the State including Inspector General, Registration and Stamps office, Deputy Inspector General Offices and Sub Registrar Offices. Out of these, 523 Sub Registrar Offices are involved in revenue realization for the Department and the Inspector General, Registration and Stamps office and Deputy Inspector General Offices are working as administrative offices. The Sub Registrar Offices have been segregated into high, moderate and low risk units on the basis of average revenue realized by the Sub Registrar Offices during last three years *i.e.* from 2018-19 to 2020-21.

For this audit, a total of 20 Sub Registrar Offices covering 17 high risk, two moderate risk and one low risk unit were selected. Besides this, the office of the Inspector General, Registration and Stamps as the controller and administrative head of the Department was also selected.

In the 20 selected Sub Registrar Offices, all the registered instruments having value of more than ₹ 25 lakh and 10 *per cent* of registered instruments having value up to ₹ 25 lakh were selected for substantive checking. All the instruments registered under the categories of Correction Deed, Developer Agreement, Exchange Deed, Partnership Deed, Certificate of sale, Partition Deed, Amalgamation/ Reconstruction/Demerger Deed were also selected for detailed examination. Further, procedure for determination of rates of immovable properties by District Level Committee and the internal control mechanism of the department were also analysed.

An exit conference was held on 1 June 2022 with the Inspector General, Registration and Stamps along with other representatives of the Department in which the audit findings were discussed. The replies of the Department and their views expressed during the Exit Conference (June 2022) have been suitably incorporated in the relevant paragraphs.

#### **4.3.6 Recoveries at the instance of Audit**

The State Government accepted the preliminary observations of this Subject Specific Compliance Audit and effected complete recovery of ₹ 73.68 lakh in the following three cases after being pointed out (between July 2021 and January 2022) by Audit:

- Two cases of Sub Registrar Bikaner-II and Bhiwadi in which non-levy of Stamp Duty, surcharge and Registration Fee aggregating to ₹ 54.20 lakh on conversion of Companies into Limited Liability Partnership had been noticed.



- One case of Sub Registrar Kota-I in which under-assessment of instruments of Developer Agreement had resulted in short levy of Stamp Duty, surcharge and Registration Fee of ₹ 7.48 lakh.
- One case of Sub Registrar Jaipur-I in which undervaluation of a lease deed due to non-compliance with the provisions resulted in short levy of Stamp Duty, Surcharge and Registration Fee of ₹ 12 lakh.

Due to complete recovery, these instances have not been included in succeeding paragraphs.

### **Audit Findings**

Audit findings noticed on the basis of scrutiny of cases in the selected units are included in the subsequent paragraphs.

#### **4.3.7 Instrument of amalgamation of companies**

According to Article 21 (iii) of the Schedule to the Rajasthan Stamp Act, an order under Section 394 of the Companies Act, 1956 in respect of amalgamation, demerger or reconstruction of a company is chargeable with Stamp Duty. The State Government *vide* notification dated 14 July 2014 determined Stamp Duty at the rate of two *per cent* on the proportion of the net worth equal to proportion of the value of immovable property situated in Rajasthan to the value of the entire immovable property of the transferor company.

Subsequently, the State Government amended (*vide* notification dated 8 March 2016) the provisions, subject to a maximum of ₹ 25 crore at the following rates:

(i) An amount equal to four *per cent* of the aggregate amount comprising the market value of shares issued or allotted or cancelled in exchange of or otherwise, or on the face value of such shares, whichever is higher and the amount of consideration, if any, paid for such amalgamation, demerger or reconstruction, or

(ii) An amount equal to four *per cent* of the market value of the immovable property situated in the State of Rajasthan of the transferor company,

Whichever is higher.

Section 20 of the Rajasthan Stamp Act provides that for any instrument which has become chargeable in any part of India other than the State of Rajasthan with duty under the Indian Stamp Act, 1899 or under any other law for the time being in force in such part and thereafter becomes chargeable with a higher rate of duty in the State of Rajasthan under this Act, the amount of duty chargeable on such instrument shall be the amount chargeable on it under this Act less the amount of duty, if any, already paid on it in India.

##### **4.3.7.1 Incorrect classification of the instrument of amalgamation of companies led to short levy of Stamp Duty and Registration Fee**

During test check of the records of Sub Registrar Neemrana, it was noticed that an instrument of supplementary deed was executed (10 August 2020)

between lessor<sup>5</sup> and lessee (Transferee Company) and registered on 9 September 2020. Scrutiny of the recital of instrument and scheme of amalgamation revealed that an industrial plot<sup>6</sup> was allotted to a company (Transferor Company) on 23 December 2016 and lease deed of the plot was registered on 15 November 2017 in Sub Registrar Neemrana. The Transferor Company with market value of ₹ 23.46 crore<sup>7</sup> was amalgamated in the Transferee Company *vide* order passed (4 April 2018) by the National Company Law Tribunal, Delhi. The Department had categorized this order as a supplementary/correction deed and recovered Stamp Duty, Surcharge and Registration Fee of ₹ 850<sup>8</sup> only.

However, as the immovable property of the transferor company was transferred to the transferee company through supplementary deed, it was required to be classified as an amalgamation deed and Stamp Duty, Surcharge and Registration Fee of ₹ 1.45 crore<sup>9</sup> were leviable on the market value assessed at ₹ 23.46 crore on the instrument of amalgamation. Therefore, the misclassification of the instrument resulted in short levy of Stamp Duty, Surcharge and Registration Fee amounting to ₹ 1.45 crore.

The State Government accepted the audit contention and replied (September 2023) that the case is under adjudication of Collector (Stamps). Further progress was awaited (October 2024).

#### **4.3.7.2 Non-cognizance of recital of Sale deed resulted in short levy of Stamp Duty and Surcharge**

An instrument was registered (March 2021) in the office of the Sub Registrar, Jodhpur-I as sale deed<sup>10</sup>. Scrutiny of recital of instruments and enclosed scheme of amalgamation revealed that a company (Transferor Company) was amalgamated into another company (Transferee Company) *vide* order passed (April 2014) by the Hon'ble High court, Mumbai. The Transferor Company had 55 *bigha* of agricultural land which was transferred to the transferee company through amalgamation on which Stamp Duty and Surcharge of ₹ 33.83 lakh<sup>11</sup> were to be levied on market value of ₹ 7.69 crore<sup>12</sup>. No document

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5 RIICO Neemrana (Alwar).

6 Plot no. SP1-33 situated at RIICO Industrial Area Majrikath (RIICO Neemrana-Second Phase) comprising an area of 52126 sqmt.

7 DLC value ₹ 23.46 crore (52126 sqmt x ₹ 4,500/- per sqmt) or Consideration Value ₹ 50,00,000 (50/2,000 x 20,00,00,000 (Share Capital of transferor company) (20 equity share of face value ₹ 100 each of transferor company were exchanged with 5 share of face value ₹ 10 each of transferee company). DLC value is higher than consideration value, hence, DLC value is treated as market value as per State Government's notification dated 8 March 2016.

