

## 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 2003-2004 revealed non/short levy of Stamp Duty and Registration Fee amounting to Rs.56.13 crore in 1,758 cases which broadly fall under the following categories:

Sl. No.	Nature of irregularities	Number of cases	Amount (Rupees in crore)
1.	Short levy of stamp duty due to misclassification of deeds	71	0.36
2.	Short levy of registration fee	1,016	0.11
3.	Short levy of stamp duty due to under-valuation of property	140	0.55
4.	Irregular exemption of mortgage deeds and refund	530	0.11
5.	Review on Levy and collection of stamp duty and registration fee	1	55.00
	<b>Total</b>	<b>1,758</b>	<b>56.13</b>

During the year 2003-2004, the Department accepted under-assessment of Rs.0.45 crore involved in 96 cases of which 45 cases involving Rs.0.18 crore had been pointed out in audit during 2003-04 and the rest in earlier years. Besides an amount of Rs.0.87 crore in 286 cases had been recovered during 2003-04 of which Rs.0.86 crore recovered in 270 cases pertained to earlier years.

A few illustrative cases involving Rs.0.34 crore and a review on "Levy and collection of stamp duty and registration fee" involving Rs.55.00 crore highlighting important cases are mentioned in this chapter. Of these, the Department accepted four observations involving Rs.48.14 crore and made part recovery of Rs.0.10 crore in two cases.

### **3.2 Levy and Collection of Stamp Duty and Registration Fees**

#### ***Highlights***

**There was no control over monitoring of progress in recovery of arrears. As on 31 March 2003, arrears on account of levy and collection of stamp duty and registration fee amounting to Rs.19.13 crore were outstanding.**

*(Paragraph 3.2.5)*

**In 5,471 registered documents involving stamp duty of Rs.6.67 crore, genuineness of the stamp papers used could not be ascertained due to non-recording of the source of their issue/purchase on the back of the true copies of the deeds available in the Registrars' offices.**

*(Paragraph 3.2.7)*

**There was lack of control over the stamp vendors. Stamp vendor registers were not inspected in six test checked districts by the Tehsildars, Naib Tehsildars and Collectors.**

*(Paragraph 3.2.12 & 3.2.13)*

**Mis-classification of instruments of release deeds in 1,446 cases resulted in short levy of stamp duty of Rs.9.11 crore.**

*(Paragraph 3.2.14)*

**Under-valuation of property in 567 cases resulted in short levy of stamp duty and registration fees amounting to Rs.1.73 crore.**

*(Paragraph 3.2.17)*

#### ***Introduction***

**3.2.1** The levy and collection of stamp duty in Haryana on various types of instruments such as conveyance, exchange, mortgage, lease etc. is governed by the Indian Stamp Act, 1899 read with the Indian Stamp (Haryana Amendment) Act, 1973 (IS Act) and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. The duty is paid by the executors of instruments either by using impressed stamps or by affixing stamps (non-judicial) of proper denomination. The purchase and sale of stamps in the State is regulated through treasuries. Prior to January 1999, each treasury used to send its indent to the Government for approval. These indents were then sent by the Government to the Central Stamp Depot (CSD) Nasik, which supplied stamps directly to the indenting treasury. However, after January 1999, the stamps indented by the Government for the entire State are being supplied to the Treasury Officer, Faridabad who acts as a nodal agency for distribution of the stamps amongst the indenting treasuries. The Finance Department conducts internal audit of the offices of Sub-Registrars/Joint Sub

Registrar in the State. For this purpose, stamp auditors have been posted at district level who conduct the audit of all the documents registered in the district. The Punjab Stamp (PS) Rules applicable to Haryana provide that the licenced stamp vendors are to sell stamps upto the value of Rs.1,000 at a time to an individual. If stamps of more value are required by an individual then he has to approach the treasury office directly for the purpose. The number and date of issue of stamps is required to be written on the back of these stamp papers. A true copy of the same is placed in the office of the registrar for record. The rules further provide that stamp vendor registers are required to be inspected by the Tehsildars, Naib Tehsildars and Treasury Officer at least once in a quarter.

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

**3.2.2** The Financial Commissioner is the Chief Controlling Revenue Authority under the Act. The powers regarding management of stamps are vested in the Financial Commissioner Revenue, Deputy Commissioners (Collectors), Tehsildars as Sub-Registrars, Naib Tehsildars acting as Joint Sub-Registrars and Treasury Officers. The State has been divided into 19 districts having 19 Registrars, 66 Sub-Registrars, 46 Joint Sub-Registrars and 19 treasuries.

### ***Audit objectives***

**3.2.3** The detailed analysis of revenue receipts from stamp duty for the period 1998-99 to 2002-03 was conducted in audit ;

- to examine flaws in the system of assessment of requirement, indenting, accountal of stock, sale, accountal of sale proceeds etc which could enable fraud;
- to ascertain how demand for supply of stamps was projected and budget estimates in respect of revenues from stamp duty were prepared.
- to ascertain whether there are any lacunae in rules, procedure and internal control system; and
- to ascertain leakage of revenue under the stamp duty.

