

CHAPTER V STAMP DUTY AND REGISTRATION FEES

5.1 Results of audit

Test check of the records of the offices of the district registries and sub registries conducted during the year 2007-08, revealed non/short levy of stamp duty and registration fees amounting to Rs. 20.45 crore in 449 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Nature of irregularity	No. of cases	Amount
1	Computer aided Administration of Registration Department – CARD (A review)	1	-
2	Loss of revenue due to incorrect adjustment of stamp duty	43	7.05
3	Misclassification of documents	115	5.23
4	Short levy of stamp duty and registration fees	133	2.95
5	Adoption of incorrect rate of stamp duty	62	2.42
6	Undervaluation of properties	46	1.82
7	Incorrect exemption of duties	13	0.18
8	Other irregularities	36	0.80
	Total	449	20.45

During the year 2007-08, the department accepted underassessments and other deficiencies of Rs. 76.15 lakh in 61 cases, of which 35 cases involving Rs. 30.37 lakh were pointed out in audit during the year 2007-08 and the rest in the earlier years. Out of this, Rs. 12.98 lakh was collected in 29 cases.

A few illustrative cases involving Rs. 14.83 crore, and a review on “**Computer aided Administration of Registration Department – CARD**” are mentioned in the following paragraphs.

5.2 Computer aided Administration of Registration Department - CARD

Highlights

The department did not have any 'disaster recovery and business continuity plan'.
(Paragraph 5.2.8)

Non-mapping of articles as per Indian Stamp Act resulted in discrepancies in CARD master data.
(Paragraph 5.2.10)

Non-mapping of business rules in respect of lease agreements, registration fee etc., resulted in short levy of stamp duty.
(Paragraph 5.2.12)

Undervaluation of properties due to adoption of incorrect market value.
(Paragraph 5.2.13)

Lack of proper controls resulted in registration of prohibited properties.
(Paragraph 5.2.17)

Lack of internal control mechanism lead to non-transformation of the vision into consistent performance.
(Paragraph 5.2.20)

5.2.1 Introduction

The Government of Andhra Pradesh envisaged (1998) the scheme of computerisation of activities of Stamps and Registration Department to overcome the problems inherent in the then existing manual system of sale of stamps and registration of documents, marriages, etc. The software for e-governance project - called Computer aided Administration of Registration Department (CARD) - was got developed by National Informatics Centre (NIC), Hyderabad. The project was initially operationalised in 214 registries (February 1999) and progressively extended to all the 387 registries in the State as of March 2008.

The objectives of CARD, *inter alia*, were to introduce a transparent system of valuation of properties easily accessible to citizens, which would bring speed, efficiency, consistency and reliability, replace the manual system of indexing, accounting, reporting and copying and filing of documents.

The department also expected to achieve the secondary objectives which included, *inter alia*, delivering all the registration services across the counter, bringing in maximum user friendliness, permitting modular development and implementation, enabling migration to a network-computing environment in future, and also adaptable to statutory changes in registration procedures.

Accordingly four service levels were notified¹ which were prominently displayed at all the registries.

The total cost of project (March 2007) was Rs. 13.48 crore (both software and hardware). An annual expenditure of Rs. 1.19 crore is being incurred for maintenance and networking of the project.

5.2.2 Organisational set up

At Government level, Principal Secretary, Revenue Department heads implementation and monitoring of CARD. At Commissionerate level, one Assistant Inspector General, who directly reports to the Commissioner and Inspector General (Registration and Stamps)-C & IG (RS)-is incharge of CARD and is assisted by one Superintendent and two Senior Assistants. At the registry level, a Data Processing Operator, who reports to the District Registrar (DR)/Sub Registrar (SR), is responsible for maintenance of CARD application.

5.2.3 Information system set up

The CARD application was developed by National Informatics centre (NIC) with Oracle 10g as back end. The operating system in use is Red hat Linux (Version 3.00) and Novel as network software. The IT system architecture was client server. The communication is through 2 mbps dedicated leased lines.

5.2.4 Criticality of the database

The details - like names, photographs, signatures and addresses - of the buyer/seller, the location, and value of the property are captured during the process of registration and are thus undeniably critical. For the purposes of the department itself like for issuing Certificate of Encumbrance and certified copies, for correct classification of the document and assessment of duties leviable the database is immensely useful.

The revenue from stamp duty and registration fees increased from Rs. 2,013.45 crore in 2005-06 to Rs. 3,086.06 crore in 2007-08.

5.2.5 The process of registration through CARD

A document submitted for registration is first acknowledged by the sub registrar. After determining the nature of document, a check slip, displaying name of the parties and value of the property, is generated. While generating 'check slip'; a system-generated number, called document number is assigned. Market value is picked up by the software from the latest 'Master values' available in the application. Stamp duty/registration fee is leviable on a 'final taxable value' (FTV), picked up by CARD, which is equal to market value (MV) or consideration value (CV) whichever is higher. After ensuring that the requisite duties are paid by the executants the document is registered. The document is scanned for archival before handing it over to the executants. A

¹ Market Value Assistance (5 minutes), Issuing Encumbrance Certificate (10 minutes), Registration Process (one hour) and Certified Copy (30 Minutes)

'Regular Document Number' is assigned manually to each check slip number in respect of which the process of registration has been completed. This regular document number followed by year of registration is unique to each document and is used for all future references/transactions.

5.2.6 Audit objectives

Audit of the application software (CARD) was conducted covering the period from implementation i.e., from February 1999 to March 2008 with a view to evaluate and assess whether the application is efficiently developed to improve the quality of the work in the department and objectives were achieved, with regard to

- performance and utilisation of CARD was consistent;
- data captured in the system were complete and correct;
- built-in input, process and output controls were adequate;
- business rules were incorporated in CARD;
- internal control framework and monitoring mechanism were adequate;
- user charges were utilised for the purpose collected; and
- outsourcing contracts address confidentiality and integrity of information as well as correctness of the process being carried out.

5.2.7 Scope and methodology of audit

The data contained in data tables furnished by the registries was scrutinised using the generalised audit software –IDEA. The results of queries were compared with the physical records/documents available at the offices of the Commissioner and 16 registries² (eight district registries and eight sub-registries).

Audit findings

General controls

5.2.8 Lack of documentation

Audit observed that though the department had documented (September 1997) a plan of action titled "Task Ahead" which enumerated 17 tasks to be undertaken earmarking clear roles and responsibilities and indicating the target dates (15 September 1997 and 28 May 1998), eight important tasks viz., generation of Accounts, integration Stamp of counter with CARD, generation of MIS, documentation, preparation of user manual, developing of software for District Registrar, Deputy Inspector General and Commissioner &

² DR Eluru, DR Hyderabad, DR RR (East), DR Medak, DR Tirupati, DR Vijayawada, DR Visakhapatnam, DR Rangareddy, SR Dwarakanagar, SR Kankipadu, SR Narsapur, SR Patamata, SR Renigunta, SR Secunderabad, SR S.R.Nagar and SR Bhimuniapatnam

Inspector General, Provide for multi-point registration service and interface with other Government departments were not achieved even after lapse of 10 years of implementation.

Initial feasibility report, user requirement specifications and system requirement specifications were not prepared and approved before the implementation of the application software. The department has not planned or documented any disaster recovery and business continuity plan so far.

After this was pointed out, it was stated (October 2008) that the issue was under consideration.

