

## CHAPTER IV - STAMP DUTY AND REGISTRATION FEE

### 4.1 Results of audit

Test check of the records relating to assessment, levy and collection of stamp duty and registration fee during 2006-07 revealed non/short assessment of stamp duty and registration fee amounting to Rs. 8.83 crore in 39 cases which can broadly be categorised as under :

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Levy and collection of stamp duty and registration fee (A review)	1	8.69
2.	Non-levy of stamp duty and registration fee on lease deed of industrial units	16	0.07
3.	Loss of stamp duty due to execution of bond on plain paper for export/transport of liquor	1	0.04
4.	Other irregularities	21	0.03
<b>Total</b>		<b>39</b>	<b>8.83</b>

A review of levy and collection of stamp duty and registration fee involving revenue of Rs. 8.69 crore is mentioned in the following paragraph.

## **4.2 Levy and collection of stamp duty and registration fee**

### **Highlights**

- Revenue remitted during 2002-07 on account of grant of concession in stamp duty could not be quantified by the Inspector General of Registration in the absence of a centralised database.

**(Paragraph 4.2.7)**

- Lack of a system for submitting periodic information/return by the registering authorities showing a list of the cases and the grounds of exemption of stamp duty resulted in incorrect concession of Rs. 48.12 lakh.

**(Paragraph 4.2.8)**

- Non-stipulation of a condition in the notification for submission of documents in support of the beneficiary belonging to the SC/ST category or the prescribed limit of holdings of 10 hectares resulted in incorrect grant of exemption of stamp duty of Rs. 25.98 lakh.

**(Paragraph 4.2.9)**

- Lack of a prescribed monitoring mechanism for the higher authorities to monitor the settlement of cases of undervaluation at the level of SRs resulted in short levy of stamp duty of Rs. 1.79 crore.

**(Paragraph 4.2.10)**

- Short levy of stamp duty of Rs. 38.46 lakh due to misclassification of instruments.

**(Paragraph 4.2.14)**

- Inordinate delay in disposal of referred cases involving Rs. 5.75 crore booked under section 47-A of the Indian Stamp Act, 1899.

**(Paragraph 4.2.15)**

### **4.2.1 Introduction**

Receipts from stamp duty and registration fee in the State are regulated under the Indian Stamp Act (IS Act) 1899, Indian Registration Act (IR Act) 1908, the MP Prevention of Undervaluation of Instrument Rules, 1975 (as adopted in the Chhattisgarh State) and the Chhattisgarh Market Value Guideline Rules, 2000. Stamp duty is leviable on the execution of instruments and registration fee is payable at the prescribed rates. Evasion of stamp duty and registration fee is commonly effected through undervaluation of properties, non-presentation of documents in the office of the registering authority and non/short payment of stamp duty

by the executants on the documents submitted before the registering authorities.

**A review of the system of levy and collection of stamp duty and registration fee was conducted. It revealed a number of system and compliance deficiencies, which have been mentioned in the subsequent paragraphs.**

#### **4.2.2 Organisational set up**

The Inspector General of Registration-cum-Superintendent of Stamps (IGR) is the head of the Registration Department and exercises overall superintendence and control over the working of the department. He is assisted by two Deputy IGRs, 10 district registrars-cum-Collector of Stamps (DRs) and 81 sub-registrars (SRs).

#### **4.2.3 Audit scope and methodology**

The review was conducted in the office of the IGR, three<sup>7</sup> out of 10 DRs and 14<sup>8</sup> out of 81 SRs for the period 2002-03 to 2006-07 during March 2007 to July 2007. Selection of the units was based on the revenue collection and number of the documents registered. Besides, cases detected during local audit and not included in the previous years' reports have also been included in the review.

#### **4.2.4 Audit objectives**

The review was conducted with a view to ascertain:

- whether registering authorities were discharging their functions in levying and collecting stamp duty in accordance with the prescribed rules and procedures;
- exemptions granted were in accordance with rules and procedures; and
- existence of a suitable internal control mechanism for levy and realisation of stamp duty and registration fee.