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

**3.2.4** A review of records relating to levy, collection, exemption and remission of stamp duty and registration fees in 43 out of 112 registering offices in six\* districts for the years 1998-99 to 2002-03 was conducted in audit between April 2003 and January 2004. Records relating to the assessment of requirement, accountal, sale and levy of stamps in six\*\* Treasury and Registrars' Offices were also test checked for the years 1993-94 to 2000-03 during March 2004 to June 2004.

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\* Gurgaon, Hisar, Kurukshetra, Karnal, Panchkula and Sirsa.

\*\* Faridabad, Gurgaon, Bhiwani, Hisar, Yamunanagar and Karnal.

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***Trend of revenue***

**3.2.5** According to the provisions of the Punjab Budget Manual (as applicable to Haryana), the budget estimates of the revenue receipts for the ensuing year should be based on average receipts for the six months of the previous year and the actual receipts of the six months of the current year to make the estimates more realistic.

The position of budget estimates and actual receipts of Stamp Duty and Registration Fee for the years 1998-99 to 2002-03 was as under:

**(Rupees in crore)**

<b>Year</b>	<b>Budget estimates</b>	<b>Revenue realized</b>	<b>Percentage of variation Excess(+)/ Less (-)</b>
1998-99	400.00	294.55	(-) 26
1999-00	408.00	309.92	(-) 24
2000-01	405.00	419.24	(+) 4
2001-02	412.50	488.79	(+) 18
2002-03	495.00	541.39	(+) 9

As would be seen from the table above the budget estimates were quite close to the actual receipts during 2000-01 and 2002-03.

Regarding variations during the years 1998-2000 and 2001-02, Government replied in April 2004 that the decrease/increase of revenue depends on the sale of stamp papers and sale/purchase of property during the year. Therefore, it was difficult to make a correct estimate of revenue to be realized and estimates were prepared on the basis of previous years revenue receipts.

***Monitoring of arrears***

A register named "Register of arrears" is being maintained in the office of the Financial Commissioner. The Financial Commissioner intimated in July 2004 that there was no rule for the maintenance of register of arrears. It was being maintained for consolidating the position of arrears received from different Deputy Commissioners. Each Deputy Commissioner submits an annual return to the Financial Commissioner indicating therein the position of arrears etc.

During audit it was noticed that the register was not maintained properly, the essential details viz. opening balance, receipt, clearance and closing balance, were not available with the Department. No monthly/quarterly return has been prescribed to monitor the progress of recovery of arrears. The actual position of the arrears of the entire State was not available with the Government because the prescribed returns were not being received from all the Deputy Commissioners. The arrear position of 12 districts for the years 1998-99 to 2001-02 and five districts for the year 2002-03 as furnished by the Department

was as under:

Year	Amount involved (Rupees in crore)
<b>Position of 12* districts</b>	
Upto 1998-99	4.33
1999-2000	2.47
2000-01	4.85
2001-02	5.78
<b>Position of 5** districts</b>	
2002-03	1.70
<b>Total</b>	<b>19.13</b>

The Department intimated in December 2003 that information in respect of the remaining districts was being collected and efforts were being made to recover the outstanding arrears as per Stamp Law. The above facts indicated that system relating to monitoring of arrears was weak and not upto the mark.

#### *Sale and utilization of non-judicial stamps*

**3.2.6** A comparison of information regarding utilization of stamp papers as furnished by Registrars with the figures of sale of stamps by the treasury offices revealed the following:

(Rupees in crore)

Year/ Name of Treasury	No of Docu- ments Regis- tered	Opening Balance	Receipt from Nasik	Receipt from other treasuries	Total	Sale of stamp papers by treasuries	Stamp papers utilised	Variation Less(-) / Excess(+)
<b>Faridabad</b>								
1997-98 to 2002-03	2,12,848	355.72	276.85	9.42	641.99	248.76	251.60	(+) 2.84

\* Ambala, Fatehabad, Faridabad, Hisar, Jhajjar, Jind, Kurukshetra, Karnal, Panchkula, Rewari, Sirsa and Yamunanagar.

\*\* Hisar, Jind, Kurukshetra, Panchkula and Sirsa. (The position of the remaining seven districts was not made available).

