

## CHAPTER III: Stamp Duty and Registration Fee

### 3.1 Results of Audit

Test-check of records of various registration offices conducted in audit during the year 2001-2002 revealed non/short levy of stamp duty and registration fee amounting to Rs.8.37 crore in 981 cases which broadly fall under the following categories:

Sl. No.	Nature of irregularities	Number of cases	Amount (Rupees in crore)
1.	Evasion of stamp duty and registration fee	134	1.39
2.	Irregular/inadmissible exemption of stamp duty and registration fee on deeds/release deeds	211	1.80
3.	Non/short recovery of registration fee	157	0.63
4.	Loss of stamp duty due to under-valuation of properties	181	0.77
5.	Loss of stamp duty due to misclassification of deeds	298	3.78
	<b>Total</b>	<b>981</b>	<b>8.37</b>

During the year 2001-2002, the department accepted under-assessment of Rs.1.71 crore in 9 cases pointed out during the year 2001-02 and recovered Rs.10.61 lakh in 43 cases pertaining to the earlier years.

A few illustrative cases involving Rs.1.85 crore are mentioned in the following paragraphs:

### **3.2 Evasion of stamp duty due to under-valuation of immovable property**

The Indian Stamp Act, 1899, as applicable to Haryana, provides that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, should be fully and truly set forth therein. Further, Section 64 of the Act provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances, required to set forth in such instrument under the Act, are not fully and truly set forth, is punishable with a fine which may extend to five thousand rupees per instrument.

During test-check of the records of 12\* Registering offices, it was noticed (between January and September 2001) that 44 conveyance deeds were registered (between May 1999 and May 2001) on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was Rs.6.52 crore whereas the value of properties as per agreements executed between affected parties during the period from June 1990 to January 2001 and found recorded with the various document writers, worked out to Rs.7.70 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than that agreed upon between the parties. Under-valuation of the properties in conveyance deeds resulted in evasion of stamp duty of Rs. 15.48 lakh. Besides, penalty not exceeding Rs. 2.20 lakh for under-valuation made with intent to defraud the Government was also leviable.

On this being pointed out (between February and September 2001) in audit, 8 registering authorities stated that notices were being issued to recover the amount. No reply had been furnished by remaining four registering authorities.

When referred (between March and December 2001) to Government, the Deputy Commissioner, Karnal was directed (April 2001) to effect the recovery within three weeks but report on recovery made had not been received (March 2002). Reply in respect of other cases had not been received (November 2002).

### **3.3 Non-levy of stamp duty on exchange of property**

As per Indian Stamp Act, 1899, as applicable to Haryana, stamp duty on exchange of property is chargeable as a conveyance deed. Government of Haryana further clarified (September 1996) that the compromise decrees which create for the first time right, title or interest in the said immovable property in favour of any party to the suit, the compromise decree or order would require registration and is also chargeable with stamp duty as an

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\* Sub-Registrar Karnal, Joint Sub-Registrar Nissing, Sub-Registrars: Matenhail, Beri, Jhajjar, Nagina, Nuh, Pataudi, Gurgaon, Palwal, Thanesar and Joint Sub-Registrar Ismailabad.

instrument or conveyance deed for a consideration equal to the value of the property or the value set forth in such instrument, whichever is higher.

During test-check of records in 8\* offices of the Sub-Registrars, it was noticed (between April and October 2001) that 18 compromise decrees registered between April 2000 and February 2001 created for first time right, title or interest in the said immovable property valued at Rs.78.06 lakh were registered for the exchange of property without levying stamp duty of Rs.10.02 lakh.

On this being pointed out (between April and October 2001) in audit, Sub-Registrars, Bhuna, Ballabgarh and Pataudi intimated (July 2001 and January 2002) that notices were being issued to effect the recovery. No reply was furnished in other cases.