#### **4.2.5 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the Registration Department in providing necessary information and records for audit. The draft review report was forwarded to the department and the Government in September 2007. Audit Review Committee meeting was held in December 2007. The Government was represented by the Principal Secretary (Registration) and the department was represented by the IGR. The views of the Government/department have been incorporated in the relevant paragraphs.

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<sup>7</sup> DRs Bilaspur, Durg and Raipur

<sup>8</sup> SRs Ambikapur, Arang, Bilaspur, Durg, Gharghoda, Jagdalpur, Janjgir, Jashpur Nagar, Kanker, Korba, Mahasmund, Raigarh, Raipur and Rajnandgaon

#### 4.2.6 Trend of revenue receipts

The table below brings out a comparison of the budget estimates with the actual receipts of stamp duty and registration fee during the years 2002-03 to 2006-07:

(Rupees in crore)

Year	Budget estimates	Actual	Variation excess (+) or shortfall (-)	Percentage of variation
2002-03	170.00	148.46	(-) 21.54	(-) 13
2003-04	170.00	171.58	(+) 1.58	01
2004-05	200.00	248.47	(+) 48.47	24
2005-06	260.25	313.77	(+) 53.52	21
2006-07	279.90	390.18	(+) 110.28	40

The sharp variations between the budgeted and actual collections in all years except one indicates that the budget estimates are not being prepared realistically.

#### Audit findings

##### System deficiencies

#### 4.2.7 Absence of database of revenue foregone

The Government in extending concessions decides to forego revenue in pursuance of certain defined objectives. A reliable database of revenue foregone is, therefore, a pre-requisite for informed decision making. Audit noticed that no data on revenue remitted due to grant of concessions was available with the IGR. Consequently the revenue remitted during 2002-03 to 2006-07 on account of grant of concessions in stamp duty could not be quantified by the IGR.

#### 4.2.8 Remission of stamp duty on instruments of industrial units

By three separate notifications<sup>9</sup> issued between March 2002 and June 2005, the Government granted exemption in stamp duty on instruments of conveyance, mortgage deeds, sale/lease of land, shed and building, securing of loans/advances for starting specified new industry/expansion of specified existing industrial units. The Government has specified certain conditions such as details of investment in plant and machinery, name of unit, certificate issued by the Commissioner of Industries or any authorised officer etc. for grant of remission. **The Government did not prescribe any system for submitting periodic information/return by the registering authorities showing a list of the cases and the grounds for grant of exemption. In the absence of such a return, the Government was not in a position to ascertain the genuineness of the exemptions granted.**

<sup>9</sup> Notification No. F10-19/2002/CT/V/32 dated 27 March 2002, No. F10/20/2005/CT/R/V/34 dated 21 June 2005 and No.F10/20/2005/CT(B)/V/35 dated 21 June 2005.

Test check of the records of eight SRs revealed that in 47 instruments of loans/advances for setting up of new industries or expansion of existing industries, sale or lease of land, shed and building, setting up of new industries/expansion of existing industries etc., the registering authorities by ignoring the conditions put forth in the notifications granted incorrect exemption of stamp duty of Rs 48.12 lakh as mentioned below:

(Rupees in lakh)

Name of the SR	No. of documents	SD and RF leviable	SD and RF levied	SD and RF levied short	Remarks
Janjgir	16	12.24	0.99	11.25	Exemption was granted without ascertaining the entitlement (name of the industry).
Raipur	1	0.70	0.00	0.70	
Gharghoda	1	8.93	0.18	8.75	Requisite certificate from the Commissioner of Industries was not on record.
Jashpur Nagar	1	8.49	0.17	8.32	
Ambikapur	1	7.34	0.14	7.20	
Raipur	6	7.26	3.03	4.23	Exemption was granted without ascertaining the entitlement i.e. name of industry and/or details of the capital investment in plant and machinery.
Ambikapur	1	0.17	0.01	0.16	
Bilaspur	14	6.55	2.73	3.82	Requisite certificate from the Commissioner of Industries was not on record.
Rajnandgaon	4	3.02	0.26	2.76	Requisite details of capital investment were not on record.
Kanker	1	0.70	0.37	0.33	
Janjgir	1	0.60	0.00	0.60	
<b>Total</b>	<b>47</b>	<b>56.00</b>	<b>7.88</b>	<b>48.12</b>	