**(Rupees in crore)**

Year/ Name of Treasury	No of Docu- ments Regis- tered	Opening Balance	Receipt from Nasik	Receipt from other treasuries	Total	Sale of stamp papers by treasuries	Stamp papers utilised	Variation Less(-) / Excess(+)
<b>Gurgaon</b>								
1999-2000 to 2002-03	1,25,290	335.23	498.50		833.73	424.03	411.12	(-) 12.91
<b>Hisar</b>								
1998- 99 to 2002- 03	1,05,225	282.43	120.76		403.19	67.90	66.03	(-) 1.87
<b>Bhiwani</b>								
1994- 95 to 2002- 03	2,29,178	404.38	125.91		530.29	66.74	63.88	(-) 2.86
<b>Yamunanagar</b>								
1998- 99 to 2002- 03	90,009	205.85	86.98		292.83	70.49	69.04	(-) 1.45
<b>Karnal</b>								
1996- 97 to 2002- 03	1,33,866	337.33	135.69	4.13	477.15	126.16	118.06	(-) 8.10
<b>Grand Total</b>	<b>8,96,416</b>	<b>1,920.94</b>	<b>1,244.69</b>	<b>13.55</b>	<b>3,179.18</b>	<b>1,004.08</b>	<b>979.73</b>	<b>(-) 24.35</b>

In one district (Faridabad), utilization of stamp papers on registered documents was more by Rs.2.84 crore as compared to the sale of stamp papers by the treasury. After this was pointed out in May 2004 the Registrar, Faridabad, replied in June 2004 that the reasons of excess utilization of stamp papers were investigated and it had come to notice that some organizations (Such as DLF) had purchased stamp papers from the treasury other than Faridabad but got the deeds registered at Faridabad.

The vendors were authorised to purchase stamps only from a particular treasury but stamps could be sold/utilised for registration anywhere in the state, making cross verification difficult. The Government had not evolved any mechanism to make district level comparison between stamp duty realised in registered documents and revenue realized through sale of stamps by treasuries.

It was noticed that stamps worth Rs.13.55 crore were transferred to Faridabad and Karnal from other treasuries, but no intimation in this regard was given to the Financial Commissioner, Revenue as required under Section 29, Chapter-2 of Part-III of Haryana Stamp Manual, 1970. Thus prescribed procedure for transfer of stamps from one treasury to another was not being followed. This indicated inadequate control of the Government over the distribution of stamps from one treasury to another treasury.

### ***Defects noticed in Sub-Registrar Offices***

**3.2.7** As per PS Rules, the licenced stamp vendors are to sell stamps upto the value of Rs.1,000 at a time to an individual. If stamps of more value are required by an individual then he has to approach the treasury office directly for the purpose. The number and date of issue of stamps is required to be written on the back of these stamp papers. A true copy of the same is placed in the office of the registrar for record.

A test-check of registered deeds with stamp duty exceeding Rs.1,000 conducted in the offices of three\* Sub Registrars revealed that 12,201 deeds were registered during the month of June of the years 1998-99 to 2002-03. Out of these deeds, in 2,631 deeds involving stamp duty of Rs.6.63 crore, the particulars regarding the sale of stamp papers i.e. name of the treasury and No and date of the issue of the stamp papers or both were not found recorded in the true copies of the deeds available in the registering office. Similarly, audit of registered deeds with stamp duty less than Rs.1,000 conducted in the registering offices of three\*\* districts revealed that in 2,840 deeds involving stamp duty of Rs.0.04 crore test checked, the particulars regarding the sale of stamp papers were not found recorded on true copies of the deeds.

In the absence of complete particulars of the source of the purchase of the stamp papers, the genuineness of the test checked stamp papers worth Rs.6.67 crore used for the registration of the documents could not be ascertained. The reasons for not recording the complete particulars, though sought for, were not received from the Department. However, the Registrar, Faridabad intimated in June 2004 that necessary instructions in this respect were being issued to all the Sub-Registrars.

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\* Ballabhgarh, Faridabad and Palwal.

\*\* Faridabad, Karnal and Yamunanagar.

**Indents for supply of non-judicial stamps**

**3.2.8** Rule 9 of “Rules for Supply and Distribution of Stamps” as amended in July 1983 by the Government of India provides that indents in the prescribed Proforma may be prepared by the officer in charge of the local depot to meet three months estimated consumption on 15 December, March, June and September every year. In Haryana, Treasury Officers are required to send indents/requirements to Haryana Government for approval and onwards submission to CSD, Nasik. The stamps were received by the treasuries directly from CSD Nasik. However, from January 1999, Treasury Officer Faridabad acts as a nodal agency for distribution of stamps.

During test check of records of three treasury offices from 1993-94 to 2002-03, it was noticed that the treasury officers had placed their indents on the basis of stock available on adhoc assessment and not with reference to sale of the previous year/quarter. The position of stamps available in the treasuries was as under:

(Rupees in crore)

Name of treasury	Year	Opening balance	Stamps indented	Stamps received	Sale
Hisar	2002-03	60.95	525.72	31.67	16.87
Karnal	2000-01	86.38	96.22	7.05	19.47
	2001-02	73.96	97.88	16.47	26.07
	2002-03	64.36	108.95	7.45	24.95
Gurgaon	2000-01	63.40	507.92	67.29	99.95
	2001-02	30.73	908.41	300.79	117.44

It would be seen from the above that each treasury had a huge stock and still more stamps were indented than required, though sale of these stamps was far less than the stock. Hence indents sent to CSD Nasik were not realistic. There was no correlation between indenting of stamps and their receipts since the stamps received were much in lesser quantity than indented.