5.2.9 Achievement of primary objectives

The primary objective of implementation of CARD was to achieve the service levels as contained in the citizen charter³.

5.2.9.1 Registration process

Upon querying the database, it was noticed that in all the 16 offices test checked, delays were noticed in the process of registration. Delays were noticed in all the stages, viz., acknowledgement of document to generation of check slip, generation of check slip to completion of registration, registration to scanning of document, scanning to delivery of document to the party. In case of 85,276 out of 9,63,764 cases, the time taken between acknowledgement and registration was more than one day. Individually, the delays ranged between 2.67 per cent to 24.86 per cent of the total documents registered in that office.

After this was pointed out, the department stated (October 2008) that the system is being operated by the staff of the department having limited technical knowledge and the time taken for registration would be reduced in future.

5.2.9.2 Issue of encumbrance certificate⁴

Though ECs were generated and issued within time, as per the citizen charter, it was noticed in all the 16 offices test checked that the local database relating to transactions like sale, hypothecation, gift, release etc., in many cases contained irrelevant and illogical data as detailed below:

- there were blanks in the columns indicating boundaries on the four directions - North, East, West and South;
- the details of boundaries on the South and North and East and West were the same, which is impossible;

³ Registration process (one hour); Encumbrance certificate (EC) (5 minutes), Market Value (10 minutes)

⁴ EC is a Certificate, which shows the encumbrances (transactions like sale, mortgage etc.) on a particular property up to the date of generation

- all the boundaries of the property were displayed as “do”, “road”, “full” etc.

After this was pointed out the department stated (October 2008) that a well-defined action plan was envisaged in June 2008 for taking corrective measures and verifying the correctness of the EC details.

5.2.9.3 Generation of EC through internet

A facility was provided for members of public to obtain ECs online through internet. It was, however, observed in case of all the 16 offices test checked that the ECs generated through internet contained an explanation stating that the entries of documents registered after a particular date, which was two to three years earlier, were excluded from the EC. Thus the facility of making available the EC with updated information through internet is also denied to the public.

After this was pointed out, the department stated (October 2008) that due to lack of storage in the server, it was not possible to issue ECs through internet with up-to-date details and efforts would be taken to increase the storage capacity in future.

5.2.9.4 Replacing manual system

Though the automation was implemented with an objective of replacing the manual system of copying and filing of documents, it was noticed in all the 16 offices test checked that out of the 26 major records/registers which were maintained prior to computerisation, 20 records/registers are still maintained manually. The other six were maintained manually as hitherto and also through CARD.

Though one of the objectives was to replace the manual system of indexing, in the 16 offices test checked, a hard copy of the registered document was also kept, even when the registered document was scanned. This indicates that maintenance of manual record was not discontinued and points out to the redundancy of work and also of records.

After this was pointed out, the department stated (October 2008) that procedure, which is carried out manually, would also be computerised in a phased manner.

5.2.9.5 Non-utilisation of facilities in CARD and redundancy of work

Though the details of cash receipts are entered in CARD, in all the 16 offices test checked the cash receipts were not being issued through CARD and reports on cash receipts were also not being reconciled with cash receipts entered into CARD resulting in redundant work of posting the cash receipts into CARD.

Further, for the purpose of compiling and submission of the periodical reports (Additional Revenue Statements) indicating the number of documents

registered and duties collected, the figures were being put together manually instead of generating these through CARD. The Accounts Module relevant to various registers like Account A (abstract of daily documents registered and revenue realised) and Account H (Consolidation of all accounts) is not being utilised and these statements are being compiled manually.

A test check of various reports viz., revenue details and number of documents registered, compiled manually and those generated through CARD for a particular period revealed that the details in the two reports do not agree indicating that the database is not complete and cannot be relied upon. Further, the data relating to number of documents presented for registration, regular document numbers assigned to such documents and documents pending assignment of regular number did not reflect the real position.

After this was pointed out, the department stated (October 2008) that the cash module in CARD was not used effectively by field staff and steps would be taken to automate the challan information by leveraging core banking facility of State Bank group banks.

5.2.9.6 Post manual registrations⁵

Even after 10 years of implementation and releasing numerous versions the number of “Post-manual Registration” constituted about 0.55 *per cent* to 26.50 *per cent* in the 16 offices test checked.

After this was pointed out, the department stated (October 2008) that efforts would be taken to reduce the post manual registrations.

5.2.9.7 Non-integration of CARD with other departments

A number of benefits accrue by providing interface with other Government departments/ agencies. Such interface would also have a direct impact on the functioning of the Registration Department and their revenues. As such it is mandatory to have an interface between CARD and applications running in various departments/agencies such as local authorities-to keep an up-to-date database of permitted house properties, to know the extent of site and built-up area permitted by local body, to update the classification of land use in urban areas and mandal offices-to keep an up-to-date database of prohibited properties, conversion of agricultural land into non-agricultural land, classification and nature of use of land in rural areas. Though this was envisaged and had to be completed by April 1998, the same was not achieved till date (August 2008).

After this was pointed out, the department stated (October 2008) that due to lack of storage space, integration with other departments was not done so far.

⁵ Post manual registration is a facility available to the sub registrar when classification of a document is not available in the CARD application. Market value can be altered in this facility

Application controls

Non-mapping of business rules into the application

5.2.10 Input controls

The database of any computerised system have to be correct and complete in all respects to ensure that the procedures and controls reasonably guarantee that the data received for processing are genuine, complete, accurate and properly authorised and data is entered accurately.

The following discrepancies were noticed which were a result of absence of data validation checks:

- Under the provisions of the Act, no document (other than a will) shall be accepted for registration after 120 days from date of execution. Test check in 16 offices, however, revealed that this provision was not built into CARD and there were 636 sale deeds where the documents were presented for registration after 120 days of execution.
- There were no input validation checks, evidenced by the fact of presence of “zeroes” in fields containing dates of execution, presentation and registration.
- A document is presented for registration before the registering authority after both the parties execute it. However, audit observed that there were 731 cases where the date of presentation was prior to the date of execution.
- A stamp paper is purchased, document written and executed by both the parties before presenting it to the registering authority. This provision was not built into CARD and in 619 cases of sale deeds, the date of purchase of stamp was later than the date of execution.
- Registration fee at Rs. 500 has to be collected if a document is registered on a holiday. A review of the database revealed that there was no provision in CARD to reflect the cases of registration on holidays and collection of the fee. A query on the database of the 16 offices test checked exhibited that there were 7,192 cases where the registrations were done on a Sunday. A test check of Account A, which records all the documents registered, however, did not indicate that these were registered on a holiday. The fee collectable works out to Rs. 35.96 lakh.
- Village code and lease period, which are important for computation of duties, were not made mandatory, resulting in non-capturing of the data in 1,000 cases (village code) and 1,416 cases of lease deeds (lease period).

After this was pointed out, the department stated (October 2008) that measures would be taken to rectify the deficiencies in the ensuing version.

5.2.11 Discrepancies in CARD Master Data

5.2.11.1 Master codes not in conformity with the Articles of Schedule I-A

The Schedule I-A of the Indian Stamp Act, 1899 contains 56 articles specifying various nature of documents and the duties leviable thereon. However, it was noticed that the master codes incorporated in CARD were not in conformity with the 'Articles under Schedule IA'. This inaccuracy would not only render the task of classification of a document difficult, but also would result in improper computation of duties. Further, only 29 out of 56 major codes were included in CARD.