The matter was referred (between August and December 2001) to Government who directed (September 2001) the Registrar, Kaithal to effect the recoveries within three weeks but further progress on recovery was awaited (November 2002); Reply in respect of remaining seven offices had not been received (November 2002).

### **3.4 Evasion of stamp duty**

The Indian Stamp Act, 1899, as applicable to Haryana, provides that the consideration, if any, and all other facts and circumstances affecting the chargeability of an instrument with duty, or the amount of duty with which it is chargeable, should be fully and truly set forth therein. Under Section 47-A of the Act, *ibid*, if the registering officer has reasons to believe that the value of the property or the consideration, as the case may be has not been truly set forth in the instrument, he may, after registering such instrument refer the same to the Collector for determination of the value or the consideration and the proper duty payable, which will thereafter be decided by the Collector after giving an opportunity to the registering party.

During test-check of documents registered in the office of the Sub-Registrar, Gurgaon for the period 1996-1999, it was noticed (December 1999) that 27 sale deeds registered during 1996-99 were valued at Rs.49.81 lakh whereas the amount worked out to Rs.94.71 lakh calculated at the market rates approved by the Deputy Commissioner. The figures of stamp duty entered on these deeds were changed/alterd by overwriting, inter-polation or tampering for higher amounts than the stamp duty actually charged in each case so that the changed figures of stamp duty may look equivalent to the proper duty payable on the value of consideration based on the rates approved by the Deputy Commissioner. The stamp duty chargeable on the considerations of Rs.94.71 lakh works out to Rs.12.64 lakh against which stamps of Rs.6.60

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\* Sub-Registrars: Bhuna, Ballabgarh, Guhla, Jagadhari, Jakhal, Kaithal, Nilokheri, and Pataudi.

lakh were actually purchased from the treasury. This resulted in evasion of stamp duty of Rs.6.04 lakh.

On this being pointed out (December 1999 and February 2000), Joint Sub-Registrar, Gurgaon intimated (July 2000) that F.I.R. had been lodged (May 2000) against the concerned officers/officials and connected records had been handed over to the vigilance department. Further, Sub-Registrar, Gurgaon intimated (February 2002) that a sum of Rs.0.01 lakh had been recovered (July 2001) and efforts were being made to recover the balance amount.

On the case being referred (February 2000) to Government, the Financial Commissioner and Secretary to Government of Haryana directed (March and July 2000) the Deputy Commissioner, Gurgaon to effect these recoveries. Further, report on recovery made and action taken against the defaulters had not been received (November 2002).

### **3.5 Short levy of stamp duty**

As per Indian Stamp Act, 1899, conveyance includes conveyance on sale and every instrument by which property, whether movable or immovable, is transferred. Further, the Indian Registration Act, 1908 provides that immovable property includes land, building and things attached to the earth. Government clarified (July 1994) that plant and machinery installed in the factory for permanent use when sold alongwith the factory land and building would constitute a part of immovable property.

During test-check of records of 8\* offices of Sub-Registrars for the years 1998-99 to 2000-2001, it was noticed (between December 1999 and October 2001) that 15 vendors purchased factories for a consideration of Rs.1.54 crore (Rs.1.00 crore for land and building and Rs.54.05 lakh for plant and machinery) in auction conducted by the Haryana Financial Corporation. While executing (between August 1998 and March 2001) the sale deeds, the registering authorities levied stamp duty of Rs.12.74 lakh on the cost of land and building valued at Rs.1.00 crore but did not levy stamp duty on the cost of plant and machinery valued at Rs.54.05 lakh. The omission resulted in short levy of stamp duty of Rs.7.24 lakh.

On this being pointed out (between December 1999 and December 2001) in audit, the department intimated that notices were issued/being issued to the concerned parties in 12 cases. No reply was furnished by the Sub-Registrars, Kalka and Panchkula in 3 cases.

