

CHAPTER VI
OTHER TAX RECEIPTS

6.1 Results of Audit

Test-check of records relating to Stamp Duty and Registration Fee and Entertainment Duty during the year 2003-2004 revealed non-assessment, under-assessment and other loss of revenue amounting to Rs.20.09 crore in 13,580 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
STAMP DUTY & REGISTRATION FEES			
1.	Inordinate delay in finalisation of cases	3,488	9.32
2.	Short-realisation of stamp duty and registration fee due to under-valuation of properties	600	1.83
3.	Incorrect exemption from payment of stamp duty and registration fees	1,812	1.65
4.	Loss due to misclassification of documents	93	0.45
5.	Others irregularities	846	6.29
	Total	6,839	19.54
ENTERTAINMENT DUTY			
1.	Non/short deposit of Entertainment duty by the proprietors of VCR's and VCP's	30	0.01
2.	Non-recovery of security deposit/ entertainment duty from cable operators	6,314	0.29
3.	Non-recovery of Entertainment duty	139	0.13
4.	Others	258	0.12
	Total	6,741	0.55
	Grand Total	13,580	20.09

The departments accepted under-assessment of duty and losses of Rs.9.70 crore involved in 9916 cases.

A few illustrative cases involving Rs.1.99 crore are discussed in the following paragraphs:

STAMP DUTY AND REGISTRATION FEES

6.2 Sale and purchase of stamps

6.2.1 Introduction

Under the Constitution of India the duties on instruments enumerated in Entry 91 of List 1, though levied by Government of India, are to be collected and retained by the State within which such duty is leviable. The receipts from non-judicial stamps and sale thereof in Madhya Pradesh (MP) are regulated under the Indian Stamp Act, 1899, MP Stamp Rules, 1942, Revised Rules for Supply and Distribution of Stamp, 1981 and notifications and orders issued from time to time by the State Government.

Stamps are supplied by Central Stamp Depot (CSD), Nasik and Hyderabad to treasuries and sub-treasuries. Nodal points for supply of stamps are created at 12¹ District Treasuries. Stamps are supplied directly to treasuries/sub-treasuries through nodal points. Treasury and sub-treasury sell stamps to public and licenced stamp vendors (vendor). The licenced vendors sell stamps to the public at places indicated in their licences. Finance Department issued instructions in August 1991 for affixing seal of sub-treasury/treasury with signature on reverse side of judicial/non-judicial stamp of Rs.500 or more.

6.2.2 Supply

Test-check of records revealed that in 12 treasuries² stamps worth Rs.50.20 crore during 1999-2000 to 2002-2003 were received without demand/more than the demand.

After this was pointed out in audit, the Treasury Officer (TO), Bhopal stated that stamps of Rs.1.89 crore received without demand were brought to notice of IGR in March 2002. TO Shajapur stated that the stamps valued at Rs.5.90 crore were supplied in excess of demand as such the TO was not responsible. Reply in other cases was still awaited from the Department (May 2005).

6.2.3 Short-supply

Test-check of records of four treasuries³ revealed that stamps worth Rs.67.55 lakh for the period from 1998-99 to 2003-04 were received short from CSD than that depicted in the invoice. Short receipt of stamps of Rs.17.56 lakh was reported to CSD, Nasik by Indore, Raisen, Sehore and Vidisha TOs. No further action was taken by the TOs.

¹ Bhopal, Jabalpur, Gwalior, Indore, Rewa, Sagar, Ujjain, Gwalior, Indore, Rewa, Sagar and Ujjain

² Bhopal, Dewas, Guna, Khandwa, Mandla, Narsinghpur, Ratlam, Rewa, Sagar, Shajapur, Shivpuri and Vidisha

³ Indore (Rs.9.75 lakh), Raisen (Rs.7.80 lakh), Sagar (Rs.1 lakh) and Shajapur (Rs.49 lakh)

6.2.4 Sale of Stamps

Accounting by licensed vendors

As per provisions of MP Stamp Rules, 1942 the Collector of Stamps would grant licence to vendors for sale of stamp, both judicial and non-judicial, at places indicated in the licence for a period of one year.

- Test check of records of Harda treasury in April 2004 revealed that a stamp vendor was selling stamp at the places other than that indicated in the licence. The Collector had ordered the TO in May 2001 not to issue stamps to the vendor till further orders. The vendor was supplied non-judicial stamps of Rs.21.41 lakh by the TO in contravention of the order of the Collector during the period May 2001 to March 2002.

After this was pointed out in audit, the TO stated in June 2004 that stamps of Rs.21.41 lakh were sold to the stamp vendor on verbal instruction of the District Collector, Harda.

- Test check of records of DRs further revealed that in five districts⁴ purchase of adhesive stamp/fake adhesive stamps of Rs.45.86 lakh were made from three unauthorised stamp vendors⁵ by different banks, insurance companies and industry in September 2000. Out of these, fake adhesive stamps of Rs.2.76 lakh were seized by DR Indore. The first information report (FIR) in respect of these fake stamps was lodged in Indore and Satna in September 2000 and January 2004 respectively. The matter relating to fake stamps purchased at Dewas was taken up by the DR, Indore with the Police Department at Dewas but confirmation of registration of police case was not obtained by him.