After this was pointed out, the department stated (October 2008) that the matter would be examined and the same would be incorporated in CARD.

5.2.11.2 Articles not prescribed in the Schedule

Audit also observed that certain classes of documents like agreement of sale-cum-general power of attorney, development agreement cum general power of attorney and mortgage deed in favour of local bodies were also registered at the registries, which were not provided for in the CARD.

5.2.12 Short levy of stamp duty in case of lease deeds

Under the provisions of Article 31 of Schedule IA of the Indian Stamp Act, effective from August 2005 where a lease is granted for a period in excess of 360 months, stamp duty is leviable at five *per cent* on higher of the market value of the property or 10 times the value of average annual rent reserved (AAR) and registration fee is chargeable at 0.5 *per cent* on 10 times the value of AAR.

Further, where the lease is granted for a fine or premium or for money advanced, and also involves payment of rent, stamp duty is leviable at five *per cent* on higher of the market value of the property or the amount of advance or premium, in addition to duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered.

A query on the database, however, revealed that:

- In respect of a lease where the period exceeded 360 months, stamp duty was levied only on a certain value, which was far less than the chargeable value (i.e., FTV- market value or AAR of the property whichever is higher). The registration fee was also similarly computed short by the system.
- In respect of leases wherein payment of advance was mentioned, stamp duty was to be levied on the AAR depending upon the period of lease, in addition to stamp duty at five *per cent* on higher of the market value of the property or the amount of advance or premium. Audit observed that the above parameters relating to lease were not incorporated into CARD thereby resulting in short levy of stamp duty and registration fee.

5.2.12.1 Test check in 16 offices revealed that an amount of Rs. 152.08 lakh towards stamp duty in 67 cases and Rs. 8.67 lakh towards registration fee in 12 cases was short levied.

After this was pointed out, the department stated (October 2008) that the concept of market value in case of leases was made applicable from August 2005 and the same was not incorporated in CARD.

5.2.12.2 Audit observed that 6,66,098 sale deeds were registered during the period 1999 to 2008. Scrutiny of these cases revealed that the stamp duty was levied on a certain FTV arrived by CARD, which was not equal to consideration value (CV), market value (MV), or 18 times of ARV as detailed below:

- in 25,848 cases, stamp duty was levied on FTV, which was not equal to either the MV or the CV;
- in 4,244 cases of registrations between the years 2000 and 2008 both CV and MV were '0'. Further, in 50 cases out of above 4,244, all values i.e., FTV, CV and MV were zero; and
- the FTV was zero in respect of 707 cases. However, the database exhibited Rs. 17,21,355 as stamp duty payable in those cases.

Apparently CARD does not support this provision of the Act while computing the FTV for levy of stamp duty in respect of a document. It does not reckon automatically, the higher of the consideration expressed and the market value. This is a serious deficiency and the continuance thereof would result in short levy of duties unless the user is vigilant.

After this was pointed out, the department stated (October 2008) that the matter would be examined and incorporated in the ensuing version of CARD.

5.2.13 Undervaluation of properties due to adoption of incorrect market value

As per the circular issued in September 1998 by the Commissioner, the word 'Urban' refers to all residential and commercial properties, whether located in municipal areas or in major/minor panchayats covered by ward, block and door numbers, and the phrase 'Rural' to all agricultural property. The rate, termed rider rate, contained in the jurisdiction register maintained at the registry, is to be applied, to a property whose details are not available in basic register. The circular also envisages that documents relating to agricultural lands fit for house sites whose unit rate appears in the basic registers, should be classified under 'Agricultural land fit for house site'.

During the course of audit of Renigunta registry, it was seen from the basic registers that as on 1 August 2007 unit rates per acre of certain agricultural lands situated at Daminedu and Tiruchanur villages and fit for house sites were Rs. 1.32 crore and Rs. 2.20 crore respectively.

The rate per square yard (on the basis of rate per acre) in respect of the above lands would be Rs. 2,725 per square yard (Damedu Village) and Rs. 4,540 per square yard (Tiruchanur Village). The general procedure is that the rates adopted should not be less than the rates mentioned above in respect of properties situated in the above survey numbers of these villages, though the plots fall under urban locality.

It was noticed in case of 11 documents that CARD adopted unit rates (appearing in jurisdiction register) of Rs. 1,185 per square yard (Damedu village) and Rs. 3,630 per square yard (Tiruchanur village) contrary to the above general procedure. Non-adoption of minimum rate applicable to the above survey numbers resulted in undervaluation of properties and consequential loss of revenue. The registering officer accepted the system-generated rate, which was less than the rate leviable as per manual basic register.

After this was pointed out, the department stated (October 2008) that the matter would be examined and corrective measure taken in the ensuing version of CARD.

5.2.14 Short levy of registration fee in respect of agreement of sale-cum-general power attorney⁶ documents

From December 2005⁷, registration fee chargeable was revised from 0.5 *per cent* and was fixed at Rs. 2,000 in respect of agreement of sale-cum-GPA, irrespective of the value of the document.

Test check revealed that the above criteria for computation of registration fee was not incorporated in CARD and it calculates 0.5 *per cent* of the final taxable value which works out to less than Rs. 2,000 where FTV is less than Rs. 4,00,000. This resulted in short computation of registration fee of Rs. 15.87 lakh in 1,534 cases in 16 registries during the period between November 2005 and March 2008. Test check of 270⁸ cases confirmed short levy of registration fee amounting to Rs. 2.32 lakh.

After this was pointed out, the department stated (October 2008) that the matter would be examined and corrective measure taken in the ensuing version of CARD.

5.2.15 Market value unit rate of certain properties not indicated in basic registers

A query on the database revealed the following:

- The unit rate in case of some classes of properties viz., dry land, wet land single crop, Government land, assigned land and agricultural land fit for house sites was zero.

⁶ A document creating an Attorney holder

⁷ G.O.Ms.No.2045, Revenue (Registration-I) Department, dated 28.11.2005

⁸ In six offices - DR Eluru, DR Rangareddy (East), DR, Visakhapatnam, SR Kankipadu, SR Narsapur and SR Patamata

Cross verification with the basic registers maintained manually at the registry revealed that no property was assigned unit rate as zero.

- Taking into account the extent of land and the extent unit rate of market value, CARD would compute the market value of the property. In the 16 offices test checked it was noticed that in 18,454 sale deeds (out of 6,66,108); the market value of the properties was exhibited as nil by CARD. Out of these in 14,400 cases though extent of land and extent unit rate was available, the CARD exhibited MV as nil.

It was seen, however, that wherever the market value was shown as zero by CARD, the FTV was computed with manual intervention, thereby preventing short levy of duties. Non-incorporation of correct values in CARD is a vulnerability, which may lead to computation and levy of lesser quantum of duties, unless the user is vigilant.

After this was pointed out, the department stated (October 2008) that the matter would be examined and corrective measure taken.

5.2.16 Gaps in documents numbers in the database

Every registration through CARD is initially assigned a check slip number, which is system-generated. Each check slip is subsequently assigned a regular document number, manually, according to a register of total documents registered (Account-A). It was noticed that during the period from 1999 to 2008, regular document number was not assigned in 14,399 cases.

