

**CHAPTER III :
STAMP DUTY AND REGISTRATION FEES**

3.1 Results of audit

Test check of the records relating to stamp duty and registration fees conducted during the year 2006-07 revealed non/short levy of duty and loss of revenue etc. amounting to Rs. 174.34 crore in 567 cases, which broadly fell under the following categories:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	Concessions in Stamp Duty (A review)	01	133.49
2.	Non-levy of stamp duty on instruments executed by co-operative societies	58	2.46
3.	Incorrect grant of exemption of stamp duty and registration fees	30	1.90
4.	Short levy due to misclassification of documents	29	10.51
5.	Short levy due to under valuation of property	444	25.66
6.	Other irregularities	05	0.32
	Total	567	174.34

During the year 2006-07, the department accepted under assessments, short levy etc. in 166 cases and recovered Rs. 6.72 crore, of which three cases involving Rs. 5.75 crore were pointed out during 2006-07 and the rest in earlier years.

A review on '**Concessions in Stamp Duty**' involving financial effect of Rs. 133.49 crore and a few illustrative cases involving financial effect of Rs. 2.20 crore are mentioned in the following paragraphs.

3.2 Concessions in stamp duty

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 3.2.6)

Non-installation of a system to obtain periodical information from the Registrar of Companies resulted in unintended extension of concession of stamp duty amounting to Rs. 72.53 crore.

(Paragraph 3.2.7)

Absence of a penal provision and withdrawal of concession already availed of in case of subsequent violation of conditions for grant of concession led to undue extension of concession of stamp duty of Rs. 12.82 crore.

(Paragraph 3.2.8.2 & 3)

Internal control mechanism was weak as is evidenced by the arrears in annual inspection of registration offices by Deputy Inspectors General of Registration, Assistant Inspectors General of Registration and Joint District Registrars which ranged between 53 and 61 per cent.

(Paragraph 3.2.10)

Failure to levy stamp duty on the market value of immovable properties led to short levy of stamp duty of Rs. 28.74 crore.

(Paragraph 3.2.11)

3.2.1 Introduction

Levy of stamp duty (SD) in Maharashtra on different types of instruments¹ is governed by the Bombay Stamp Act, 1958 (BS Act) which empowers the Government to reduce, remit or compound SD in public interest. Concessions in SD have been granted from time to time on instruments relating to information technology (IT) units in the IT sector with a view to generate employment, self employment, promote business and enterprise in the IT industry. For promotion and growth of other industries in the State, similar concession in SD is offered on instruments relating to amalgamation of companies and new industries.

It was decided by audit to review the mechanism for ensuring that the concessions were granted correctly. The review revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

¹ Instrument as defined in the Section 2 of the BS Act

3.2.2 Organisational set-up

Principal Secretary, Relief and Rehabilitation (R&R) heads the Registration Department. The overall control and superintendence over collection of SD and registration fees vests with the Inspector General of Registration (IGR), Pune. The IGR is responsible for ensuring correctness of the grant of concessions. He is required to oversee the inspection of the offices of Sub-Registrars (SRs) by deputy inspectors general of registration (DIGs), assistant IGRs and 100 *per cent* check of documents involving concessions in SD by the Joint District Registrars (JDRs). The JDRs are empowered to adjudicate the documents and grant concession in SD. Further, the SRs can also grant concession in SD after verifying the compliance of all the conditions governing the grant of concession. The IGR is assisted by nine² DIGs, three assistant IGRs, Superintendent of Stamps (SOS) at Mumbai, 31³ JDRs and 317 SRs at district and taluka levels.

3.2.3 Scope and methodology of audit

Instruments pertaining to the registration of amalgamated companies, IT sector units and new industries executed between January 2002 and December 2006 in 15⁴ out of 35 registration districts were sampled using the software Interactive Data Extraction and Analysis (IDEA). Selected instruments were scrutinised between January 2007 and May 2007 to determine the correctness of concessions granted.

3.2.4 Audit objectives

The review was conducted with a view to :

- ascertain whether a record of concessions granted in SD was available to monitor the results of concessions for periodically reviewing their continuance or otherwise;
- examine whether the concessions were correctly granted/administered;
- ascertain whether any system exists for obtaining periodical information from the Registrar of Companies (ROC) on amalgamation of companies and increase in share capital for levy of SD to ascertain gaps, if any, in levy of SD; and
- assess the effectiveness of the internal control mechanisms installed by the department to ensure the correctness of the concessions granted.