8 ₹ 850: SD of ₹ 500, Surcharge of ₹ 150 and RF of ₹ 200.

9 ₹ 1.45 crore: SD of ₹ 93.83 lakh, Surcharge of ₹ 28.15 lakh and RF of ₹ 23.45 lakh.

10 Registration number 4178 dated 16 March 2021.

11 ₹ 33.83 lakh: SD of ₹ 30.76 lakh and Surcharge of ₹ 3.07 lakh was recoverable as per State Government's notification dated 14 July 2014.

12 DLC value ₹ 7,68,90,000/- (55 *bigha* x ₹ 13,98,000/- per *bigha*) or Consideration Value ₹ 4,25,000 (one equity share of face value ₹ 10 each of transferor company were exchanged with one share of face value ₹ 10 each of transferee company. Therefore, consideration value is 10/10 x 4,25,000 (Share Capital of transferor company) = ₹ 4,25,000). DLC value is higher than consideration value. Hence, DLC value *i.e.* ₹ 7.69 Crore is treated as market value.

in support of registration of amalgamation deed was provided by the Department. However, the Sub Registrar did not take cognizance of the fact mentioned in the sale deed at the time of registration of the sale deed and recovered Stamp Duty and Registration Fee payable on the sale deed only. This resulted in non-levy of Stamp Duty and Surcharge amounting to ₹ 33.83 lakh on the instrument of amalgamation.

The State Government accepted the audit contention and replied (September 2023) that the case is under adjudication of Collector (Stamps). Further progress was awaited (October 2024).

#### **4.3.8 Registration of Agreement to Sale**

According to explanation (i) given below Article 21 of the Schedule to the Rajasthan Stamp Act 1998, an agreement to sell an immovable property or an irrevocable power of attorney or any other instrument executed in the course of conveyance or lease e.g. allotment letters, patta, license etc. shall, in case of transfer of the possession of such property before, at the time of or after the execution of any such instrument, be deemed to be a conveyance and the Stamp Duty thereon shall be chargeable accordingly. Section 17 of the Registration Act 1908, provides that other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or contingent, of the value of ₹ 100 and above to or in immovable property, are required to be compulsorily registered.

##### ***4.3.8.1 Non-detection of the intermediate unstamped instrument from recital of sale deed led to non-levy of Stamp Duty, Surcharge and Registration Fee***

During test check of records of Sub Registrar Udaipur-I, it was noticed that an instrument of sale deed was executed (23 April 2019) for sale of a residential plot<sup>13</sup> and the same was registered on 24 May 2019. Scrutiny of recital of sale deed revealed that an agreement to sale was executed on 29 March 2013 between seller and the original landowner. The possession of the land was also handed over at the time of execution of agreement. On the basis of this agreement to sale, the Urban Improvement Trust, Udaipur had issued (10 September 2013) a lease deed (*Patta*) in favour of the seller and the same was registered on 10 September 2013. Hence, the instrument of agreement to sale was required to be deemed as conveyance and was to be registered compulsorily<sup>14</sup> with Stamp Duty, Surcharge and Registration Fee of ₹ 15.60 lakh<sup>15</sup> leviable<sup>16</sup> on market value of ₹ 2.75 crore<sup>17</sup>.

13 Plot no. 1 situated near kapil vihar Gram Bedwas (now Rakampura) District Udaipur comprising an area of 59700 sqft with corner.

14 According to Section 17 of the Registration Act.

15 ₹ 15.60 lakh: SD of ₹ 13.73 lakh, Surcharge of ₹ 1.37 lakh and RF of ₹ 0.50 lakh.

16 According to explanation (i) given below Article 21 of the Schedule to the Rajasthan Stamp Act 1998.

17 ₹ 2.75 crore: (59700 sqft x ₹ 418/- per sqft plus 10 per cent corner = ₹ 2,74,50,060). Hence, ₹ 2.75 crore treated as market value.

Neither the fact about registration of the instrument of an agreement to sale was mentioned in the instrument of sale deed nor was a copy of the instrument of an agreement to sale enclosed with the instrument of sale deed. Further, the Sub Registrar failed to detect the fact of non-registration of the instrument and only recovered amount of Stamp Duty, Surcharge and Registration Fee on the instrument of sale deed. This resulted in non-levy of Stamp Duty, Surcharge and Registration Fee of ₹ 15.60 lakh.

The State Government accepted the audit contention and replied (September 2023) that the case is under adjudication of Collector (Stamps). Further progress was awaited (October 2024).

#### ***4.3.8.2 Non-detection of the intermediate unstamped instrument from recital of developer agreement led to non-levy of Stamp Duty, Surcharge and Registration Fee***

During test check of the records of Sub Registrar Kota-I, it was noticed that one instrument of Developer Agreement was executed (December 2020) between Landowner and Developer for development of residential project<sup>18</sup>. Scrutiny of recital of the Developer Agreement revealed that three instruments of agreement to sale were executed (between February 2020 and June 2020) at consideration value of ₹10.89 crore<sup>19</sup> between owners and developer for three parcels of the land prior to execution of Developer Agreement and were notarized with Stamp Duty of ₹ 500 each. Since the possession of the land was also transferred in favour of the developer, the instrument was required to be deemed conveyance and Stamp Duty, Surcharge and Registration Fee of ₹ 87.92 lakh<sup>20</sup> were leviable on consideration value of ₹ 10.89 crore. However, the concerned Sub Registrar failed to take cognizance of the facts mentioned in the recital of Developer Agreement and levied Stamp Duty, Surcharge and Registration Fee of ₹ 1.67 lakh<sup>21</sup> which resulted in short levy of Stamp Duty, Surcharge and Registration Fee amounting to ₹ 86.25 lakh<sup>22</sup>.

The State Government accepted the audit contention and replied (September 2023) that a case has been registered with Collector (Stamps) in this matter. Further progress was awaited (October 2024).

#### **4.3.9 Valuation of lease deeds**

According to notification dated 20 February 2020, in case of lease deed or sale deed, executed by the State Government, Rajasthan Housing Board (RHB), Development Authorities<sup>23</sup>, Urban Improvement Trust (UIT), Municipal Corporation, Municipal Council, Krishi Upaj Mandi, Rajasthan State Industrial Development & Investment Corporation Limited (RIICO) etc. in respect of land allotted or sold by them, Stamp Duty is chargeable at the rate

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18 11.25 bigha or 196020 sqft residential convert land situated at Village Hanuwatkhera.

19 ₹ 10.89 crore (₹ 3,56,25,000 + ₹ 32,50,000 + ₹ 7,00,00,000) = ₹ 10,88,75,000 or ₹ 10.89 crore.

20 ₹ 87.92 lakh: SD ₹ 65.32 lakh, Surcharge ₹ 19.60 lakh and RF ₹ 3.00 lakh.

21 ₹ 1.67 lakh: SD ₹ 0.72 lakh, Surcharge ₹ 0.22 lakh and RF ₹ 0.73 lakh.

22 ₹ 86.25 lakh: SD ₹ 64.60 lakh, Surcharge ₹ 19.38 lakh and RF ₹ 2.27 lakh.