A query on the database revealed that there were 312 gaps in regular document numbers and details connected thereto could not be traced in the CARD database of Renigunta and Dwarakanagar registries. As a result the details of transactions in respect of these documents cannot be retrieved through CARD. ECs on these properties cannot also be generated through CARD.

Test check of four check slips in Dwarakanagar registry revealed that regular document number 1/2006 was assigned to four different check slips (number 1,6,7 and 10). Cross verification with manual register of documents registered, however, revealed that checkslip number 10 was also assigned another regular document number (7/2006) besides 1/2006. It was also seen that checkslip numbers 1,6 and 7 were not cancelled.

It is obvious from the above variation that there is no procedure in CARD to get an end-of-the-day report on whether or not every check slip has been assigned a unique document number, and a system of periodical reconciliation of the total number of checkslips issued and the regular document numbers assigned. There is also no system in place to supervise/authorise the data entry of regular document number into CARD.

After this was pointed out, the department stated (October 2008) that the department would explore the possibility to implement primary key to ensure foolproof unique document number for every document.

5.2.17 Registration of prohibited properties

The Government, by way of executive orders/gazette notifications, notifies that no documents dealing with certain properties/survey numbers could be registered until the happening of a certain event. Upon happening of that event, however, the Government de-notifies such properties. There is a facility to incorporate the information on notifications/de-notifications, in CARD/sub registrar office masters incorporating therein the gazette number/date, through which the property was prohibited from being registered by the Government. This would aid the registering officer in repudiating the registration of any document relating to such properties.

Test check revealed that in two offices⁹, 218 documents relating to seven survey numbers, which were so prohibited by the Government, were registered between the years 1999 and 2007.

After this was pointed out, the department stated (October 2008) that no prevention has been made to stop the process of registration of prohibited properties and validation checks for prohibited property would be incorporated in the ensuing version.

5.2.18 Deficiencies in stamp module

As per the existing procedure and in accordance with the provisions of the Act/Rules, after receipt of stamps from the Security Press, Nasik, they are released to district treasury office by the General Stamp Office (GSO), Hyderabad and then to the sub treasury offices (STOs). In the Districts, District Registrars/Sub-Registrars/Stamp Vendors purchase the stamps from the STOs. Stamps are also sold to public through the sale counters at GSO.

As far as Registration Department is concerned, the stamps (stamp papers of various denominations, special adhesives, non-judicial stamps, revenue stamps etc.) are procured from the STOs for sale to general public at the departmental stamp counters in the District Registrars/Sub-Registrars offices.

The stamps purchased by the public can be utilised anywhere in the State for registration of various transactions. Since, the duties payable are primarily realised through sale of stamp papers, the registering officer, while registering a document has to ensure that the stamp paper used is genuine. Since the stamps used by the public for registration, though purchased anywhere in the State, should have been invariably released through GSO at the first instance, a mechanism has to exist to enable the registering officer to cross verify with the GSO the genuineness of the paper. A periodical report has to be provided in the CARD on the various stamp papers used for registration, to be sent to GSO for ensuring that the series/numbers have been released through GSO.

It was, however, noticed during audit, that the stamp number, which is very crucial for establishing genuineness of the stamp paper, is not being captured while registering a document.

⁹ DR Medak and SR Renigunta

This aspect is of much importance as a huge amount of revenue is involved in sale of stamps and it is the primary duty of the registering authority to establish the genuineness of the stamp paper in view of irregularities¹⁰ noticed in the past.

After this was pointed out, the department stated (October 2008) that to prevent fake stamps, efforts are being made to restrict the usage of stamp papers above Rs. 100 and collect the stamp duty through designated banks. The reply is not relevant as the primary duty of the registration and stamps department is to provide an assurance of the transaction between two parties, besides collection of revenue. A document on a fake stamp paper even less than Rs. 100 would make the transaction null and void.

5.2.19 Incorrect exemption of duties and fees under Industrial Policy 2005

In respect of certain sale deeds, 50 *per cent* exemption in duties was allowed by the Government of Andhra Pradesh, under Industrial Policy 2005. Such exemption was allowed subject to the condition that the purchasers should not be manufacturing the scheduled products and the date of commercial production should be between 1 April 2000 and 31 March 2005.

It was observed that there is no provision in CARD to capture the two conditions on which the exemption is allowed. Thus there exists a threat of allowing the exemption on ineligible documents.

Test check of documents where such exemptions were allowed in two registries¹¹ revealed that exemption was allowed on ineligible documents in the following cases.

5.2.19.1 Product not mentioned

A sale certificate was registered (May 2006) by the registry by allowing 50 *per cent* exemption of duties amounting to Rs. 33.06 lakh, though the purchaser had not indicated the product to be manufactured in the scheduled property. This apart, the value of property transferred included value of plant and machinery, which did not qualify for exemption.

5.2.19.2 Resale of property

Such exemption amounting to Rs. 6.53 lakh (Rs. 6.25 lakh towards stamp duty and Rs. 28,000 towards registration fee) was also granted on two documents registered in August 2001 and February 2002. In both the cases, the vendee, instead of commencing commercial production during the scheduled period, had sold a part of the property in 2003 and 2004 respectively. This indicates that the exemption already granted is irregular and the same is recoverable from the party to whom the exemption was initially granted.

¹⁰ Stamps scam during the year 2002

¹¹ DR, Medak and SR, Narsapur

After this was pointed out, the department stated (October 2008) that the matter would be examined and corrective measure taken in the ensuing version of CARD.

5.2.20 Lack of monitoring and internal control mechanism

5.2.20.1 Verification of data

As both client and server are independent at the registries, index data¹² is being backed up and uploaded to central server to facilitate issue of EC/document search. However, transactions data relating to classification of document, stamp duties/registration fee levied etc., of the registries is not transmitted to the C & IG (RS), for scrutiny, resulting in non-detection of errors and loss of revenue, which could have otherwise been restricted/curtailed through executive instructions and guidelines.

Audit observed that the existing internal control mechanism was not effective for reviewing the transaction data by management. There was also no system to generate logs for recording actions of users, which would provide the system administrators and organisation management a certain degree of control.

5.2.20.2 Inadequate capacity planning

Audit observed that due to poor capacity planning, the index data of only 287 out of 387 registries is updated at the office of C & IG (RS), Hyderabad, resulting in non-availability of details of property in respect of over 100 registries. On being pointed out it was replied that data is not being updated due to insufficient storage capacity and the matter is under consideration to increase the capacity.

5.2.20.3 Change management controls

Audit scrutiny revealed that the department did not have a policy relating to change management, testing, quality assurance and documentation. It was also observed that CARD did not archive the pre-revised market values, which are usually revised once in a year. While revised market values were entered in the database, non-availability of pre-revised ones in the database would impede the SR registering a pending document¹³ from registering it at the appropriate value.

5.2.20.4 Inconsistent procedure of assigning regular document numbers

Any document registered through CARD can only be retrieved through the regular document number assigned to it. Certain instruments like “court sale certificates”, “loan orders to farmers” were assigned negative numbers for their identification. Audit observed, however, that there was no uniform

¹² Index data is the data relating to seller/buyer name, property details viz., extent, survey number, boundaries, consideration value and document number/year

¹³ A document kept pending without registering for want of clarification from higher authorities

practice in assigning regular document numbers to the above instruments evidenced by the fact such negative numbers were also assigned to other class of documents viz., sale deed, mortgage without possession, deposit of title deeds, partition, cancellation deed etc.