After this was pointed out in audit, the Inspector General of Registration (IGR) stated in April 2004 that the use of fake stamps was beyond imagination so provision for scrutiny of source of purchase of stamp was not made.

This indicates that there is a need for fixing the norms for conducting inspections and also authorising the inspectors to ascertain the genuineness of the stamps used.

- As per provisions of MP Stamp Rules, 1942, sale of stamps by any person who is not authorised under the Act/Rules is prohibited. Under article 268 of the Constitution, duty on insurance documents though levied by the Government of India it is to be collected and retained by the State within which such duty is leviable. IGR had also issued instructions in November, 2000 to Zonal/Regional office of Insurance companies of the state not to purchase stamps from other States.

A cross check of the information obtained from Life Insurance Corporation of India with the records of three DTOs at Bhopal, Gwalior and Jabalpur revealed that insurance stamps worth of Rs.2.79 crore were purchased by the six Divisional Offices of Life Insurance Corporation of India from three stamps vendors of Jamshedpur (Jharkhand) and Pune (Maharashtra) during 1998-99 to 2000-2001 but neither license

⁴ Bhopal Rs.2.39 lakh, Dewas Rs.1.40 lakh, Harda 0.40 lakh, Indore Rs.37.05 lakh and Satna Rs.4.62 lakh.

⁵ M.P. Enterprises Bhopal Rs.2.59 lakh
Malwa Enterprises Indore Rs.39.85 lakh
Jyoti Kumar Sathe, Pune Rs.3.42 lakh

number nor copy of license was produced in favour of above vendors. As such the genuineness of the vendors could not be verified in audit.

This was pointed out in audit and the Collector of Stamps, Shahdol confirmed the facts. Report regarding action, as provided in the Indian Stamp Act, 1899, taken by the Department is still awaited (May 2005).

6.2.5 Inspection of vendor's account

As per provisions of MP Stamp Rule, 1942 every stamp vendor will allow District Registrar or Sub-Registrar of any revenue officer not below the rank of Naib Tahsildar or any official duly authorised in that behalf by Collector or by the State Government at any time to inspect their register of sales, daily transaction and examine their licence and stock of stamps in their possession.

It was noticed that no inspection of registers of 3,185 vendors out of 4,306 vendors was conducted in eleven districts⁶ during the period 1993-94 to 2002-2003. After this was pointed out in audit, IGR stated (December 2004) that due to shortage of staff inspection of registers of all stamp vendors is not possible.

This matter was reported to the Government in November 2004; their final reply is awaited (May 2005).

6.3 Non-reimbursement of stamp duty and registration fees

According to the Government notifications (September 1989), stamp duty and registration fees leviable on lease/sale deeds executed in favour of persons displaced by Narmada Valley Development Projects (NVDP) in respect of land acquired for them was to be reimbursed to the Government by Narmada Valley Development Authority (NVDA) within one month from the date of registration of documents.

Test check of records in Sub-Registrar Offices, Barwah (Khargone) and Khategaon (Dewas) revealed June 2003 that 52 sale deeds were executed in favour of persons displaced by NVDP during 2002-2003. However, stamp duty and registration fee of Rs.14.55 lakh though reimbursable to the Government was not reimbursed by the NVDA. This resulted in non-realisation of the Government dues to that extent.

After this was pointed out in audit, I.G.R stated in September 2004 that an amount of Rs.9.15 lakh has been reimbursed in 33 cases in March and April 2004. The matter was reported to Department and Government between September 2003 and April 2004. Final action taken had not been received (May 2005).

6.4 Loss of revenue in instruments executed by/in favour of co-operative housing societies

As per Government Notification of October 1980, instruments executed in favour of Primary Co-operative Housing Societies (societies) for acquisition of land for housing purpose were exempt from payment of stamp duty. Department directed in August

⁶ *Betul, Chhatarpur, Dewas, Guna, Indore, Mandla, Panna, Rajgarh, Seoni, Sidhi and Shahdol*

2001 to review all such cases where the societies were granted exemption from payment of stamp duty on conveyance deeds and later on the land was used for the purposes other than housing of its members. In such cases the stamp duty and the registration fees, which were exempted at the time of purchase of such land were to be recovered.

It was noticed that three Sub-Registrar⁷ exempted between October 2001 and February 2003 six sale deeds conveying the purchase of land for housing purposes from payment of stamp duty and registration fee of Rs.8.90 lakh. However, a perusal of the records revealed that the said land was either sold by the Societies or was used for purpose other than that of housing. Consequently, the stamp duty & registration fee exempted was recoverable from the societies. However, no action was taken to recover the same resulting in loss of Government revenue of Rs.8.90 lakh.