**The Government may consider prescribing a periodical return from the registering authorities showing the list of cases and grounds on which the exemption has been granted.**

#### **4.2.9 Concession/remission of stamp duty on instruments of mortgage deed on agricultural purposes**

By a notification (October 2004), the Government granted 100 per cent concession in stamp duty effective from 30 October 2004 on instruments of loan agreements for securing loans from banks for agricultural purposes executed by a person belonging to scheduled caste (SC) or scheduled tribe (ST) or a person not covered under SC/ST category but having holdings not exceeding 10 hectares as a *pattadhari*<sup>10</sup> or a *bhoomiswami*<sup>11</sup>. By another notification (July 2006), the Government granted 100 per cent concession in stamp duty chargeable on deeds of mortgage, hypothecation and deeds of further charge on mortgaged property executed by a *bhumiswami* or a person holding land as

<sup>10</sup> Lessee

<sup>11</sup> land owner

*pattadhari* under Revenue Book Circular IV-3-10 in favour of bank for securing loans for agricultural purposes when the borrower belongs to the SC/ST category or if not covered under SC/ST category, the amount of loan does not exceed Rs. 10 lakh. In case, the borrower is either not covered under SC/ST category or the amount of loan exceeds Rs. 10 lakh, stamp duty at the rate of one *per cent* of the amount secured by such mortgage deed was leviable. Thus, the two notifications granting exemptions on loans and mortgages for agricultural purpose had varying criteria as the notification of October 2004 prescribed a limit on holdings whereas the notification of July 2006 prescribed a financial limit. **The notifications did not prescribe for submission of any documents for supporting the claim of the SC/ST status of the executants or the prescribed limit of holdings of 10 hectares.** The omissions noticed while granting remission/concession are mentioned below.

**4.2.9.1** Test check of the records of 13<sup>12</sup> SRs revealed that exemptions of Rs. 23.24 lakh in stamp duty was granted in 191 cases of mortgage deeds where the executants either were holding land more than 10 hectares (six cases) or loan was secured for purposes other than agriculture (34 cases) or the purpose of securing loan was not mentioned at all (151 cases).

**4.2.9.2** Test check of the records of SRs, Mahasamund and Raipur revealed that exemptions of Rs. 2.74 lakh in stamp duty were granted in three cases of mortgage deeds where the executants were granted loans in excess of the prescribed limit of Rs. 10 lakh in each case.

**In the absence of any prescribed mechanism, the registering authorities granted incorrect exemptions and did not levy and realise stamp duty of Rs. 25.98 lakh.**

**The Government may, therefore, consider bringing out a clarification stipulating submission of documents in support of the beneficiary belonging to SC/ST category and consider whether a uniform condition i.e. land holding limit or financial limit should be applied for concession/remission in stamp duty for agricultural purpose. They should also incorporate a penal provision and withdrawal of concession/remission in case of any violation.**

#### **4.2.10 Failure to levy stamp duty on the market value of the immovable properties**

As per the IS Act, stamp duty on conveyance deed is leviable on the true market value of the property at the rates applicable to the area in which the property is situated. The market value of any property is determined under Rule 5 of the MP Prevention of undervaluation of Instruments Rules on the basis of the prescribed parameters such as location of the property, its proximity to the roads and highways, the purpose for acquiring such property (agricultural, commercial or industrial etc.). As

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<sup>12</sup> SRs Ambikapur, Arang, Bilaspur, Durg, Gharghoda, Jagdalpur, Janjgir, Jashpur Nagar, Kanker, Korba, Mahasamund, Raipur, and Rajnandgaon

per section 47(A) of the IS Act, as amended in August 2000, if the registering officer while registering any instrument has reason to believe that the market value of any property has not been set forth truly and correctly, he should, before registering such document, refer it to the DR for determination of the correct market value of such property.