The matter was referred (between February 2000 and December 2001) to the Government, who directed (March 2000 and July 2001) the Deputy Commissioners, Gurgaon and Sonipat to effect the recoveries within three weeks but further progress on recovery was awaited (June 2002). Deputy Commissioner Panchkula directed (June 2002) the Tehsildar, Kalka to effect

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\* Sub-Registrars: Hathin, Jind, Kalka, Narwana, Nuh, Panchkula, Sonipat and Tauru.

the recovery immediately. Sub-Registrar, Hathin intimated (January 2002) that notices were issued to all parties for effecting recoveries. No reply from Sub-Registrars, Jind and Narwana had been received (November 2002).

### **3.6 Inadmissible exemption of stamp duty**

As per provisions of the Article 55 of Schedule 1-A of the Indian Stamp Act, 1899 and further clarification/instructions issued in February and April 2000 by the Haryana Government, Revenue Department, stamp duty on any release of ancestral property made in favour of brother or sister (children of renouncer's parents) or son or daughter or father or mother or spouse or children or nephew or niece or co-parcener of the renouncer, is leviable at the rate of Rs.15. In any other case, the stamp duty shall be charged at the rate as applicable to a conveyance for the amount equal to the market value of the share, interest and part of claim renounced.

(i) During test-check of records of 16\* Registering offices for the year 2000-2001, it was noticed (between April and October 2001) that 55 releases of ancestral property for total consideration of Rs.5.07 crore were made in favour of relations other than those specified in Article 55 of Schedule 1-A of the Act by charging stamp duty of Rs.0.01 lakh instead of Rs.63.80 lakh leviable as a conveyance for the amount equal to the market value. This resulted in non-levy/recovery of stamp duty of Rs.63.79 lakh.

On this being pointed out (between April and December 2001) in audit, Sub-Registrar, Tauru (District Gurgaon) and Joint Sub-Registrar, Radaur intimated (January 2002) that the cases were referred to the Collector for decision. Sub-Registrars, Pehowa and Thanesar (District Kurukshetra), Sub-Registrar, Beri (District Jhajjar) intimated (August and September 2001) that notices were being issued to the concerned parties for effecting the recoveries. No reply was furnished by remaining 11 offices.

On the matter being referred (between September and December 2001) to Government, the Deputy Commissioner, Kaithal was directed (October 2001) to effect the recovery. Further progress on recovery made, had not been received (March 2002). No reply in respect of other offices had been received (November 2002).

(ii) During test-check of records of 13\* Registering Offices, it was noticed (between January and October 2001) that 56 releases of other than ancestral immovable properties worth Rs.5.60 crore were made by charging stamp duty at the rate of Rs.15 per instrument for a total amount of Rs.0.01 lakh against

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\* Sub-Registrars: Barwala, Beri, Bhuna, Chhachhrauli, Farauknagar, Jagadhari, Kaithal, Pataudi, Pehowa, Pundri, Tauru and Thanesar.  
Joint Sub-Registrars: Dhand, Mustafabad, Radaur and Siwani.

\* Sub-Registrars: Bahadurgarh, Gharaunda, Indri, Jagadhri, Kalka, Karnal, Mohindergarh, Pehowa, Thanesar.  
Joint Sub-Registrars: Babain, Ismailabad, Ladwa and Rajound.

the chargeable amount of stamp duty of Rs.80.39 lakh. This resulted in evasion of stamp duty of Rs.80.38 lakh.

On this being pointed out (between January and October 2001) in audit, to the Department, the Deputy Commissioners, Kaithal, Karnal, Jhajjar and Narnaul were directed (between May and October 2001) to effect the recoveries. Sub-Registrars, Bahadurgarh (Jhajjar), Pehowa and Thanesar, Joint Sub-Registrars, Ladwa and Babain (Kurukshetra) intimated (February and August 2001) that notices were being issued for effecting the recoveries. No reply was furnished by Sub-Registrars, Kalka, Jagadhari (Ambala) and Joint Sub-Registrars, Ismailabad (Kurukshetra).

The matter was referred (between April and December 2001) to Government; reply had not been received (November 2002).