23 Ajmer, Jaipur and Jodhpur.

of conveyance on the amount of premium and other charges paid in consideration including interest or penalty, if any, and the average amount of the rent of two years. Further, above notification was superseded by notification dated 24 February 2021 but the provision of Stamp Duty chargeable on lease deed or sale deed was kept same. Further, according to section 2 (xi) of the Rajasthan Stamps Act, conveyance includes a conveyance on sale, instruments, decree or final order of any civil court etc. by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, and which is not otherwise specifically provided for by the schedule. In case of conveyance, Stamp Duty is chargeable on the market value of properties or face value/consideration, whichever is higher.

#### **4.3.9.1 Lease deed issued by Jaipur Development Authority**

During test check of records of Sub Registrar Jaipur-I, it was noticed that three lease deeds of residential plots were issued by the Jaipur Development Authority, Jaipur on the basis of unregistered possession letters. The consideration of these plots was received by the developer and possession was also handed over to allottee before issue of such lease deeds. During registration of lease deeds, the Sub Registrar did not consider the facts mentioned in the possession letter and recovered Stamp Duty and Registration Fee only on registered value of lease deeds determined<sup>24</sup> by the Jaipur Development Authority. The Sub Registrar did not levy Stamp Duty, Surcharge and Registration Fee on the instrument (possession letter) which was unregistered and should have been treated as transfer deed on which Stamp Duty, Surcharge and Registration Fee at the rate of conveyance amounting to ₹ 25.36 lakh<sup>25</sup> were to be levied on market value of ₹ 2.92 crore as per the notification *ibid*. Thus, non-consideration of the facts mentioned in recital of lease deed resulted in non-levy of Stamp Duty, Surcharge and Registration Fee of ₹ 25.36 lakh.

The State Government accepted the audit contention and replied (September 2023) that the cases have been decided by the Collector (Stamps) and raised the demand of Stamp Duty, Surcharge and Registration Fee of ₹ 36.07 lakh along with interest and penalty of ₹ 10.71 lakh. Further progress was awaited (October 2024).

#### **4.3.9.2 Lease deed issued by Krishi Upaj Mandi Samiti**

During test check of records of Sub Registrar Udaipur-II and Kota-II, it was noticed that 18 exchange lease deeds<sup>26</sup> of commercial shop/plot were issued by the Krishi Upaj Mandi Samiti. Recital of exchange lease deeds revealed that the ownership of commercial shops/plots was transferred from original allottee to another firm by the concerned Krishi Upaj Mandi Samiti. These exchange lease deeds were to be categorized as conveyance deed and

<sup>24</sup> In accordance with notification dated 20 February 2020.

<sup>25</sup> ₹ 25.36 lakh: SD of ₹ 17.26 lakh, Surcharge of ₹ 5.18 lakh and RF of ₹ 2.92 lakh.

<sup>26</sup> Two exchange lease deeds in SR Udaipur-II and 16 exchange lease deeds in SR Kota-II.



accordingly Stamp Duty, Surcharge and Registration Fee of ₹ 1.64 crore<sup>27</sup> on market value of ₹ 19.79 crore were leviable. However, the Sub Registrars had levied Stamp Duty, Surcharge and Registration Fee of ₹ 0.48 crore<sup>28</sup> on assessed value of ₹ 6.40 crore. This resulted in short levy of Stamp Duty, Surcharge and Registration Fee of ₹ 1.16 crore<sup>29</sup> as detailed in **Table 4.2** below:

**Table 4.2: Details of short levy of Stamp Duty, Surcharge and Registration Fee**

(₹ in crore)				
Sl. No.	Number of cases	Name of Sub Registrar	Amount of Stamp Duty, Surcharge and Registration Fee	Remarks
1.	2	Udaipur-II	0.12	Instruments were categorized as simple lease deed instead of transfer deeds (conveyance deed) and recovered Stamp Duty, Surcharge and Registration Fee on consideration value instead of market value of property.
2.	1	Kota-II	0.04	Stamp Duty, Surcharge and Registration Fee were recovered on consideration value instead of market value of property (which was higher than the consideration value)
3.	15	Kota-II	1.00	Applied commercial District Level Committee rate of away from road instead of near to road
<b>Total</b>	<b>18</b>		<b>1.16</b>	

The State Government accepted the audit contention and replied (September 2023) that in one case of Sub-Registrar Udaipur-II, decision has been given by Collector (Stamps) and raised the demand of Stamp Duty, Surcharge and Registration Fee of ₹ 5.73 lakh along with interest and penalty of ₹ 2.65 lakh. Remaining 17 cases are under adjudication of Collector (Stamps). Further progress was awaited (October 2024).

#### 4.3.9.3 Lease deed issued by Urban Improvement Trust

During test check of records of Sub Registrar Udaipur-II, it was noticed that a *khatedar* had consented to transfer the ownership of one-fourth of a residential plot<sup>30</sup> in favour of the other person through an unregistered Power of Attorney. Subsequently, a lease deed was issued by the Urban Improvement Trust, Udaipur in favour of the *khatedar* for *three-fourth* of the land and other person for *one-fourth* of the land on the basis of this unregistered Power of Attorney.

Since, the ownership of one-fourth of the land was transferred (November 2020) to the other person on the basis of this lease deed, the lease was required to be deemed conveyance for *one-fourth* share of residential plot and Stamp Duty, Surcharge and Registration Fee of ₹ 12.32 lakh<sup>31</sup> were chargeable on the market value of ₹ 1.40 crore. However, the Sub-Registrar did not take into account the transfer of ownership title of the land mentioned in the Power of Attorney and recovered Stamp Duty, Surcharge and Registration Fee only on

27 ₹ 1.64 crore: SD of ₹ 1.16 crore, Surcharge of ₹ 0.26 crore and RF of ₹ 0.22 crore.

28 ₹ 0.48 crore: SD of ₹ 0.34 crore, Surcharge of ₹ 0.07 crore and RF of ₹ 0.07 crore.

29 ₹ 1.16 crore: SD of ₹ 0.82 crore, Surcharge of ₹ 0.19 crore and RF of ₹ 0.15 crore.

30 Plot No. 1 Village Roopnagar, Udaipur.

31 ₹ 12.32 lakh: SD of ₹ 8.40 lakh, Surcharge of ₹ 2.52 lakh and RF of ₹ 1.40 lakh.

lease deed without levying duty at the rate of conveyance on the market value of *one-fourth* share of plot which was transferred on the basis of the lease deed. This resulted in short levy of Stamp Duty, Surcharge and Registration Fee of ₹ 12.32 lakh<sup>32</sup>.

The State Government accepted the audit contention and replied (September 2023) that the case is under the adjudication of Collector (Stamps). Further progress was awaited (October 2024).

#### **4.3.10 Non-linking of khasra numbers with District Level Committee rates in E-Panjiyan**

To provide a transparent online registration facility to people, Government of Rajasthan introduced *E-Panjiyan* on 1 December 2014. The *E-Panjiyan* system provides executants the facility of self-valuation of their properties as well as assessment of Stamp Duty and providing the payment details of registration. This system is operative at all offices *w.e.f.* 18 October 2017.