By a notification of May 2001, the Government provided for levy of stamp duty on the consideration set forth in the instruments executed by the Central/State Government undertakings within a period of six months of the issue of the aforesaid notification and thereafter on the market value of land. The IGR also affirmed the position in February 2003.

**The Government did not prescribe any monitoring mechanism or return for the information of higher authorities of cases of undervaluation of properties which were settled at the level of SRs.**

**4.2.10.1** Test check of the records of 14<sup>13</sup> SRs revealed that in 352 instruments registered between 2002-03 and 2006-07, the market value of properties was incorrectly reckoned as Rs. 20.86 crore in the instruments instead of Rs. 41.77 crore as worked out on the basis of guideline rates approved by the IGR. The SRs, however, did not refer these cases to the DRs for determination of the correct market value and stamp duty leviable thereon. This resulted in short realisation of stamp duty and registration fee of Rs. 1.73 crore.

**4.2.10.2** Test check of the records of SR, Bilaspur revealed that in three instruments of lease deeds executed between October 2003 and February 2004, stamp duty and registration fees of Rs. 24,480 and Rs. 18,631 were levied on the basis of the consideration set forth in the instruments. The market value of the property involved in these lease deeds, however, worked out to Rs. 47.73 lakh on which stamp duty and registration fee of Rs. 3.64 lakh and Rs. 2.68 lakh respectively was leviable. Non-reckoning of the market value of the property by the registering authority resulted in short levy of stamp duty of Rs. 5.89 lakh including registration fee.

After the cases were pointed out, the SR stated (February 2005) that the lease deed was executed by a Government undertaking and, therefore, the market value of the property was not taken into consideration for levy of stamp duty. The reply is not tenable as the notification provided for levy of stamp duty on the basis of the consideration set forth in the document for Government undertaking only for six months from May 2001 whereas the instruments were executed between October 2003 and February 2004 and the duty was, therefore, leviable on the market value of land. Further report has not been received (November 2007).

**The Government may, therefore, consider prescribing a periodical return of all undervaluation cases settled at the level of the SRs to ensure realisation of correct stamp duty and registration fee.**

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<sup>13</sup> SRs Ambikapur, Arang, Bilaspur, Durg, Gharghoda, Jagdalpur, Janjgir, Jashpur Nagar, Kanker, Korba, Mahasund, Raigarh, Raipur and Rajnandgaon

#### 4.2.11 Non-levy of stamp duty on sale of industrial property

According to Article 18 of schedule I-A of the IS Act, the certificate of sale (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold through public auction by a Civil or Revenue Court or Collector or other Revenue Officer, the stamp duty is leviable as a conveyance for a market value equal to the amount of the purchase money only. **It was noticed in audit that the department did not have a system of obtaining periodic information from the Department of Industries on the disposal of property of sick industrial units through public auction for levy of stamp duty.**

Information collected from the Chhattisgarh State Industrial Development Corporation revealed that four sick industrial units were disposed during the year 2006-07 for a consideration of Rs. 23.71 lakh through public auction on which stamp duty of Rs. 2.10 lakh was leviable. On cross verification with the records of the SR, Raipur, it could not be ascertained whether stamp duty was paid on these documents as there was no system of obtaining periodical information from the Department of Industries.

**The Government may, therefore, consider prescribing a system of obtaining periodic information from the Department of Industries for levying stamp duty on the purchasers of sick industrial units.**

#### 4.2.12 Inspections

Inspection is an important internal control in the hands of the administration for ascertaining that the rules and procedures prescribed by the department are being followed and are sufficient to safeguard the proper collection of revenue. In the Registration Department, the IGR is required to conduct annual inspection of the DRs. The DRs are to conduct inspection of the SRs at least twice in a year and surprise inspection of any SR under his jurisdiction, if necessary.