The Treasury Officer, Faridabad, did not send any indent to the revenue department during the years 2001 to 2003. He retained non-judicial stamps valued at Rs.60.34 crore in 2001-2002 and Rs.48.63 crore in 2002-03 out of the total stamps received from CSD, Nasik for further distribution to other treasuries. Thus there had been no scientific method of placing indents and obtaining supply of stamps.

This was pointed out in June 2004; the Treasury Officer stated that point will be kept in view in future.



**Short receipt of stamps**

**3.2.9** Rule 6 of PS Rules, provides that the receipt and examination of stamps on arrival at treasuries and sub treasuries shall be conducted in the manner laid down in rules 11 or 19 for the despatch and receipts of stamps in treasuries and sub treasuries.

There was a short receipt of stamp papers worth Rs.one crore in 12 cases. Out of this, a claim of Rs.42.95 lakh was lodged with railways in 10 cases. Of these claim of five cases involving Rs.18.28 lakh was settled by railways for Rs.0.12 lakh only. While in remaining five cases involving Rs.24.67 lakh, the matter was stated to be under correspondence with CSD, Nasik since 1996 to 1998. Action taken in the remaining two cases involving Rs.57.43 lakh was not intimated (September 2004). The chances of misuse of these stamps could not be ruled out.

**Non-disposal of obsolete/damaged stamps**

**3.2.10** Rule 12 of PS Rules, provides that in order to prevent frauds, errors or damage by any cause remaining undetected for long periods the stock of stamps shall be issued in order of its receipts and any denomination lying unsold for any reason for a long time shall be transferred to some other depot, where there is demand for it, under the orders of the Financial Commissioner.

During test-check of records of four\* Treasury Offices, it was noticed that non-judicial stamps worth Rs.8.51 crore and stamps of entertainment tax worth Rs.0.02 crore lying unsold were damaged due to termites. Sanction of the competent authority to write off the amount was still awaited. Stamps of different kinds worth Rs.2.98 crore were also lying un-used in the treasuries as per details given below:

Sr. No.	Name of Treasury	Type of stamp	Denomination	Value (In rupees)	Remarks
1.	Gurgaon	Revenue stamps	4 Anna 0.25 P	1,408 80	No sale after November 1992.
		Share transfer	2 Rupee 5 Rupee	7,98,000 10,00,000	Lying in treasury since July 2001.
		Passengers tax	0.5 P	4,38,220	Not used and lying in stock since December 1998.
			0.20 P	8,01,400	Not used and lying in stock since October 1999.
			0.10 P	5,49,840	Not used and lying in stock since June 2000.

\* Bhiwani, Gurgaon, Hisar and Yamunanagar.

Sr. No.	Name of Treasury	Type of stamp	Denomination	Value (In rupees)	Remarks
2.	Bhiwani	Hundi	0.50 P 1.00 Rupee 1.50 Rupee 2.00 Rupee 4.00 Rupee 5.00 Rupee 10.00 Rupee	90 3,130 750 5,860 7,200 3,620 10,700	No sale after 13 May 1991.
		Revenue stamps	0.05 P 0.15 P	63,000 1,38,000	Lying in treasury since 1995, no sale since then.
		Entertainment	0.05 P 0.10 P 10.00 Rupee 0.20 P	1,20,000 8,11,040 2,35,56,000 14,19,280	Lying in store since 1998. No sale thereafter.
3.	Hisar	Pleader licence fee	12.50 Rupee 25.00 Rupee	300 950	Lying in treasury since 1975. Last sale 23 December 1974.
4.	Jagadhari	Hundi	4.00 Rupee 5.00 Rupee 10.00 Rupee	1,200 27,000 62,000	No sale after 20 October 2000.
	<b>Total</b>			<b>2,98,19,068</b>	

No action/effort was made to get the same transferred to other treasuries in time where these were required till these were damaged or had become useless. No efforts were also made to get the stamps declared as obsolete in case there was no demand for these.

### ***Storage and distribution***

**3.2.11** PS Rules provide for separate double lock for receiving the supply of stamps in nodal office. During the check of records of Treasury Officer, Faridabad, which acts as a nodal agency, it was noticed that the material brought from CSD, Nasik, was kept in the office complex as there was no separate double lock for Nodal Office. The Nodal Office, Faridabad intimated in June 2004 that high value stamps were placed in the double lock meant for Faridabad treasury and remaining stamps were kept in the open within office complex. The distribution work was completed within ten days. Thus material of high value remained unaccounted for 10 days. Not keeping the high value stamps in the double lock of the treasury without accountal was against the rules. The procedure of custody, storage and distribution of stamps was defective and prone to theft.