District Level Committee rates for agricultural lands situated on the National Highways, State Highways and other Major Roads are determined on the basis of distance from said roads *i.e.* 100 metre, 200 metre, *etc.*

##### **4.3.10.1 Non-linking of Khasra numbers with District Level Committee rates of agriculture lands**

Scrutiny (July 2021) of records of Sub Registrar Bikaner-II revealed that three sale deeds<sup>33</sup> were registered on 2 May 2019. The Sub Registrar assessed the market value of lands at agriculture District Level Committee rate at ₹ 0.57 crore and levied Stamp Duty, Surcharge and Registration Fee of ₹ 4.01 lakh<sup>34</sup>. However, according to the recital of sale deeds and the site inspection report (15 May 2019) of Sub Registrar enclosed with the sale deeds, the lands were situated on National Highways and market value of ₹ 1.53 crore<sup>35</sup> was required to be assessed at District Level Committee rate of agriculture land situated on National Highways on which Stamp Duty, Surcharge and Registration Fee of ₹ 10.74 lakh<sup>36</sup> were leviable.

It was observed that the Sub Registrar had generated the modified valuation sheet on the basis of site inspection containing the correct amount of recoverable Stamp Duty, Surcharge and Registration Fee. However, the Sub-Registrar neither recovered the differential amount of Stamp Duty, Surcharge, and Registration Fee nor issued a notice to the concerned parties for recovery

32 ₹ 12.32 lakh: SD of ₹ 8.40 lakh, Surcharge of ₹ 2.52 lakh and RF of ₹ 1.40 lakh.

33 Comprising area 10.95 *bigha* situated at Village Norangdesar

34 ₹ 4.01 lakh: SD of ₹ 2.87 lakh, Surcharge of ₹ 0.57 lakh and RF of ₹ 0.57 lakh.

35 ₹ 1.53 crore: (Agriculture land: 7 *bigha* and institutional land: 3.9524 *bigha*)  
Market value of agriculture land = ₹ 72,08,460 (DLC rate ₹ 10,29,780 per *bigha* x 7 *bigha*) + Market value of institutional land = ₹ 81,40,204 (DLC rate ₹ 10,29,780 per *bigha* x 3.9524 *bigha* x 2 times as the land was institutional) = ₹ 1,53,48,665 or say ₹ 1.53 crore.

36 ₹ 10.74 lakh: SD of ₹ 7.67 lakh, Surcharge of ₹ 1.53 lakh and RF of ₹ 1.54 lakh.

under Section 54<sup>37</sup>, nor made a reference to the Collector (Stamps) under Section 51<sup>38</sup> of the Rajasthan Stamp Act.

Further, the linking of  *khasra*  numbers with District Level Committee rates in *E-Panjiyan* would have enabled the realisation of the correct Stamp Duty, Surcharge and Registration Fee according to the location of the  *khasra*  in the first instance itself.

Thus, non-compliance with the provisions of the Act and non-linking of  *khasra*  numbers with District Level Committee rates in *E-Panjiyan* system resulted in short levy of Stamp Duty, Surcharge and Registration Fee of ₹ 6.73 lakh<sup>39</sup>.

The State Government accepted the audit contention and replied (September 2023) that all the three cases are under adjudication of Collector (Stamps). Further progress was awaited (October 2024).

#### **4.3.10.2 Non-linking of Khasra numbers with District Level Committee rates of residential colonies**

During test check of records of Sub Registrar Udaipur-II, it was revealed that in case of three sale deeds of residential plots<sup>40</sup> registered by the Sub Registrar, the market value of the residential plots was assessed at ₹ 94.84 lakh on the basis of residential rates of another colony and Stamp Duty, Surcharge and Registration Fee of ₹ 6.64 lakh<sup>41</sup> were levied. However, the value of the residential lands as per prevailing District Level Committee rates was ₹ 1.97 crore on which Stamp Duty, Surcharge and Registration Fee of ₹ 13.76 lakh<sup>42</sup> were leviable.

Audit observed that *E-Panjiyan* system lacked the provision to calculate the correct market value of the plot by linking the  *khasra*  number, on which the plot was situated, with the District Level Committee rate of the colony. Due to the absence of such a mechanism in *E-Panjiyan*, the concerned Sub Registrar had manually maintained the register containing the details of  *khasra*  numbers within different colonies. However, in these instances, the Sub-Registrar failed to verify the application of the correct District Level Committee rates for the plots situated on the  *khasra*  numbers as mentioned in the register.

Thus, the inability of the Sub Registrar to detect the application of correct District Level Committee rates and absence of a provision in *E-Panjiyan* to

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37 Section 54 permits the registering authority to provide a reasonable opportunity to pay the deficit stamp duty before making a reference to the Collector (Stamps) under this Act.

38 Section 51 empowers the Collector (Stamps) to determine the true market value of a property. This can be exercised either on the Collector's own initiative or when the registering officer believes that the market value of the immovable property in the document has not been accurately stated.

39 ₹ 6.73 lakh: SD of ₹ 4.80 lakh, Surcharge of ₹ 0.96 lakh and RF of ₹ 0.97 lakh.

40 Comprising an area 12470 sqft and registered between May 2019 and January 2020.

41 ₹ 6.64 lakh: SD of ₹ 4.74 lakh, Surcharge of ₹ 0.95 lakh and RF of ₹ 0.95 lakh.

42 ₹ 13.76 lakh: SD of ₹ 9.83 lakh, Surcharge of ₹ 1.97 lakh and RF of ₹ 1.96 lakh.

link *Khasra* numbers with District Level Committee rates resulted in short levy of Stamp Duty, Surcharge and Registration Fee of ₹ 7.12 lakh<sup>43</sup>.

The State Government accepted the audit contention and replied (September 2023) that the entire objected amount of ₹ 2.98 lakh has been recovered (April 2022) in one case. Decision has been given by Collector (Stamps) in another case and demand of Stamp Duty, Surcharge and Registration Fee of ₹ 3.72 lakh along with interest and penalty of ₹ 1.58 lakh had been raised. The remaining case has been rejected by the Collector (Stamps) which may be reviewed by the Department.

Regarding the non-linking of *khasra* numbers as pointed out in the paras above, the State Government informed that the work related to integration of *khasra* numbers situated at National Highways, State Highways and Mega Highways in *E-Panjiyan* system had been completed in four Circles and was under process in the remaining 13 Circles of the State. Further progress was awaited (October 2024).

#### **4.3.11 Ineffectiveness of Site Inspections of immovable properties**

Rule 57 of the Rajasthan Stamp Rules provides that in case of an instrument relating to immovable property is chargeable with duty on the market value of the property, the facts affecting duty shall be truly set forth in instruments by executants. Where the registering officer has a doubt about the correctness of facts mentioned in the instrument affecting duty, he may inspect the property himself or may direct his subordinate employee authorized by Inspector General Registration and Stamps in this regard to inspect the property to ascertain the correctness of facts and determine the market value accordingly.