The minimum number of inspections required to be conducted in five years were 860 units. Audit observed that there was a short fall of 401 units as mentioned below:

Year	Units to be inspected	Inspection conducted	Shortfall
2002-03	172	91	81
2003-04	172	99	73
2004-05	172	96	76
2005-06	172	96	76
2006-07	172	77	95
<b>Total</b>	<b>860</b>	<b>459</b>	<b>401</b>

The shortfall in inspection ranged between 43 and 56 *per cent* during the period from 2002-03 to 2006-07.



**4.2.13 Internal audit**

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism and is generally defined as control of all controls to enable the organisation to assure itself that the prescribed systems are functioning reasonably well. The IAW attached to the office of IGR had one Assistant Internal Audit Officer as against the sanctioned strength of two. The IAW was required to inspect the offices of the DRs and SRs once in a year and once in two years respectively. Out of 250 units to be inspected during 2002-03 to 2006-07, the IAW inspected only 74 units.

The yearwise breakup of inspection reports (IRs)/paragraphs issued by the IAW during the years 2002-03 to 2006-07 is as mentioned below:

Year	Opening balance		Additions		Clearance		Closing balance		Percentage of clearance	
	No. of IRs	No. of Paras	No. of IRs	No. of Paras	No. of IRs	No. of Paras	No. of IRs	No. of Paras	No. of IRs	No. of Paras
2002-03	9	78	2	11	Nil	10	11	79	Nil	11.23
2003-04	11	79	14	52	2	18	23	113	8	13.74
2004-05	23	113	17	107	2	28	38	192	5	12.72
2005-06	38	192	15	77	Nil	13	53	256	Nil	4.83
2006-07	53	256	17	106	Nil	20	70	342	Nil	5.52

The very low percentage of clearance of the observations of the IAW as reflected in the above table indicates that the department is not taking immediate rectificatory measures about the deficiencies pointed out by the IAW.

**The Government may ensure that the IAW conducts the number of inspections required of it and ensure time bound action by the registering authorities on the observation of the IAW so as to safeguard interest of revenue and avoid recurrence of mistakes pointed out.**

**Compliance deficiencies****4.2.14 Short levy of stamp duty and registration fee due to misclassification of instruments**

Under the provision of IS Act, every instrument mentioned in schedule I shall be chargeable to stamp duty at the rates as indicated in the schedule. An instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

Test check of the records of seven<sup>14</sup> SRs revealed that 48 instruments registered between May 2002 and January 2007 were classified on the basis of their titles and stamp duty was levied accordingly. Scrutiny of the recitals of these documents, however, revealed that these documents

<sup>14</sup> Ambikapur, Bilaspur, Durg, Jagdalpur, Jashpur nagar, Mahasamund and Raipur.

were misclassified and resulted in short levy of stamp duty and registration fee of Rs. 38.46 lakh as mentioned below:

**(Rupees in lakh)**

Sl. No.	Name of SRs.	No. of documents	Value of documents	SD & RF <sup>15</sup> leviable/levied	Short levy of SD & RF	Nature of irregularity
1.	Bilaspur, Durg, Jagdalpur, Jashpur nagar, Mahasamund and Raipur	40	330.24	<u>30.63</u> 1.81	28.82	The conveyance deeds were misclassified as power of attorney.
2.	Bilaspur and Raipur	05	149.56	<u>7.15</u> 0.05	7.10	The conveyance deeds were misclassified as trust deeds.
3.	Ambikapur	02	21.88	<u>2.36</u> 0.05	2.31	The conveyance deeds were misclassified as agreement deeds.
4.	Raipur	01	3.56	<u>0.38</u> 0.15	0.23	The conveyance deeds were misclassified as gift deeds.
	<b>Total</b>	<b>48</b>	<b>505.24</b>	<b><u>40.52</u></b> <b>2.06</b>	<b>38.46</b>	

#### 4.2.15 Delay in disposal of referred cases and realisation of demand

The IGR vide orders of September 2003 directed all the DRs to dispose cases of undervaluation of properties referred to them under section 47(A) of the IS Act within 90 days of the date of receipt of such cases.