### ***Absence of control mechanism on stamp vendors***

**3.2.12** Rule 32 (i) of PS Rules stipulates that vend registers in the prescribed form are required to be supplied to the stamp vendors free of charge on application to the Collector. Further, vendors are required to deposit their filled and partially filled vend registers with the Registrars who retain it for a period of 12 years. The licensed vendors were also required to submit quarterly returns to the Treasury Officers.

Test-check of the records of six\* districts revealed that the Collectors neither supplied the blank registers to the stamp vendors nor the registers completed by the vendors were taken back for retention in the District Record Room. Quarterly returns though required to be submitted by vendors to the Treasury office were also not being submitted. This indicated that the work of vendors was not monitored by the Department at any stage.

After this was pointed out in March 2004, the District Registrars replied between March to May 2004 that registers could not be supplied to the vendors as blank registers were not received from Commissioner's Office and as per practice prevalent in the State, completed registers were not taken back from the stamp vendors. In the absence of these registers it could not be ascertained as to how the Department verified the authenticity of sale of stamps by the vendors.

**3.2.13** PS Rules, provide that stamp vendor registers are required to be inspected by the Tehsildars, Naib Tehsildars and Treasury Officer at least once in a quarter.

Test-check of records of the districts revealed that vend registers were not inspected by the Tehsildars, Naib-Tehsildars or by the Treasury officers. Thus the authenticity of the vendors registers could not be vouchsafed.

This was pointed out in March 2004 and the District Registrars replied that instructions in this regard have been issued to the Tehsildars, Naib Tehsildars but admitted that no such reports had been received from them. The Treasury Officers stated in April 2004 that there was no provision in the Haryana Stamp Manual, 1970 to carry out such inspection of vendors registers. Reply was not tenable as the provisions regarding inspection of vendors registers already exist in PS Rules.

***Evasion of stamp duty due to misclassification of sale deeds into release deeds***

**3.2.14**As per provisions of IS Act, as amended by a notification issued in April 2000 by the Haryana Government, stamp duty on any release of ancestral property made in favour of a brother or sister (children of renouncer's parents) or son or daughter or father or mother or spouse or grand children or nephew or niece or co-parcener of the renouncers, is liable at the rate of Rs.15 per instrument. 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 the claim renounced.

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\* Bhiwani, Faridabad, Gurgaon, Hisar, Karnal and Yamunanagar.

During test check of records of 99 registering offices in 19\* districts for the year 2000-01 to 2002-03, it was noticed that in 1446 cases, releases of immovable properties valued at Rs.71.33 crore were either made in favour of relations other than those specified in the notification or the property released was not ancestral. Stamp duty of only Rs.0.22 lakh was charged instead of levying stamp duty of Rs.9.12 crore. This resulted in short levy of stamp duty of Rs.9.11 crore. A few instances are given below:

Sr. No	Name of Registering office	Document No. and date	Nature of observation	Stamp Duty (Amount in rupees)		
				Leviable	Levied	Short levied
1	S R Safidon	1/ 3-4-01	Property was released in favour of son of maternal uncle who was not entitled to the concessions.	1,91,410	15	1,91,395
2	S R Adampur	784/ 6-7-2000	Released in favour of sister-in-law (brother's wife) who was not entitled to concession.	1,10,375	15	1,10,360
3	S R Karnal	4586/ 25-11-02	Released in favour of aunt & cousin (brothers) who were not entitled to concession.	85,375	15	85,360
4	S R Faridabad	3027/ 3-7-02	Released in favour of wife of nephew who was not entitled to concession.	1,38,415	15	1,38,400
5	S R Fatehabad	3417/ 24-1-03	Property was not ancestral and was not entitled to concession.	2,92,777	15	2,92,762

These irregularities were not detected by the Stamp Auditor who had conducted the internal audit of these deeds.

After this was pointed out in audit between April 2001 and March 2004, the Department issued notices in 113 cases raising a demand of Rs.82.68 lakh of which the Department recovered Rs.8.02 lakh in 20 cases and referred 740 cases involving recovery of Rs.4.46 crore to the Collector. Replies in 593 cases involving duty of Rs.3.83 crore had not been received (September 2004).

\* Ambala, Bhiwani, Fatehabad, Faridabad, Gurgaon, Hisar, Jind, Jagadhari, Jhajjar, Kaithal, Karnal, Kurukshetra, Mohindergarh, Panchkula, Panipat, Rewari, Rohtak, Sirsa and Sonipat.

***Failure to cross verify the transactions***

**3.2.15** The IS Act, provides that any person who with intent to defraud the Government executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a penalty which may extend to five thousand rupees per instrument. Government issued instructions in December 1992 to all the Registering Officers to compare carefully the values indicated in the sale deeds with those mentioned in the 'agreement to sell' executed by the parties earlier and recorded with the document writers.