According to Inspector General, Registration and Stamps Circular 11/2006 (dated 08.05.2006), site inspections of all the instruments of immovable properties valuing more than ₹ 25 lakhs were to be compulsorily conducted immediately after registration of the instrument. These directions were continued vide circular 05/2015 (dated 17.06.2015) and were modified vide circular 08/2019 (dated 19.06.2019) which prescribed that registration of instruments of immovable property having value more than ₹ 25 lakh will be done after site visit of the property.

According to Article 21(i) of the schedule to the Rajasthan Stamp Act, Stamp Duty on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Rule 58 of the Rajasthan Stamp Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the District Level Committee, or the rates approved by State Government, whichever is higher.

According to notification dated 09 March 2015, rates of agricultural land purchased for farmhouse purposes or land converted for farmhouse purposes shall be equal to the rates of residential land of that area for 500 sqmt. or

43 ₹ 7.12 lakh: SD of ₹ 5.09 lakh, Surcharge of ₹ 1.02 lakh and RF of ₹ 1.01 lakh.

10 per cent of total area or portion on which construction has been done whichever is higher, and

- (i) equal to two times of rates of agricultural land of that area for remaining portion, where the total area of the farmhouse is more than 1000 sq. meter but less than 2500 sqmt;
- (ii) equal to one and half times of rates of agricultural land of that area for remaining portion, where the total area of the farmhouse is 2500 sqmt. or more.

During test check of records of seven Sub Registrar <sup>44</sup> offices, it was noticed that 18 sale deeds pertaining to agricultural/residential/commercial/Farmhouse lands were registered during the period 2014-15 to 2020-21. For these 18 sale deeds having market value of more than ₹ 25 lakh, site inspection had to compulsorily be carried out by the Sub Registrars as per the norms. However, the Sub Registrars had conducted site inspection in case of 17 sale deeds and the site inspection was not conducted in one sale deed.

It was also noticed that in all 18 cases, the concerned Sub Registrars had assessed the market value of properties at ₹ 35.02 crore instead of ₹ 52.69 crore due to incorrect adoption of rates with respect to location and nature of properties indicating lack of effective site inspection. The case wise breakup of evasion of Stamp Duty, Surcharge and Registration Fee is as follows:

- (i) In 14 out of 17 cases, in which site inspections were carried out, the market value of properties was assessed wrongly by the concerned Sub Registrars (by applying lower District Level Committee rates instead of prescribed District Level Committee rates).
- (ii) In the remaining three cases where site inspections were conducted, the Sub Registrars assessed the market value of properties at District Level Committee rate of agriculture land instead of the applicable rates for Farmhouse. However, the relevant deeds clearly mentioned these lands as farmhouse lands.
- (iii) In the remaining one case, the Sub Registrar had not carried out inspection of immovable property and assessed the market value at District Level Committee rate instead of auction value as the plot was sold in auction by the Rajasthan Housing Board. Hence, Stamp Duty, Surcharge and Registration Fee were chargeable on auction value instead of District Level Committee value. Charging Stamp Duty, Surcharge and Registration Fee on District Level Committee value led to short levy of Stamp Duty, Surcharge and Registration Fee amounting to ₹ 23.26 lakh.

Thus, it is clear that all the mandatory site inspections were not being carried out and the effectiveness of the site inspections was doubtful in cases where they were being conducted. Thus, in the absence of effective site inspections, the concerned Sub Registrars levied Stamp Duty, surcharge and Registration

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44 Badgaon (Udaipur), Bikaner-II, Jaipur-I, Jaipur-II, Jaipur-V, Neemrana and Udaipur-II.



Fee of ₹ 2.94 crore<sup>45</sup> instead of ₹ 4.54 crore<sup>46</sup> resulting in short levy of Stamp Duty, Surcharge and Registration Fee of ₹ 1.60 crore<sup>47</sup>.

The State Government accepted the audit contention and replied (September 2023) that three cases are under adjudication of the Collector (Stamps), 10 cases have been decided by the Collector (Stamps) and the demand of Stamp Duty, Surcharge and Registration Fee of ₹ 1.15 crore along with interest and penalty of ₹ 0.45 crore, had been raised. Further, ₹ 31.46 lakh against the objected amount of ₹ 42.37 lakh has been recovered under special relief scheme in five cases. Further progress was awaited (October 2024).

### 4.3.12 IT system of the Department

In addition to the recoveries and necessary action as indicated in the previous paragraphs, the Department conducted (May 2023) Information Technology security audit of *E-Panjiyan*, which had not been conducted since its inception. The audit findings are given in the succeeding paragraphs:

#### 4.3.12.1 Design of valuation sheet

There is a single proforma of valuation sheet in *E-Panjiyan* for all types of instruments. Different type of instruments requires different assessment formats, for *e.g.* an instrument of developer's agreement requires columns in the valuation sheet for depicting owners' and developers' share separately as Stamp Duty is payable at different rates on them. Similarly, there is no column in the valuation sheet for showing the share of a partner which is transferred to other partners on retirement or showing the share transferred to a new partner on admission in the partnership firm *etc.* All such information is mentioned in the recital of the deeds and/or the supporting documents but not in the valuation sheet distinctly.

Availability of particular valuation sheets for different types of instruments would allow capturing of such distinct information for those types of instruments, thereby allowing Sub Registrar offices to effectively scrutinize the instruments presented before them for registration and enhance transparency.

Similarly, the valuation sheet may also contain a provision for the Sub Registrar to raise demand regarding additional Stamp Duty in cases such as unregistered power of attorney, intermediate transfer such as conversion of company/ partnership firm to LLP, *etc.* which the Sub Registrar may detect on scrutiny of the recital of instruments. This provision may also include recording of the reason for the demand of additional Stamp Duty and the payment details of such additional Stamp Duty. Currently, in the *E-Panjiyan* system, the information of payment of such additional Stamp Duty is not recorded against the registered instrument and the details of such payment, if made, can only be checked by searching with the name of the payee and the

45 ₹ 2.94 crore: SD of ₹ 2.06 crore, Surcharge of ₹ 0.52 crore and RF of ₹ 0.36 crore.

46 ₹ 4.54 crore: SD of ₹ 3.18 crore, Surcharge of ₹ 0.81 crore and RF of ₹ 0.55 crore.

47 ₹ 1.60 crore: SD of ₹ 1.12 crore, Surcharge of ₹ 0.29 crore and RF of ₹ 0.19 crore.

date of payment in *E-Panjiyan*. If the valuation sheet has the provision for recording of reason for additional Stamp Duty and additional Stamp Duty payment details, it would be easily and clearly ascertainable if adequate Stamp Duty has been paid on an instrument.

The State Government accepted the audit contention and replied (September 2023) that the matter is under process with NIC and the results would be communicated. Further progress was awaited (October 2024).