After this was pointed out, the department stated (October 2008) that an MIS would be developed in the ensuing version of CARD to identify such type of errors.

5.2.21 Non-compliance with circulars issued by IGRS

During the course of audit it was observed that many circulars issued by the C & IG (RS) on CARD were not complied with, as detailed below:

- It was noticed that the register for monitoring facilities management indicating therein the details of hardware repaired/replaced, time of replacement etc., as prescribed in May 2001, was not being maintained in three out of 16 offices test checked.
- It was directed (July 2002) that registration of documents like development agreement-cum-GPA, sale agreement with/with out possession, lease deeds has to be done online and not through post-manual option. It was however noticed in all the 16 offices test checked that in contravention of the above, the said transactions were completed through post manual option in 3,819 cases even after specified period.
- To reduce dependence on/adoption of “rider rates”¹⁴, it was instructed in December 2001 that proposals have to be sent to the market value revision committee for fixation of market values of the properties which were assessed through rider rates since February 1999. An option has been provided in CARD to generate list of documents assessed through rider rates. However, it was observed that in all the 16 offices test checked, no such proposals were sent.

After this was pointed out, the department stated (October 2008) that henceforth it would be ensured that all the circulars issued would be implemented.

5.2.22 Discrepancies in outsourcing contracts relating to CARD

The Stamps and Registration Department entered into contracts for software development, networking, facilities management, BOOT¹⁵ system with outside agencies for implementation of CARD. Audit noticed certain discrepancies/deficiencies, which have a direct impact on working of CARD as enumerated below:

¹⁴ Rider rate is the highest rate/market value applicable to the locality or ward/block of the locality used by department. Rider rates are generated by computer in those cases where door number/block numbers do not exist in a locality. These are prepared by Market Value Guidelines and are available with the department

¹⁵ Build own operate and transfer model

5.2.22.1 Networking - with Bharat Sanchar Nigam Limited - Non-monitoring of downtime calculation

With an objective of networking of Registration and Stamps Department to give “anywhere”, services like issuing EC of any property and certified copy of any registered document from any sub registrar office or e-seva centre in the State or internet and carry out any transaction at any office of the SR or DR in the State for greater convenience of public, an MOU was entered into with Bharat Sanchar Nigam Limited (BSNL) in September 2003. All the 387 registries were proposed to be networked at a cost of Rs. 4.71 crore. One of the conditions stipulated in the MOU was to have a minimum uptime of 97 *per cent* from DR offices to IGRS and minimum 95 *per cent* uptime from DR offices to SR offices. The MOU stipulated that failure to maintain the above uptime would entail levy of penalty. For calculation of downtime/uptime a Network Monitoring System Software (NMS) was provided by BSNL in all offices.

- Test check revealed that the NMS supplied by BSNL was not considered useful by the department for uptime/downtime calculations. As such till March 2005 the quarterly dues to BSNL were arrived at without calculating the downtime/uptime. In March 2005, BSNL replaced the NMS with an auto locking facility (ALF) but did not impart training to the departmental staff for its operation, though provided for in the MOU. Audit observed (July 2008), that the performance of leased lines network was not satisfactory and 40 to 50 stations out of 387 stations were down everyday. It was also observed that no penalty was levied/recovered from BSNL even when 20 locations were fully down during one quarter.
- Test check revealed that there was no mechanism to compute the down time. It was seen from the records made available to audit, that the amount of penalty of Rs. 43.40 lakh was computed and made available by BSNL. Though this was withheld by the department as provisional penalty, because of lack of working knowledge of ALF, they were neither able to compute the penalties independently, nor to verify the correctness of the computations given by BSNL.

After this was pointed out, the department stated (October 2008) that the downtime was due to power failure and technical problems and an amount of Rs. 43.40 lakh was deducted as provisional penalty. It was also replied that as on date the number of downtime stations were also drastically decreased.

The fact remains that the department cannot compute the down time independently and have to accept the data provided by BSNL.

5.2.22.2 Facilities management - with M/s CMS computers limited - Non-levy of penalty for delays in facilities management

The department entered into a contract (June 2007) with M/s CMS computers limited, Hyderabad (CMS) for facilities management (FM). The contract included rectification of all problems relating to servers, scanners, printers

etc., in the CARD centre at all the registries in the State, within a prescribed time schedule. The total cost payable to CMS for two years (June 2007 to May 2009) was Rs. 2.21 crore. The contract also provided for levy of penalties for non-compliance with the time schedules.

Test check of FM compliance in one (Secunderabad) registry revealed that the date/time of complaint/rectification was not being filled up in the acknowledgement, in the absence of which the delays could not be calculated.

Further test check of complaints and rectifications relating to all registries in one quarter, from June 2007 to October 2007, revealed that the CMS failed to comply with the various time schedules prescribed in the agreement. Though penalty amounting to Rs. 86.26 lakh is leviable, it was not levied.

After this was pointed out, the department stated (October 2008) that penalty would be deducted from CMS as per the tender conditions.

5.2.22.3 Deficiencies in BOOT model project implemented in newly formed offices

With a view to provide better services to the citizens, the Registration Department reorganised (December 2007) the working by introducing BOOT model in 45 newly formed SR/DR offices with the objectives to provide better and speedy services, decentralisation and public convenience.

An agreement was entered into with an external agency M/s Tera Software Limited, Hyderabad (TSL) in November 2007 for handling of CARD operations in these offices. Keeping in view the objectives of the Government, viz., to employ modern technology without involving itself in the procurement and installation of hardware, non-core functions were to be handed over to TSL. Audit noticed that there were deficiencies in the model as detailed below:

5.2.22.4 Deficiencies in selection of vendor and terms of payments

The work was awarded on nomination basis thereby losing an opportunity of getting the lowest rates. Though the department was permitted¹⁶ to award the work on nomination basis initially, subject to finding an agency by open tender system within ten months, the agreement entered with TSL indicated the possibility of extension up to five years.

The investment made by the vendor would be reimbursed by paying him Rs. 7.50 per scanned page of the documents registered. The cost was arrived at by considering all costs like cost of hardware, manpower, stationery, maintenance and profit margin for operation of 45 registries for five years. Though it worked out to only Rs. 7.05, this was not negotiated with TSL and the rate was rounded off to Rs. 7.50. Agreeing to higher rate arrived at after considering all the costs would result in extra expenditure to the extent of Rs. 58.81 lakh over a period of five years.

¹⁶ G.O.Rt.No.2310, dated 27.10.2007

Contrary to the terms of the agreement, TSL have not supplied/installed 45 kiosks valued at Rs. 18 lakh, which was one of the elements in computations of cost per page. As per the calculation adopted by the department, total cost would be recouped by paying only for the pages scanned. In spite of this, TSL were paid separately for other activities¹⁷ as well, though the same hardware, manpower, stationery would be used for their generation, resulting in extra payment and unintended benefit to TSL.

After this was pointed out, the department stated (October 2008) that the amount of Rs.18 lakh would be deducted for non-supplying of kiosks. The reply was silent on the matters of not negotiating the rates with TSL and of extending the contract upto five years contrary to the conditions specified by the Government.

5.2.23 Other points of interest

5.2.23.1 Non-maintenance of stock register of IT assets

The total cost of hardware in all the registries is about Rs. 8.71 crore. However, audit noticed that neither hardware issue register was maintained at the Office of C&IG (RS), nor was a periodical verification conducted.