During test-check of records of 14 Registering Offices in five districts, it was noticed that in 33 conveyance deeds registered between April 2000 and March 2003 on account of sale of immovable properties, the total value of properties set-forth in all these conveyance deeds was Rs.1.60 crore whereas the value of properties as per agreement executed between affected parties and found recorded with the various document writers worked out to Rs.2.57 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than that agreed upon between the parties. Failure of the registering offices to cross verify the transactions resulted in the evasion of stamp duty of Rs.14.17 lakh.

After this was pointed out, the Department issued notices for recovery of Rs.3.87 lakh in 19 cases, out of which Rs.0.46 lakh were recovered in four cases, referred six cases of Rs.1.50 lakh to the Collector for determination of value of properties and proper duty payable. Reply in respect of remaining eight cases involving Rs.8.80 lakh had not been received (September 2004).

A mechanism needs to be evolved to cross verify the value or the consideration shown in the agreement entered into by the parties and those shown in the conveyance deeds etc. at the time of execution.

***Short levy of stamp duty***

**3.2.16** Under IR Act, registration of leases of immovable property exceeding one year is compulsory. Further, under the IS Act, an instrument of lease is chargeable with stamp duty on the basis of the annual rent reserved. Stamp duty in respect of lease beyond the period of five years is chargeable at the rate of 6.25 per cent of the annual average rent reserved.

As per the information collected from Mining Department, 25 mining leases were granted for seven years during 2001-02 and 2002-03 by Mining Officers of Faridabad, Gurgaon, Bhiwani and Rewari. These deeds were required to be registered compulsorily on the payment of stamp duty and registration fee. However, the deeds executed were not registered at all. It was noticed that while executing the deeds with Mining Officers, stamp duty of Rs.3.07 crore was charged on the estimated amount based on annual royalty payable for the first year only instead of stamp duty of Rs.4.27 crore based on the annual average royalty for the whole period of lease of seven years. This resulted in short levy of stamp duty of Rs.1.20 crore.

No mechanism existed in the Department to ascertain whether registration was being done in respect of those documents that were required to be registered compulsory. A system needs to be developed to ensure that registration of all documents, wherever required is maintained.

***Under-valuation of immovable properties***

**3.2.17** The Government constituted “Evaluation Committees” from time to time for fixation of minimum market value of properties in various areas of the State for the guidance of registering authorities and a copy of these rates is supplied to them by the Department. Under Section 47 A of the Act, 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 records of 54 registering offices in 16\* districts, it was noticed that in 567 cases the values set forth in the deeds of conveyance were less than that of market value as fixed by the Evaluation Committees. This resulted in short realisation of stamp duty and registration fee of Rs.1.73 crore. The registering authorities failed to assess the correct value of the properties. Consequently, no action to impound the documents was taken. This under-valuation was also not detected by the Stamp Auditor of the Department who had conducted post audit of these transactions.

After this was pointed out, the Department referred 403 cases between August 2000 and February 2004 involving stamp duty of Rs.1.32 crore to the Collectors concerned but no action was taken in 164 cases involving stamp duty of Rs.0.41 crore. The position of the follow up action taken in these cases as on March 2004 was as under:

<b>Sr. No.</b>	<b>Category</b>	<b>Number of cases</b>	<b>Amount of short levy involved (Rupees in crore)</b>
1.	Total no. of cases of under-valuation.	567	1.73
2.	Cases referred to respective Collectors	403	1.32
3.	Cases where no action taken	164	0.41
4.	Cases decided by respective Collectors.	113	0.22
5.	Cases where recovery was ordered.	91	0.16

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\* Ambala, Bhiwani, Fatehabad, Faridabad, Hisar, Jhajjar, Jagadhari, Kaithal, Karnal, Kurukshetra, Mahendergarh, Panchkula, Panipat, Rohtak, Sirsa and Sonapat.

Sr. No.	Category	Number of cases	Amount of short levy involved (Rupees in crore)
6.	Cases where no recovery was ordered and cases filed.	22	0.06
7.	Cases which were pending for decision with Collectors.	290	1.10

### *Short levy of stamp duty due to incorrect application of rates*

**3.2.18** In order to check the evasion of stamp duty in the sale deeds, Government issued instructions in November 2000 to all registering authorities in the State that agricultural land sold in less than 1000 sq. yards in the urban areas and near the residential areas in the villages be valued at the rates fixed for the residential property of that locality for the purpose of levying of stamp duty.

It was noticed that 166 sale deeds were registered between April 2001 and March 2003 in five districts by 23 registering authorities. In all these deeds area of the land registered was less than 1,000 sq. yards. Forty one deeds were in urban area while 125 were in rural area. The deeds were liable to be assessed for Rs.7.62 crore based on the rates fixed for residential area and stamp duty of Rs.1.06 crore was chargeable. However, the registering authorities incorrectly assessed the deeds for Rs.2.21 crore on the rate fixed for agriculture land and levied a stamp duty of Rs.0.30 crore. This resulted in short levy of stamp duty of Rs.0.76 crore.