After this was pointed out, Sub-Registrar Gwalior and Indore stated in August 2003 and January 2004 that the cases would be sent to Collector of Stamps for necessary action. Final reply from Sub-Registrar Jabalpur had not been received (May 2005).

6.5 Under valuation of properties

The Stamp Act, 1899 requires market value of property to be specified in any deed of transfer of properties for determining stamp duty and registration fee leviable. Government introduced (December 1993) an amendment in the M.P. Prevention of Undervaluation of Instruments Rules, 1975 and it was made mandatory for a Sub-Registrar to refer the cases, after registration, to Collector of Stamps for determination of market value in case the value shown in the instrument was found less than the annual statements of minimum values issued by District Collectors. Government further amended the Act, (March 2000) and introduced Market Value Guideline Rules, 2000 thereunder effective from 1 August 2000. Accordingly Sub-Registrar was made responsible for referring the cases having less market value to the Collector before registering the document.

- Test check of records between February 2003 and January 2004 in Sub-Registrar office, Gotegaon (Narsinghpur) and Indore revealed that in seven instruments registered between April 2000 and March 2003, the market value of the property was Rs.1.91 crore as per the guidelines rules while the cases were registered for Rs.1.44 crore resulting in under valuation of Rs.47 lakh involving stamp duty and registration fee of Rs.5.03 lakh. The Sub-Registrar did not refer these instruments to the concerned Collector for determination of correct value of the properties and duty leviable thereon. This resulted in short-realisation of Government revenue to that extent.

After this was pointed out, the Department stated in July 2004 that all the seven cases had been registered for revaluation during March 2003 and the year 2003-2004 by concerned Collectors for necessary action.

⁷ Gwalior, Indore and Jabalpur

- Test check of the records of seven Sub-Registrar offices⁸ between April and December 2003 revealed that 450 documents referred to the Collector between April 1999 and January 2003 for determination of market value of the properties, had not been finalised. The difference aggregating Rs.1.58 crore of stamp duty and registration fees, recoverable on these documents based on the market value proposed by the registering officer, remained unrealised.

After this was pointed out in audit the concerned Sub-Registrars stated between April and December 2003 that cases were pending with the Collector and the Collector would be requested for early disposal of cases.

The Government to whom the matter was reported between August 2003 to April 2004 endorsed in July 2004 the reply of the IGR where in it was stated that the Collector tries to dispose off such cases within stipulated period but non-serving of summons resulted in delay. It was also stated that special drive would be carried out during the period from July to September 2004.

ENTERTAINMENT DUTY

6.6 Non-levy of entertainment duty on Cinema Houses

The Madhya Pradesh Entertainment Duty and Advertisement Tax (MPEDA) Act, 1936 (amended April 1999) provides that no duty shall be levied on such amount not exceeding one rupee per ticket as may be determined by the Collector on the basis of payment for admission for providing facilities to persons admitted in cinema houses. If the Collector is not satisfied with the facilities provided, he may recover the duty on the amount allowed for such facilities.

Test-check of records of two offices⁹ revealed between May and September 2003 that 21 proprietors of cinema houses had collected Rs.11.40 lakh between April 2002 and April 2003 on sale of tickets for providing facilities to persons admitted in the cinema hall without getting it determined by the Collector. Neither the proprietors submitted any claim for exemption nor the Collector determined any amount for exemption from payment of duty. Thus, entertainment duty though leviable on the entire amount collected by the owners was not levied. This resulted in non-levy of entertainment duty amounting to Rs.5.13 lakh.

After this was pointed out in audit, the Excise Officers stated between May and September 2003 that action for recovery would be taken after determination of the amount recoverable by Collectors for providing facilities.

The matter was reported to the Government (between August 2003 and March 2004); their reply had not been received (May 2005).

⁸ *SR Barwah (Khargone), Jabalpur, Morena, Nalkheda (Shajapur), Rewa, Sheopurkalan (Sheopur) and Tendukheda (Narsinghpur)*

⁹ *District Excise Officer (Entertainment) Shivpuri and Assistant Excise Commissioner (Entertainment) Ujjain*

6.7 Non-recovery of entertainment duty

According to the MPEDA Tax Act and Rules made thereunder, every proprietor of Cable Television Network providing entertainment through cable service shall pay entertainment duty at prescribed rates.

Test-check of records of four districts offices¹⁰ revealed between May 2003 and February 2004 that entertainment duty of Rs.7.76 lakh from 193 cable operators for the period from April 2002 to January 2004 was neither demanded nor recovered by the Department. This resulted in non-recovery of entertainment duty of Rs.7.76 lakh.

After this was pointed out, all DEO's stated between May 2003 and February 2004 that the action for recovery would be taken after scrutiny of the cases. The DEO, Badwani intimated (June 2004) that amount of Rs.1.12 lakh has since been recovered.

The matter was reported to the Government between August 2003 and March 2004, their reply had not been received (May 2005).

¹⁰ *Barwani, Khandwa, Shajapur and Ujjain*

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