Test check of the records of three<sup>16</sup> DRs revealed that 932 cases involving stamp duty of Rs. 5.75 crore referred between 2002-03 and 2006-07 by 34<sup>17</sup> SRs were pending disposal even after the lapse of the prescribed period of 90 days. The agewise pendency is mentioned below:

**(Rupees in lakh)**

Age of pendency	Number of cases	Amount
90 days - 1 year	353	266.21
1 year - 3 years	414	261.67
More than 3 years	165	46.75
<b>Total</b>	<b>932</b>	<b>574.63</b>

<sup>15</sup> Stamp duty and Registration Fee

<sup>16</sup> DRs Bilaspur, Durg and Raipur

<sup>17</sup> SRs Abhanpur, Arang, Balod, Balodabazar, Bemetara, Berla, Bhatapara, Bilaigarh, Bilaspur, Bilha, Dallirajhara, Dhamdha, Deobhog, Doundilohara, Durg, Gariyaband, Gunderdehi, Gurur, Kasdol, Kota, Lormi, Mahasamund, Marwahi, Mungeli, Navagarh, Patan, Pendra Road, Raipur, Rajim, Saja, Saraypali, Simga, Takhatpur and Tilda

#### **4.2.16 Sort levy due to non-inclusion of premium for consideration of lease deeds**

Under the provision of IS Act, stamp duty at the prescribed rates is chargeable on an instrument of lease on the basis of periods of lease and the amount of the average annual rent reserved. The Act further provides that where the lease is granted for a fine or premium or for money advanced in addition to rent reserved, the duty is to be charged on the value of such fine or premium or money advanced as set forth in the lease deed.

Test check of the records of SR, Kanker revealed that in 26 instruments of lease registered between March 1999 and July 2001, the consideration on which stamp duty was leviable worked out to Rs. 37.94 lakh. The stamp duty of Rs. 4.98 lakh including registration fee was leviable against which registration fee of Rs. 16,867 only was levied as the premium set forth in the document was ignored by the SRs while computing the duty. This resulted in short levy of stamp duty of Rs. 4.81 lakh including registration fee. Of these, four instruments with consideration of Rs. 5.58 lakh involving stamp duty and registration fee of Rs. 68,163 pertained to the year 2001-02.

#### **4.2.17 Conclusion**

Stamp duty and registration fee is an important tax revenue of the State. A reliable database of revenue foregone which is a pre-requisite for informed decision making was absent. Hence the revenue remitted on account of grant of concessions/exemption in stamp duty could not be quantified by the Inspector General of Registration. Lack of a prescribed system for submitting periodic information/return by the registering authorities showing a list of the cases and the grounds for grant of exemption resulted in cases of grant of incorrect exemption remaining undetected. Lack of a monitoring mechanism or return for the information of higher authorities of cases of undervaluation of properties which were settled at the level of SRs resulted in short levy of stamp duty. Revenue from the registration of the instruments of purchase of the sick industrial units through public auction was also not tapped adequately in the absence of a system for collection of relevant details from the Department of Industries. The internal controls of department are weak as is evidenced by the shortfall in the number of inspections required to be conducted, increasing trend of outstanding objections, arrear of inspection and vacancies in IAW.

#### **4.2.18 Summary of recommendations**

The Government may consider taking the following action for rectifying the system and other issues:

- prescribing a periodical return from the registering authorities showing the list of cases and grounds on which the exemption has been granted;

- bringing out a clarification stipulating submission of documents in support of the beneficiary belonging to SC/ST category and consider whether a uniform condition i.e. land holding limit or financial limit should be applied for availing of concession/remission in stamp duty for agricultural purpose. They should also incorporate a penal provision and withdrawal of concession/remission in case of any violation;
- prescribing a periodical return of all undervaluation cases settled at the level of the SRs to ensure realisation of correct stamp duty and registration fee;
- prescribing a system of obtaining periodic information from the Department of Industries for levying stamp duty on the purchasers of sick industrial units; and
- ensure that the IAW conducts the number of inspections required of it and ensure time bound action by the registering authorities on the observations of the IAW so as to safeguard interest of revenue and avoid recurrence of mistakes pointed out.