#### **4.3.12.2 Separation of categories of instruments**

During audit, it was seen that MIS reports of *E-Panjiyan* were being generated for broad categories such as ‘agreements’, ‘lease deeds’, ‘sale deeds’ etc. without any sub-categorisation such as agreement to sale, developer agreement, etc. within ‘agreements’ and lease deeds issued by local bodies under township policy, lease deeds issued on the basis of auction, etc. in case of ‘lease deeds’ and residential, commercial, industrial, institutional, farmhouse categories within ‘sale deeds’. Identification of specific categories of instruments requires their manual identification within the overall MIS generated by *E-Panjiyan*.

Availability of MIS reports regarding such sub-categories would allow the department to gain meaningful insights from them and leverage them in a more effective manner.

The State Government accepted the audit contention and intimated (September 2023) that a letter has been written to NIC for availability of MIS reports regarding sub-category wise search option in the entire *E-Panjiyan* portal.

#### **4.3.12.3 Registration of instruments using wrong/probable forged Challans**

Rule 27(2) of Rajasthan General Financial and Accounts Rules (GF&AR) provides that the Controlling officer shall arrange to obtain from their subordinate monthly accounts and returns in form G.A. 13 claiming credit for amount paid into the treasury or otherwise accounted for and compare them with the statement of treasury credits furnished by the Accountant General to see that the amount reported as collected has been duly credited in consolidated fund and/or public account. If in this process, wrong credits come to the notice of the controlling officer, he will at once inform the Accountant General with a view to correct the account. If any credits are claimed but not found in the accounts, enquiries shall be made first from the responsible departmental officer concerned.

Further, as per Rule 44(3) (D) (1), the department will provide service on the basis of deposit of online receipt. Remitter would have to provide GRN and CIN to the department for this purpose. Department shall also verify this data from the information available on *e-GRAS*<sup>48</sup>.

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48 Online Government Receipts Accounting System of Government of Rajasthan.

According to instructions issued (20 January 2020) by the Finance Department, Government of Rajasthan, it was mandatory for all offices to mark 'Deface' on challans on *e-GRAS*, if they are providing some services to remitters. This was also to be integrated with Departmental applications.

During the test check of the records of seven Sub Registrars<sup>49</sup>, it was noticed that the payment of Stamp Duty and Registration Fee of ₹ 1.45 crore was received on registration of 102 instruments through 124 *e-GRAS* challans. Audit analyzed the reports<sup>50</sup> of *E-Panjiyan* and cross checked them with the information available on *e-GRAS* portal which revealed that:

- 73 challans worth ₹ 0.56 crore were used in the registration of 58 instruments, the depositors of which were neither the buyers nor the sellers. The name of depositors as entered in the *E-Panjiyan* system was different from the challans presented physically with the instruments for registration, meaning that wrong challans were used for registration.
- 11 challans of ₹ 0.24 crore deposited in other/wrong heads of account<sup>51</sup> (by persons other than the executants) were used for registration of six instruments. Among these, nine challans were defaced before the date of registration of the instruments.
- 40 challans worth ₹ 0.65 crore were used for registration of 38 instruments, which were defaced before the date of submission of instruments for registration. Here also the name of the person on the challans was different from the names of the executants except in one challan.

As an instance, in one case of Sub Registrar Jaipur-V, the GRN of one challan<sup>52</sup> which was presented with an instrument<sup>53</sup> registered with Sub Registrar Jaipur-V was checked on *e-GRAS* and it was observed that the actual challan with that particular GRN was generated 16 days after the date mentioned on that challan meaning that the challan originally presented with the instrument was probably fake.

These instances showed that:

- (i) The Sub Registrars failed to verify the payments of Stamp Duty and Registration Fee before the registration of the instruments reflecting a lack of adherence to the established procedures and absence of adequate checks and balances in their functioning.
- (ii) The Sub Registrars neither verified the challans from *e-GRAS* portal under rule 44(3) (D) (1) of GF&AR nor defaced the challans at the time of the registration of instruments in compliance of instructions issued by the Finance Department.

49 Jaipur-II, V, X, Badgaon, Udaipur-I, II and Bhiwadi.

50 Report generated by *E-Panjiyan* system showing details of payments through challans, DD, e-stamps, e-receipts, stamp paper etc.

51 Six challans for 0039, three challans for 0041 and two challans for 0030 for stamp paper purchase.

52 GRN no. 46856865 dated 11 January 2021.

53 Instrument no. 916 dated 11 January 2021.

- (iii) The *E-Panjiyan* system does not have the provision to prevent the registration of the instruments in case of defaced challans or challans deposited under other/wrong heads of accounts. It also does not co-relate the name/identity of the person(s) mentioned on the relevant challans with the corresponding details on the instruments being registered.
- (iv) The *E-Panjiyan* system lacks its own payment gateway/portal through which the payment can be made by the executants at the time of registration of instruments.

Thus, non-compliance with the rules and procedures and the inability of *E-Panjiyan* system to prevent usage of wrong/spurious challans resulted in loss of revenue amounting to ₹ 1.45 crore.

The State Government accepted the audit contention and replied (September 2023) that ₹ 27.71 lakh has been recovered in 39 instruments and efforts for recovery are being made in remaining instruments. Further progress was awaited (October 2024).

However, the Department introduced the ‘view/ verify’ option in *E-Panjiyan* on July 28, 2021, after which *E-Panjiyan* no longer accepted use of forged challans for document registration.

#### **4.3.12.4 Registration of instruments through Demand Drafts**

According to rule 5 of GF&AR, all moneys received by or on behalf of Government either as dues of Government or for deposit, remittance or otherwise shall be brought into Government account without delay. Rule 48(1) provides that every Government servant receiving money on behalf of the Government shall maintain a cash book in form G.A. 48 and a register of money order, cheque, Demand Drafts, *etc.*, received in form G.A. 51. Rule 48(2) provides that all monetary transactions shall be entered in the cash book as soon as they occur and be attested by the head of office in token of check.

Further, the head of office/Drawing & Disbursing Officer shall arrange preparation of statement of receipts remitted into treasury in a month and after the end of the month shall get it reconciled with the schedule of the treasury in token of correctness of the amount paid into treasury during the month. The treasury officer shall after comparison with records return the statement so presented after putting his signature. In case of discrepancies, if any, departmental officer shall take necessary action for their rectification under Rule 59.

During test check of the records of two Sub Registrars<sup>54</sup>, it was noticed that the payments of Stamp Duty and Registration Fee amounting to ₹ 2.06 crore in 116 cases during the period 2018-21 were received through Demand Drafts. Audit analysed the reports of *E-Panjiyan* and cross checked them with the relevant registration records which revealed that Registers of challan and Demand Drafts/Cheques in prescribed form GA-51 under the rule 59 of

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54 Badgaon (Udaipur) and Jaipur-V.

GF&AR were not maintained by these Sub Registrars. The cash book has also not been maintained in prescribed form GA-48 by these Sub Registrars.