5.2.23.2 Non-provision of fire fighting equipment at server room

Test check revealed that a fire accident occurred in Bhimunipatnam registry (February 2004) and equipment worth Rs. 5 lakh was lost. Data was however recovered from the back up taken on the previous day. In spite of this, it was noticed that, no fire detection/fighting equipment or fire extinguishers are installed in CARD server room and back up rooms at any of the 16 registries test checked even till date (August 2008).

After this was pointed out, the department stated (October 2008) that the fire fighting equipment would be provided immediately.

5.2.23.3 Non-compliance of terms of agreement

Though approval of the Government for BOOT model was to hand over only *non-core* functions, the work of scanning of the original registered document and archiving them on CDs was entrusted to the outsourced agency. Though TSL had to adhere to the service levels specified in the agreement that scanning of documents has to be completed in 10 minutes, there were delays ranging between 6 and 162 days in one BOOT office¹⁸ test checked. Contrary to the terms of the agreement, no penalties were being levied for non-adherence to the service levels.

After this was pointed out, the department stated (October 2008) that the service levels would be reviewed in all the BOOT offices and penalties would be imposed.

¹⁷ Market value assistance (Rs. 8), EC (Rs. 15) and CC (Rs. 10)

¹⁸ DR Rangareddy (East)

5.2.24 Conclusion

Although CARD started off as a good e-governance initiative, even the primary objectives were not achieved even after 10 years of implementation owing to improper mapping of business rules, non-incorporation of articles into CARD, inadequate validations, not capturing of data essential for computation of duties etc., thereby resulting in short levy of stamp duty and registration fee in some class of documents. The objective of removing the maladies of manual registration system also could not be achieved, as the entire manual system is still in vogue. Even the available features of CARD are not being used to the optimum.

Though CARD primarily aimed at bringing in speed, efficiency, consistency and reliability, replacing the manual system of copying, filing and indexing of documents, accounting and reporting, is reduced to a system, which contains incomplete, irrelevant and useless data. A copy of the registered document is continued to be kept, accounts are compiled manually; cash receipts are not issued through CARD. It does not support electronic data transfer for review of top management, and inadvertently increases the redundancy of data, work and manual records.

Deficiencies present in stamp module prevent the detection of fake stamp papers used. The department has not integrated CARD with other departments as envisaged, foregoing the benefits thereof. The conditions stipulated by the Government were not followed while outsourcing, resulting in non-adherence to citizen charter and un-intended benefit to the service providers.

The vision of the department could not be transformed into a consistent performance of the software as it was not backed by proper internal control mechanism and continuous monitoring. By not obtaining the transactions data of its unit offices, non-implementation of various circulars issued, the department failed to use its database effectively for curtailing loss of revenue.

The department is far from achieving the declared secondary objectives.

5.2.25 Recommendations

- All business rules/ Articles should be mapped into CARD and updated regularly to avoid leakage of revenue;
- Important modules like Accounts, Stamps should be effectively used;
- Validation controls should be built into system to avoid inconsistent data entry;
- Internal control mechanism needs to be strengthened to ensure compliance of instructions issued;
- Use of rider rates should be discouraged by periodically reviewing basic registers and updating the masters;
- Increase the storage capacity, fine tune the internet services to make it error free to generate an up-to-date encumbrance certificates;

- Usage of stamps need to be cross verified with the stamps released by GSO to ensure genuineness of stamp papers used;
- Outsourcing needs to be strictly monitored and adherence to agreement conditions ensured;
- Business continuity and disaster recovery plan should be documented and fire fighting equipment provided; and
- The department should establish interface between CARD and other packages in local bodies and land revenue offices to derive the benefits envisaged.

The matter was referred to the department and Government (September 2008). The department replied in October 2008. But the reply of the Government was not received (November 2008).

5.3 Incorrect adjustment of stamp duty

5.3.1 As per Section 16 of the Indian Stamp (IS) Act, 1899, where duty leviable on a document depends upon the duty actually paid on another document, payment of such last mentioned duty is required to be adjusted on that first document, if an application is made in writing. When a sale deed is executed in pursuance of an agreement, stamp duty already paid on such agreement shall be adjustable towards the final duty payable on that sale deed.

Test check of the records of district registry (DR), Srikakulam and two¹⁹ sub registries (SRs) between May and September 2007 revealed that in 370 documents stamp duty paid on the part of the agreement included in the documents styled as 'agreement of sale-cum-GPA' registered prior to 1 August 2005, was adjusted on the subsequent sale deeds even though the claimant was a third party i.e., neither the agreement holder nor the agent. Therefore, adjustment of stamp duty already paid on the earlier documents was incorrect and resulted in short realisation of revenue of Rs. 2.09 crore.

5.3.2 The Government in their notification dated July 2005 reduced stamp duty on documents styled as 'agreement of sale-cum-GPA' to one *per cent* from 1 August 2005 subject to a maximum of Rs. 50,000 on the condition that stamp duty so paid shall not be adjustable at the time of the registration of the sale deed.

Test check of the records of seven²⁰ DRs, and 28²¹ SRs between February and December 2007 in 1,058 documents revealed that stamp duty of Rs. 4.90 crore paid on 'agreements of sale-cum-GPA' registered on or after 1 August 2005

¹⁹ Azampura and S.R. Nagar

²⁰ Bhimavaram, Guntur, Hyderabad, Kakinada, Khammam, Rajahmundry and Ranga Reddy

²¹ Bheemunipatnam, Bodhan, Champapet, Chevella, Chikkadapally, Gajuwaka, Ghatkesar, Golconda, Gopalapatnam, Hayatnagar, Ibrahimpatnam, Maheswaram, Malkajgiri, Miryalaguda, Muthukur, Nallapadu, Narsipatnam, Ramachandrapuram, Sadasivapet, Samalkota, Saroornagar, Secunderabad, Shadnagar, Shamshabad, Shamirpet, Vallabhnagar, Yelamanchili and Zaheerabad

was incorrectly adjusted on the subsequent sale deeds. This improper adjustment of stamp duty resulted in short realisation of revenue of Rs. 4.90 crore.

The matter was referred to the department in April 2008 and the Government in May 2008; their reply has not been received. (November 2008).

5.4 Short levy of stamp duty

5.4.1 As per the departmental instructions²², if there is a clause in the deed of deposit of title deeds that the borrower shall not create any mortgage on the property and keep the property free of any encumbrances, a charge is deemed to have been created on such property and such document is chargeable as a mortgage at the rate of three *per cent* on the value secured under Article 35(b) of Schedule I-A to the IS Act. A mortgage deed provides that in the event of failing to pay the dues by the mortgager, the mortgagee shall have a right to cause the mortgaged property to be sold.

Test check of the records of two²³ DRs and eight²⁴ SRs between May and December 2007 revealed that 55 documents styled as “Memorandum of deposit for creation of charge for term loan/over all limit” were registered during 2006-07. The documents contained recitals either to the effect that the borrower shall not create any other mortgage on the property and keep the property free of any encumbrance or in case of default, the mortgagees shall have the right to cause the mortgaged properties to be sold and the sale proceeds applied in the payment of dues by the mortgagors. Therefore, these documents were to be treated as “mortgages” and charged with stamp duty of three *per cent* on the value secured by these documents instead of ‘deposit of title deeds’ charged at lesser rates. This resulted in short levy of stamp duty and registration fees of Rs. 3.07 crore.