After this was pointed out between April 2002 and March 2004, one Registering Officer referred four cases involving stamp duty of Rs.0.49 lakh to the Collector in November 2003. No reply in the remaining cases was received (September 2004).

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

**3.2.19** As per IS Act, stamp duty on exchange of property is chargeable as a conveyance deed. Haryana Government clarified in September 1996 that a compromise decree which was not bonafide\* was liable to be charged as an instrument of conveyance.

During test-check of records of 20 registering offices in nine\*\* districts, it was noticed that in 55 compromise decrees registered between April 2001 and March 2003 creating first time right, title or interest in the said immovable property valued at Rs.4.33 crore were registered for the exchange of property without levying stamp duty of Rs.57 lakh. A perusal of the deeds revealed that the compromise deeds for exchange of property were not bonafide and as such these were to be treated as exchange deeds rather than compromise deeds.

\* Which is related by blood relation.

\*\* Faridabad, Fatehabad, Hisar, Jagadhari, Karnal, Kaithal, Kurukshetra, Panipat and Sirsa.

In spite of the Government instructions, the registering authorities failed to detect the omission at the time of registration which resulted in the evasion of stamp duty.

After this was pointed out in April 2002 and March 2004 the Department referred 37 cases involving Rs.32.41 lakh to the Collectors and issued notices between March and September 2003 in five cases for recovery of Rs.4.04 lakh. No reply had been received in respect of 13 cases involving stamp duty of Rs.20.45 lakh (September 2004).

***Incorrect grant of exemption***

**3.2.20** As per notification issued in September 1998 under the IS Act, Government remitted the stamp duty and registration fee leviable on the deeds of mortgage without possession which are executed by agriculturists in favour of any commercial bank for securing loans upto Rs.3 lakh for the purchase of tractor, installation of tube well based on diesel engine etc. and Rs.60,000 for purchase of pumping sets, cane crushers, bullocks, dairy, piggery etc. or any allied purposes. When property is mortgaged to secure a loan and the possession of property is not given, stamp duty is chargeable at one and half *per cent* of the amount of loan secured by such instrument.

It was noticed that in 20 registering offices in seven\* districts, 307 deeds of mortgage without possession executed by agriculturists in order to secure loans from banks were exempted from payment of stamp duty and registration fees. The loans secured exceeded the prescribed limit of exemption or were granted for non-agriculture purposes and as such were not entitled to exemption. The failure on the part of registering offices resulted in short levy of stamp duty of Rs.18.29 lakh.

After this was pointed out in audit between April 2000 and March 2004, the Department, issued notices for recovery of Rs.3.53 lakh in 76 cases, recovered Rs.0.28 lakh in 17 cases and referred one case involving recovery of Rs.7.09 lakh to the Collector. Replies in remaining cases involving recovery of Rs.7.67 lakh had not been received (September 2004).

**3.2.21** Government vide notification issued in August 1995, remitted stamp duty leviable on deeds of conveyance to be got executed by farmers whose land is acquired by Government for public purpose and who purchase agriculture land in the State within one year of the amount of compensation received by them for the acquired land. It was further provided that such remission would be limited to the compensation amount only and the additional amount involved for the purchase of agriculture land would be liable to stamp duty under the rules. A certificate indicating amount of the compensation paid/date of payment, area of the land acquired was required to be attached with the deeds by the executants who claimed exemption under the notification.

During test-check of records of 10 Registering Offices in four districts, it was noticed that 17 sale deeds of properties valued at Rs.1.16 crore were registered by farmers between April 2001 and March 2003. The properties were

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\* Fatehabad, Gurgaon, Hisar, Kurukshetra, Panchkula, Rewari and Sirsa.



purchased either after one year of the date of receipt of compensation or exceeded the amount of compensation received. The stamp duty of Rs.15.71 lakh, though leviable was not levied. The Registering Offices failed to verify the correctness of the deeds with respect to the certificate issued by the Land Acquisition Officer.

After this was pointed out in audit between April 2001 and March 2004 the Department issued notices in 11 cases for the recovery of Rs.5.84 lakh and recovered Rs.1.83 lakh in four cases. Two cases involving recovery of Rs.6.61 lakh were referred to the Collector. Replies in four cases had not been received (September 2004).

### ***Conclusion***

**3.2.22** The system relating to purchase, storage and distribution of the stamp papers was weak. No internal control system existed in the Department to verify the recording of important details in the sale deeds that would have ascertained the genuineness of stamps/stamp papers used. There was no control mechanism to watch the sale of stamps by the stamp vendors.

### ***Recommendations***

**3.2.23** The system relating to purchase and sale of stamps needs strengthening. There should be realistic indenting of the stamps by the treasury officers and important details like name of the treasury/vendors number and issue date etc. should be recorded on the stamps sold by the treasuries.