Audit further noticed that in five cases, bank challans of Demand Drafts (DDs) involving ₹ 0.14 crore were enclosed with the documents, however, payment of stamp duty and registration fee thereof could not be verified by audit. In remaining 111 cases, bank challans of DDs were not enclosed with the documents and DDs registers were not maintained. Out of these, the details of DDs had been incorrectly entered in 43 cases in the *E-Panjiyan* system with invalid DD numbers such as 0, 1234560, AFSDFS, etc. In remaining 68 cases, the DD number appeared to be correct. However, payment of stamp duty and registration fee in these 111 cases involving amount of ₹ 1.92 crore could not be verified by audit. The *E-Panjiyan* system accepted the incorrect Demand Draft numbers and generated the fee receipts and allowed registration of the instruments even in the absence of deposition of the Demand Draft amount. It is important to mention here that while the amount of the Demand Draft is deposited through challans in the bank, the *E-Panjiyan* system does not have the provision to mandatorily capture the important details of the Demand Draft as well as that of the relevant challans.

***Due to non-compliance of rules and the established procedures, lack of due diligence and shortcomings of E-Panjiyan system, loss of revenue could not be ruled out.***

The State Government accepted the audit contention and replied (September 2023) that disposal/recovery in 67 cases involving amount of ₹ 1.66 crore<sup>55</sup> has been done and necessary action is being taken in the remaining cases. The Department also intimated that provision related to recovery of stamp duty through Demand Draft or Pay Order has been withdrawn (February 2023). Further progress was awaited (October 2024).

#### ***4.3.12.5 Registration of instruments without Stamp Paper***

As per rule 126 of the Rajasthan Registration rules 1955, any instrument that has been admitted for registration, should be made over to the registration clerk for reporting about it being properly and sufficiently stamped, looking into its correct nature and correct market value.

During the test check of the records of Sub Registrar Jaipur-V, it was noticed that as per the information available on *E-Panjiyan*, in case of six registered instruments (registered between June 2020 and December 2020), Stamp Duty of ₹ 3.55 lakhs was paid through Stamp Paper. It was observed that the instruments were printed on plain papers instead of Stamp Papers of ₹ 3.55 lakh and the stamps of requisite amount were also not attached with the instruments.

55 ₹ 1.66 crore: ₹ 0.11 crore recovered in 17 cases, ₹ 1.43 crore was already deposited in 39 cases through e-GRAS challan instead of DDs, ₹ 0.04 crore was adjusted against previous deposited amount on account of power of attorney, agreement etc. in 10 cases and in one rebate of Stamp Duty of ₹ 0.08 crore was allowed under RIPS.



Thus, inability of the concerned Sub Registrars to properly verify the instruments at the time of registration and lack of necessary features in *E-Panjiyan* resulted in loss of revenue amounting to ₹ 3.55 lakhs.

The State Government accepted the audit contention and replied (September 2023) that ₹ 1.30 lakh has been recovered in two instruments and efforts for recovery are being made in the remaining four instruments. Further progress was awaited (October 2024).

*The findings and conclusions of audit mentioned in paras 4.3.12.3, 4.3.12.4 and 4.3.12.5 are based on test check of instruments in the selected SR offices. A wider occurrence of such instances cannot be ruled out.*

*In addition to reflecting a serious weakness in the functioning and internal controls of the department and severe shortcomings in the operation of the E-Panjiyan system, these instances need wider investigation and suitable action by the Department to prevent further loss of revenue to the Government.*

#### **4.3.13 Conclusion and Recommendations**

Audit noticed instances of wrong classification of instruments, non-detection of unstamped instruments in the recital of instruments presented for registration, application of incorrect District Level Committee rates for valuation of immovable properties, evasion of Stamp Duty, Surcharge and Registration Fee due to lack of conduct of effective site inspections and shortcomings in the operation of *E-Panjiyan* system.

**The State Government may ensure:**

- *strict compliance of the provisions of the Act and rules by the Registering authorities.*
- *linking of khasra numbers of various categories of lands with the applicable District Level Committee rates on E-Panjiyan system.*
- *effective site inspections of immovable properties by the registering authorities to plug revenue leakage.*
- *compliance with the established procedures in the Sub Registrar offices and address the weaknesses in the E-Panjiyan system, especially related to payment of duty, to prevent loss of revenue to the Government.*
- *implementing a payment gateway in the E-Panjiyan system as one of the options for making payment to facilitate people as well as for ensuring the security and authenticity of payments.*

**Other observations**

#### **4.4 Irregular exemption of Stamp Duty under Rajasthan Investment Promotion Scheme**

According to Clause 3 of Rajasthan Investment Promotion Scheme (RIPS) 2014 and 2019, the scheme shall be applicable for new and existing

enterprises making investment for setting up new units, existing enterprise making investment for expansion and sick enterprises making investment for their revival provided that the enterprise shall commence commercial production or operation during the operative period of the scheme. Clause 4 of the Scheme provides that an enterprise to which an Entitlement Certificate<sup>56</sup> has been issued shall be eligible to claim 50 *per cent*/100 *per cent* exemption on the Stamp Duty payable on the instruments executed for the purchase or lease of land. Further, Clause 15<sup>57</sup>/17<sup>58</sup> stipulate that in case of breach of any of the conditions of the scheme, the benefits availed under the scheme shall be withdrawn by the appropriate screening committee and on its recommendations, the concerned Department shall recover the benefits availed by the enterprise along with interest at the rate of 18 *per cent* per annum from the date from which the benefits have been availed.

During test check of records of two Sub Registrar offices<sup>59</sup>, it was noticed that two instruments<sup>60</sup> were registered (between September 2020 and December 2020) with 50 and 100 *per cent* exemption in Stamp Duty under Rajasthan Investment Promotion Scheme<sup>61</sup> as discussed below:

**4.4.1** In Sub Registrar Jaipur-I, a lease deed was executed (October 2020) between Rajasthan State Industrial Development and Investment Corporation Limited, Jaipur (lessor) and a company (lessee) for an industrial plot<sup>62</sup> situated at Rajasthan State Industrial Development and Investment Corporation Limited, Prahaldpura, Jaipur which was purchased through public auction by the lessee. 100 *per cent* exemption from Stamp Duty and Surcharge of ₹ 17.49 lakh<sup>63</sup> was granted at the time of registration of lease deed on presentation of Entitlement Certificates issued by the District Industries Centre, Jaipur (Rural) under the scheme for setting up an industrial unit for manufacturing of Handicraft items. However, the lessee sold (23 December 2020) the industrial plot without establishing the unit and again 100 *per cent* exemption was given to the purchaser at the time of registration<sup>64</sup> by the Sub Registrar. Therefore, the exemption of Stamp Duty and Surcharge amounting to ₹ 17.49 lakh was recoverable along with ₹ 1.52 lakh interest<sup>65</sup> from the lessee.

**4.4.2** In Sub Registrar Neemrana, a lease deed was executed (November 2017) between Rajasthan State Industrial Development and Investment Corporation Limited, Neemrana, Alwar (lessor) and a company (lessee) for an industrial plot situated at Rajasthan State Industrial Development and Investment Corporation Limited, Majrikath (Rajasthan State Industrial

56 Entitlement Certificate issued by the District Industries Center under Department of Industries, Government of Rajasthan for claiming benefits under RIPS.