5.4.2 Section 2(10) of IS Act defines “conveyance” as every instrument by which property whether movable or immovable is transferred. As per Article 20 of Schedule I-A to IS Act, the rate of stamp duty on conveyance not being a sale is chargeable with stamp duty at the rate of five *per cent* while conveyance of sale attracts stamp duty under Article 47-A which is higher than the rate prescribed for conveyance. Also, transfer duty at prescribed rate is leviable on conveyance on sale.

Test check of the records of SR, Secunderabad in June 2007 revealed that a document styled as ‘conveyance deed’ was executed in May 2006 by the transferor/land owner conveying the property of land owner to the builder/developer. The document was referred to the C & IG (RS) who classified the document as conveyance in August 2006. The document was registered in August 2006 after levy of stamp duty of five *per cent* on market value of the property of Rs. 5.21 crore as applicable to conveyance. The clarification

²² G4/6009/81 dated 28-4-82

²³ Rajahmundry and Ranga Reddy

²⁴ Armoor, Chikkadapally, Ibrahimpatnam, Jagtial, Madhuravada, Medchal, Uppal and Yelamanchili

issued by the C & IG (RS) classifying the property as 'conveyance' instead of 'conveyance on sale' was incorrect, as the recitals of document indicated that the developer had spent a considerable amount on development and construction of building in lieu of which property was conveyed to the developer by the owner. Thus, the document was to be classified as 'conveyance on sale'. The incorrect classification of 'conveyance on sale' as 'conveyance' resulted in short levy of duty of Rs. 20.83 lakh.

The matter was referred to the department between January and March 2008 and the Government between April and May 2008; their reply has not been received (November 2008).

5.5 Short levy of stamp duty due to adoption of incorrect rate

According to Section 5 of the IS Act, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of stamp duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under the Act.

Under Article 42(c) of Schedule I-A to the IS Act, when not more than five persons (acting jointly and severally) are authorised by a general power of attorney (GPA) to enter into more than one transaction, stamp duty is to be charged at a flat rate of Rs. 50. Under Article 42(g) of Schedule I-A to the IS Act, stamp duty is leviable at five *per cent* on the market value of the property on a GPA given for construction, development, sale or transfer of any immovable property.

5.5.1 Test check of the records of DR, Kurnool and 21²⁵ SRs between September 2006 and September 2007 revealed that 837 documents valued at Rs. 26.72 crore and styled as "agreement of sale-cum-GPA" were registered during the year 2005-06 (upto the end of July 2005). These contained two distinct matters viz., agreement of sale and appointing attorney on behalf of the vendor to carry out all acts and deeds including the sale of property. While stamp duty was correctly levied on the agreement of sale, it was incorrectly levied on the GPA at the rate of Rs. 50 each instead of five *per cent* on the market value of the properties. This resulted in short levy of stamp duty of Rs. 1.33 crore.

5.5.2 Test check of the records of SR, Banjara Hills, Hyderabad between May and June 2007 revealed that a document styled as sale deed contained two distinct matters viz., release of rights over the property for a consideration of Rs. 80 lakh and sale of property for a consideration of Rs. 3.30 crore. Stamp duty and registration fee of Rs. 12.30 lakh was not levied on the matter of release of rights over the property though it was levied on sale portion of the property. This resulted in short levy of stamp duty and registration fee of Rs. 12.30 lakh.

²⁵ Armoor, Bhainsa, Bhogapuram, Cheepurupalli, Chodavaram, Cumbum, Gajapathinagaram, Giddalur, Kanigiri, K.Kotapadu, Kotauratla, Kothavalasa, Kovur, Madugula, Maheswaram, Muthukur, Patamata, Pedakakani, Srungavarapukota, Yelamanchili and Zaheerabad

The matter was referred to the department in October 2007 and April 2008 and the Government between April and May 2008; their reply has not been received (November 2008).

5.6 Non-execution of sale deeds

An agreement to sell is only an intermediary instrument and the same is not complete unless concluded by a sale deed. It was held²⁶ that it is not as if the document so registered would bring about totality of rights and obligations of the parties but ultimately the individual sale deeds are to be executed in relation to the property that is developed.

Test check of the records of two²⁷ SRs in October 2007 revealed that three deeds styled as development agreements/development agreements-cum-GPA were executed between April and November 2006 in pursuance of “agreements of sale-cum-GPA” between the vendors and agreement holders. The recitals of the “agreements of sale-cum-GPA” revealed that there was no clause to authorise the agreement holders to enter into development agreement with anybody. In contravention to this, the agreement holders entered into development agreement/development agreements-cum-GPA for construction/development of the properties with the builder/developer wherein it was specified that they were sole, absolute and exclusive owners of the properties though no sale deeds were executed for this purpose. Non-execution of sale deeds resulted in loss of revenue of Rs. 1.31 crore.

The matter was referred to the department in March 2008 and the Government in May 2008; their reply has not been received (November 2008).

5.7 Undervaluation of properties

5.7.1 As per the IS Act, for determining the market value of property for the purpose of levying duties, the registering officers should adopt²⁸ the highest rate applicable to a property in the neighbourhood in the case of a missing house/survey/sub-division number.

Test check of the records of three DRs²⁹ and SR, Bhainsa between November 2006 and January 2008 revealed that 15 documents were registered between April 2005 and February 2007 by adopting the market values applicable to the door numbers, which were not the nearest door numbers of the properties involved. As actual door numbers of the properties were missing in the market value guidelines, the highest market value applicable to the nearest door number should have been adopted as market value for the purpose of registration. Adoption of incorrect market value resulted in undervaluation of properties and short levy of duties and registration fees of Rs. 35.58 lakh.

²⁶ Telangana Spinning and Weaving Mills Limited, Hyderabad Vs District Registrar and Collector, Ranga Reddy district and others, 2007 (5) ALD 618

²⁷ Bowenpally and Uppal

²⁸ Item (iv) of proceedings No.MV1/20363-A/90 dated 10.8.1990

²⁹ Bhimavaram, Karimnagar and Machilipatnam

The matter was referred to department between March and April 2008 and the Government between April and May 2008; their reply has not been received (November 2008).

5.7.2 Under Article 47-A of Schedule I-A to IS Act, a sale deed is chargeable to stamp duty on the value of consideration or market value of the property whichever is higher.

Test check of the records of DR, Rajahmundry in March 2007 revealed that four sale deeds were registered in November 2003 for a consideration of Rs. 3.31 crore. The market value of the properties as per market value guidelines was Rs. 5.75 crore. The stamp duty was levied incorrectly on Rs. 3.31 crore instead of market value of Rs. 5.75 crore. This resulted in short levy of duties and fee amounting to Rs. 33.01 lakh.

After this was pointed out, C & IG (RS) accepted the audit observation in March 2008 and instructed the DR, Rajahmundry to collect the deficit amount.

The matter was referred to the Government in May 2007; their reply has not been received (November 2008).

5.7.3 As per the departmental instructions³⁰ rider rate shall be applied for determination of market value in respect of property where a specific rate is not mentioned and the highest value in the locality/ward/block shall be taken as rider rate.

Test check of the records of SR, Bodhan in December 2007 revealed that 41 sale deeds conveying vacant plots were registered in 2006-07 by adopting lesser rate than the rider rate. Adoption of incorrect market value resulted in undervaluation of property and short levy of duties and registration fees of Rs. 18.21 lakh.