- The procedure for assessing the requirements, indenting and supply of stamps needs to be streamlined.
- The Government should evolve a mechanism to make district level comparison between stamp duty realized on registration of documents and revenue realised through sale of stamps in order to prevent/detect use of fake stamps.
- The documents/registers required to be maintained by the vendors and their verification and submission to the concerned authorities should be well monitored and transactions cross verified at periodic intervals.
- A system needs to be developed to bring all the deeds that are to be registered compulsorily under the tax net.

### **3.3 Misclassification of instruments**

Under the IS Act, mortgage deed includes every instrument whereby for the purpose of securing money advanced, or to be advanced, by way of loan etc. Stamp duty in case of an instrument, where possession of property is not given, is chargeable at one and a half *per cent* of the amount of loan secured by such instrument. Further, under the Act *ibid*, a collateral or auxiliary or additional or substituted security or by way of further assurance for the above mentioned purposes where the principal or primary security is duly stamped, is also chargeable at the rate of 1.5 *per cent* of the amount of loan.

During test check of records of Sub-Registrar, Panipat, for the year 2001-02, it was noticed that two security bonds were executed by mortgaging immovable properties of individuals for giving guarantee of repayment of loan facilities aggregating to Rs.2.05 crore after levying stamp duty of Rs.115 (Rs.15 and Rs.100 per deed). As these instruments were executed with the consideration for securing loan against security of immovable property, these were required to be classified as mortgage deeds chargeable at one and a half *per cent* of the amount of loan. This resulted in short levy of stamp duty of Rs.3.07 lakh.

After this was pointed out in December 2001, Sub-Registrar, Panipat, stated (May 2003) that the deeds were of collateral security and no stamp duty was payable on these deeds. The reply was not tenable as collateral security was advanced for the purpose of securing loan and as such stamp duty was required to be levied at the rate of 1.5 *per cent*.

The matter was brought to the notice of the Department and to the Government in March 2004; reply had not been received (September 2004).

### **3.4 Short levy of stamp duty on lease deeds**

Under section 35 of IS Act, on an instrument of lease, stamp duty is chargeable on the basis of period of lease and the amount of average annual rent reserved.

During test-check of records of Sub-Registrar, Gurgaon, it was noticed that four lease deeds for 30 years were executed during 2000-01. However, lease amount was worked out on average annual rent for 20 years instead of 30 years. This resulted into short levy of stamp duty of Rs.2.33 lakh.

This was pointed out to the Department between August 2001 and March 2004; reply had not been received (September 2004).

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

As per IS Act, "Conveyance" includes a conveyance on sale and every instrument by which property whether movable or immovable is transferred. Further, the Registration Act provides that immovable property includes land, building and things attached to earth.

During test check of records of four Registering Offices of three\* districts, it was noticed that in nine cases, the vendors purchased factories for the consideration of Rs.5.61 crore in auction from Haryana Financial Corporation. While executing the sale deeds the cost of plant and machinery valued at Rs.1.80 crore was excluded from the payment of stamp duty. This resulted in short levy of stamp duty of Rs.22.92 lakh.

The matter was brought to the notice of the Department and the Government between December 2001 and March 2004. Reply had not been received (September 2004).

### **3.6 Irregular refund**

The IS Act, provides for refund of impressed spoiled stamps. The application for refund by reason of refusal of a person to execute a deed is required to be made within two months from the date of the instrument.

Test-check of records of Sub-Registrar, Ambala City, for the year 2002-03, revealed that two vendors could not get their deeds dated 6 June 2002 and 10 January 2002 registered due to cancellation of bargain. The vendors applied for refund of stamps on 6 August 2002 and 8 May 2002 after expiry of two months. Since the vendors applied for refund after the expiry of two months, the Collector incorrectly allowed the refund of stamps for Rs.1.92 lakh.

After this was pointed out in November 2003, the Department stated in 2003 that necessary notices were being issued to the parties. However, report on recovery had not been received (September 2004).

### **3.7 Non /short levy of registration fee**

Registration fee is charged on the value or the consideration of immovable property subject to a maximum of Rs.500. Haryana Government, vide notification issued in October 1983, directed that no registration fee shall be chargeable on any instrument executed by agriculturists in favour of any commercial bank for securing loan upto Rs.60,000 for purchase of pumping sets, cane crushers, bullocks or ploughs, spray equipments, sprinkler irrigation for agriculture purposes, dairy, piggery and crop loans or any other allied purposes.

During test-check of documents registered in 35 registering offices during the year 2002-2003, it was noticed that in 864 cases, exemption of registration fee upto Rs.1 lakh instead of upto Rs.60,000 was allowed by the registering offices, which was not admissible. This resulted in non/short levy of registration fees of Rs.3.63 lakh.

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\* Gurgaon, Hisar and Jhajjar.

After this was pointed out between April 2003 and March 2004, the Department issued notices for recovery of Rs.0.35 lakh in 74 cases, recovered Rs.0.07 lakh in 16 cases and replies in the remaining cases had not been received (September 2004).