57 Of RIPS 2014 (50 *per cent* exemption).

58 Of RIPS 2019 (100 *per cent* exemption).

59 Jaipur-I and Neemrana.

60 One sale deed and one supplementary deed.

61 50 *per cent* in RIPS 2014 and 100 *per cent* in RIPS 2019.

62 Number F-87 of 1,950 sqmt valuing ₹ 2.24 crore.

63 ₹ 17.49 lakh: SD of ₹ 13.45 lakh and Surcharge of ₹ 4.04 lakh.

64 Registration No. 9105 dated 23 December 2020.

65 Calculated up to 31 March 2022.

Development and Investment Corporation Limited, Neemrana-Second Phase). 50 per cent exemption from Stamp Duty and surcharge of ₹ 49.38 lakh<sup>66</sup> was granted on consideration value ₹ 16.46 crore at the time of registration<sup>67</sup> of lease deed on presentation of Entitlement Certificates issued by the Commissioner of Industries, Jaipur under the scheme for setting up an industrial unit for Automotive Parts. Subsequently, the lessee (Transferor Company) amalgamated into another company (Transferee Company) without establishing the unit due to which all the assets were vested to the transferee company. Therefore, the exemption of Stamp Duty and Surcharge of ₹ 49.38 lakh was recoverable along with ₹ 30.02 lakh interest<sup>68</sup> from the transferor company.

Thus, in these cases Stamp Duty and Surcharge aggregating to ₹ 66.87 lakh<sup>69</sup> and interest ₹ 31.54 lakh<sup>70</sup> were recoverable.

The State Government accepted the audit contention and replied (September 2023) that a case is under adjudication of Collector (Stamps) and ₹ 49.38 lakh against objected amount of ₹ 79.40 lakh has been recovered in another case, while the reply was silent about recovery of the remaining ₹ 30.02 lakh in this case. Further, progress was awaited (October 2024).

#### **4.5 Contribution of immovable property to partnership firms**

According to article 43(1)(c) of the schedule to the Rajasthan Stamp Act, in case of an instrument of partnership, where share contribution is brought in by way of immovable property, the Stamp Duty shall be chargeable as on conveyance on the market value of such property.

During test check of records of Sub Registrar Jaipur-X, it was noticed that an instrument of agreement to sale of immovable property was registered<sup>71</sup> on 23 June 2020. Scrutiny of recital of the instrument and the enclosed instruments<sup>72</sup> revealed that the land<sup>73</sup> of the company was converted for residential purpose by Jaipur Development Authority on 1 October 2012. The company and seven others together formed a partnership firm which was registered by Registrar of Firms, Delhi on 11 March 2013.

The company had transferred the said land as its capital contribution in the partnership firm. Jaipur Development Authority issued a lease deed<sup>74</sup> in favour of the partnership firm which was registered with Sub Registrar Jaipur-II on 25 November 2013 on which Stamp Duty of ₹ 2.83 crore<sup>75</sup> was leviable on the

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66 ₹ 49.38 lakh: SD of ₹ 41.15 lakh and Surcharge of ₹ 8.23 lakh.

67 Registration No. 3820 dated 15 November 2017.

68 Calculated up to 31 March 2022.

69 ₹ 66.87 lakh: (₹ 17.49 lakh + ₹ 49.38 lakh).

70 ₹ 31.54 lakh: (₹ 1.52 lakh + ₹ 30.02 lakh).

71 Registration number 2393 dated 23.06.2020.

72 Order of 90-A and lease deed issued by JDA Jaipur, Copy of Partnership Deed, Information downloaded from RERA website and Copy of Jamabandi Report.

73 Comprising an area 43000 sqmt situated in Village Ninder.

74 Comprising an area 37968.60 sqmt

75 ₹ 2.83 crore: SD of ₹ 2.57 crore and Surcharge of ₹ 0.26 crore

market value of ₹ 51.43 crore<sup>76</sup> of the land. However, Sub Registrar failed to consider the relevant instruments, due to which the instrument of partnership deed was notarized with Stamp Duty of ₹ 5,000 only resulting in short levy of Stamp Duty and Surcharge of ₹ 2.83 crore<sup>77</sup>.

The State Government accepted the audit contention and replied (September 2023) that the case is under adjudication of Collector (Stamps). Further progress was awaited (October 2024).

#### **4.6 Non-utilization of information available with Real Estate Regulatory Authority**

##### ***Inability of Registering Authorities to effectively inspect the records of Real Estate Regulatory Authority led to short levy of Stamp Duty and Surcharge on instrument of Developer Agreement***

During the audit of Sub Registrar, Bhiwadi, audit analysed the information<sup>78</sup> available on Rajasthan Real Estate Regulatory Authority's website<sup>79</sup> related to properties falling under the jurisdiction of Sub Registrar, Bhiwadi. Audit noticed that an instrument of Developer Agreement was executed (8 November 2017) between a landowner and a developer for a commercial project<sup>80</sup> with share of landowner and developer as 39 *per cent* and 61 *per cent* respectively. The market value of the property was ₹ 59.59 crore<sup>81</sup> on which Stamp Duty and Surcharge of ₹ 115.13 lakh<sup>82</sup> were payable. However, the Developer Agreement was not registered with Sub Registrar Bhiwadi and was instead notarized with Stamp Duty of ₹ 500 only which resulted in short levy of Stamp Duty and surcharge of ₹ 115.12 lakh<sup>83</sup>.

The State Government accepted the audit contention and replied (August 2022) that instructions have been issued *vide* circular 08/2021 (dated 19.07.2021) to use the information available on the website of public offices for recovery of Stamp Duty, Surcharge and Registration Fee. The Department also intimated (September 2023) that the objected case is under adjudication of Collector (Stamps). Further progress was awaited (October 2024).

76 ₹ 51.43 crore: (37968.60 sqmt or 45393.57 sqyd x ₹ 11,330/- per sqyd) = ₹ 51,43,09,148

77 ₹ 2.83 crore: SD of ₹ 2.57 crore and Surcharge of ₹ 0.26 crore

78 Real estate project details: RERA registration No. RAJ/P/2018/701 dated 26 April 2018.

79 <https://rera.rajasthan.gov.in>.

80 Situated in khasra no. 827/533 and 810/534 on State Highway No. 25 in village Khanpur Tehsil Tijara comprising an area of 5594.13 sqmt or 6688.09 sqyd.

81 ₹ 59.59 crore: 6688.09 sqyd X ₹ 89,100 per sqyd = ₹ 59,59,08,819.

82 ₹ 115.13 lakh: SD of ₹ 95.94 lakh and Surcharge of ₹ 19.19 lakh calculated at 2 *per cent* on developer's share and one *per cent* on owner's share as per article 5(e) of the schedule to the RS Act. Surcharge is calculated at 20 *per cent* on SD as applicable from 08 March 2016.

83 ₹ 115.12 lakh: SD of ₹ 95.93 lakh and Surcharge of ₹ 19.19 lakh.