The matter was referred to the department in April 2008 and the Government in May 2008; their reply has not been received (November 2008).

5.7.4 As per departmental instructions, different rates are to be adopted for agricultural and industrial properties since the market value of industrial properties is more than that of agricultural properties.

Test check of the records of SR, Rajendranagar in August 2007 revealed that a sale deed was registered in October 2006 by adopting agricultural/acreage rate of Rs. 32 lakh per acre for the property instead of Rs. 1,500 per sq.yard prescribed for industries even though the property had already been converted as industrial property by the vendor. Thus, there was undervaluation of property by Rs. 55.82 lakh involving short levy of duties and registration fee of Rs. 5.30 lakh.

The matter was referred to the department in March 2008 and the Government in May 2008; their reply has not been received (November 2008).

³⁰ Circular Memo No.MV1/9758/2005 dated 29.07.2005

5.8 Short levy of stamp duty due to misclassification of instruments

Under the IS Act, stamp duty on instruments is leviable as per their classification and at the rates specified in Schedule I-A of the Act.

Test check of the records of DR, Hyderabad and five³² SRs between January and November 2007 revealed that the misclassification of documents resulted in short levy of stamp duty and registration fees of Rs. 42.30 lakh as mentioned below:

Sl. No.	Name of the registry and date of execution	Market values (Rs. in crore)	Nature of observation	Duties and fee (Rs. in lakh)		
				To be levied	Levied	Short levied
1	DR, Hyderabad November 2005	4.65	An instrument was classified as 'release among family members' and charged with stamp duty at one <i>per cent</i> instead of 'distribution or allotment of property among the partners in a partnership' on which stamp duty at five <i>per cent</i> was leviable.	25.60	5.26	20.34
2	SR, Maheswaram July 2005	1.85	A gift deed executed in favour of an autonomous society was classified as 'settlement in favour of Government' and stamp duty of 100 was charged instead of 'gift in favour of the autonomous society on which stamp duty at 2.5 <i>per cent</i> and transfer duty at three <i>per cent</i> was leviable.	11.10	0.23	10.87
3	SR, Kandukur October 2006 SR, Kukatpally January 2007 SR, Patamata November 2005	0.91	Three deeds were classified as releases and stamp duty was levied at lesser rate instead of 'conveyance/ conveyances on sale' on which higher stamp duty was leviable.	6.83	0.99	5.84
4	SR, Secunderabad November 2006	1.05	The deed was classified as 'release among family members' on which stamp duty at one <i>per cent</i> was levied instead of 'settlement among other than family members' chargeable at six <i>per cent</i> .	6.30	1.05	5.25
Total		8.46		49.83	7.53	42.30

The matter was referred to the department between November 2007 and April 2008 and the Government between April and May 2008; their reply has not been received (November 2008).

³² Kandukur, Kukatpally, Maheswaram, Patamata and Secunderabad

5.9 Adoption of incorrect rate

As per Section 3 of the IS Act, stamp duty chargeable on an instrument should be decided with reference to the Act in force, on the date of execution of the document. The Government reduced³³ stamp duty on instruments of sale in respect of properties situated in areas comprised in municipal corporation from eight to seven *per cent* with effect from 1 July 2005. Also transfer duty leviable on sale deeds in respect of properties located in areas comprised in municipal corporations and special or selection grade municipalities was reduced³⁴ from five to two *per cent* from 1 July 2005.

Test check of the records of two³⁵ DRs between August and September 2006 revealed that 10 sale deeds executed prior to 1 July 2005 and registered on or after 1 July 2005 were levied with stamp duty and transfer duty at the rates existing on the date of presentation instead of at the rates existing on the date of execution of the documents. Adoption of incorrect rate of duties resulted in loss of revenue of Rs. 20.14 lakh.

The matter was referred to the department in April 2008 and the Government in May 2008; their reply has not been received (November 2008).

5.10 Short levy of stamp duty on lease deeds

As per Article 31 (vi) (c) of Schedule I A to IS Act, where the lease is granted for a fine or premium or for money advanced in addition to rent reserved, stamp duty is leviable at five *per cent* on the market value of the property or the amount or value of such fine or premium or advance as set forth in the lease whichever is higher.

Test check of the records of two³⁶ DRs and five³⁷ SRs between November 2006 and January 2008 revealed that in 13 lease deeds executed between August 2005 and January 2007, the lessees paid advances amounting to Rs. 9.87 lakh. The market value of the properties was Rs. 2.27 crore and was liable to a stamp duty of Rs. 12.35 lakh instead of Rs. 1.57 lakh levied on Rs. 9.87 lakh by the registering authorities. This resulted in short levy of stamp duty of Rs. 10.78 lakh.

The matter was referred to the department in April 2008 and the Government in May 2008; their reply has not been received (November 2008).

5.11 Non-levy of transfer duty

According to Article 47-A of Schedule 1-A to the IS Act, an instrument of 'sale' is chargeable to stamp duty at the prescribed rate depending on the location of the property, on the amount or value of the consideration for such

³³ G.O.Ms.No.1126 Revenue (Registration I) Department dated 13.6.2005

³⁴ G.O.Ms.No.623 Municipal Administration & Urban Development (TCI) Department dated 27.6.2005

³⁵ Hyderabad and Ranga Reddy

³⁶ Karimnagar and Ongole

³⁷ Amalapuram, Ghanpur, Nirmal, Siddipet and Singarayakonda

sale as set forth in the instrument or the market value of the property whichever is higher. In addition, transfer duty at two *per cent* is leviable on sale deeds on the amount or value of the consideration for such sale or market value of the property whichever is higher under the provisions of various Acts of local bodies. The Government is empowered to remit stamp duty and registration fee under the Act.

Test check of the records of SR, Uppal in October 2007 revealed that a sale deed registered in June 2006 was exempted from payment of stamp duty and registration fee in accordance with the Government order³⁸ dated May 2006. Though, the Government order did not exempt payment of transfer duty, yet the registering officer did not levy transfer duty of two *per cent* on the market value of the property valued at Rs. 4.75 crore. This resulted in non-levy of transfer duty of Rs. 9.50 lakh.

The matter was referred to the department in February 2008 and the Government in April 2008; their reply has not been received (November 2008).

5.12 Short levy of stamp duty

As per the explanation below Article 49 (A) (a) Schedule 1-A to the IS Act, 'family' means father, mother, husband, wife, brother, sister, son, daughter and includes grandfather, grandmother, grandchild, adoptive father or mother, adopted son or daughter. Stamp duty is leviable at one *per cent* on the market value of the property on settlement deeds executed in favour of a member or members of a family. In any other case, stamp duty is leviable at six *per cent*.

Test check of the records of DR, Hyderabad between August and September 2007 revealed that a settlement deed was executed in September 2006 settling a property in favour of great granddaughter. The registering officer levied stamp duty of one *per cent* applicable to settlement in favour of family member instead of six *per cent* applicable to settlement deed executed in favour of other than family members even though 'great grand daughter' is not included in the term 'family' for the purpose of this article. This resulted in short levy of stamp duty of Rs. 5.33 lakh.

The matter was referred to the department in April 2008 and the Government in May 2008; their reply has not been received (November 2008).

³⁸ G.O.Ms.No.582 Revenue (Registration & Mandals) Department dated 23.5.2006