3.2.5 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 Government and department in May 2007 and was discussed in the Audit Review Committee meeting held in September 2007. Principal Secretary Relief and Rehabilitation Department represented the Government while Inspector General of

² Including one DIG, Headquarter at Pune

³ There is no post of Joint District Registrar in Gondia, Hingoli, Nandurbar and Washim districts

⁴ Amravati, Aurangabad, Beed, Bhandara, Jalna, Nagpur, Nashik, Mumbai, Mumbai Suburban District, Pune, Raigad, Sangli, Satara, Solapur and Thane

Registration represented the department. Views of the Government/department have been incorporated in relevant paragraphs.

Audit findings

System deficiencies

3.2.6 Absence of database of revenue forgone

The Government in extending concessions decides to forgo revenue in pursuance of certain defined objectives. A reliable database of revenue foregone is, therefore, a pre-requisite for informed decision making. It was noticed in audit that the computerised system for registration of instruments introduced in January 2001 had the facility for recording concessions in SD granted by SR/JDR/SOS at the time of registration of instruments. **The consolidated database with IGR, however, showed that there was no data on revenue remitted due to grant of concessions as the in-built facility in the computerised system was not being used.** Consequently, the revenue remitted during 2002-07 on account of grant of concessions in SD was not quantified by the IGR.

The Government stated (September 2007) that action to update the database has been initiated.

3.2.7 Concession for instruments pertaining to amalgamation, etc. of companies

The Indian Registration Act, 1908 provides that instruments of conveyance should be registered compulsorily after payment of the registration fee. Further, Section 394 of the Companies Act, 1956 provides that every amalgamation order of the High Court (HC) is to be filed with the ROC within 30 days for registration of the amalgamated company. Under the provisions of the BS Act, SD on conveyance, relating to an order of the HC in respect of amalgamation of companies, is leviable at the prescribed rate on the market value of shares/immovable property on the 'appointed date' mentioned in the scheme of amalgamation. Immovable property includes land, benefits to arise out of land and things attached or permanently fastened to anything attached to the earth. SD at the concessional rate is also leviable when the share capital of any company is raised. Maximum duty chargeable was fixed at Rs. 25 crore from 1 May 2002. It was noticed in audit that the department did not have a system for obtaining periodical information from the ROC on amalgamation of companies and increase in share capital of the companies for levy of SD. This resulted in non-levy of SD on instruments of amalgamated companies which amounted to irregular extension of concession beyond what was provided under the various orders. A few cases are discussed in the succeeding paragraphs. **Non-installation of a system to obtain periodical information from the ROC thus resulted in unintended extension of concession amounting to Rs. 72.53 crore as revenue not being recovered at the prescribed concessional rates.**

3.2.7.1 Non-levy of stamp duty on instruments of amalgamation of companies

From the records available with the ROC, it was noticed that 140 cases of amalgamation were registered with the ROC from 2001 to 2006. Cross

checking of these cases with those adjudicated by the SOS revealed that SD was levied only in 21 cases as and when the instruments were presented to his office. In three cases of amalgamation finalised between 2002 and 2004, SD of Rs. 1.80 crore was due. But, in the absence of relevant details from the ROC it was not demanded.

The Government stated (September 2007) that details in respect of these cases have been obtained and notices for recovery had been issued.

3.2.7.2 Failure to collect stamp duty on increase in share capital

In the office of SOS, it was noticed in April 2007 that share capital of a company was increased in 2001 on which SD of Rs. 50 lakh was leviable. However, the SOS did not levy and realise SD in absence of relevant details from the ROC.

The Government stated (September 2007) that SD would be recovered after verification. The Government also stated that consequent upon audit observations, a system of co-ordination of SOS with the ROC had been evolved for collecting periodical information from the ROC relating to amalgamation and revision of share capital of companies.

3.2.7.3 Failure to levy stamp duty prevalent on the 'appointed date'

It was noticed in three instruments of conveyance pertaining to amalgamation of companies that the SOS, Mumbai and JDR, Thane levied SD of Rs. 25.41 crore at the rate prevailing on the date of amalgamation order issued by the HC instead of Rs. 95.64 crore at the rate prevailing on the 'appointed date' mentioned in the instruments. This omission led to short levy of SD of Rs. 70.23 crore detailed as under:

(Rs. in crore)

Name of the company		Appointed date	Value of shares and immovable property	Stamp duty leviable	Stamp duty levied	Short levy
Transferor	Transferee	Date of High Court orders				
Reliance Petroleum Limited	Reliance Industries Limited	01/04/2001	13,581.48	95.07	25.00	70.07
		07/06/2002	3.97			
Pharmacia Healthcare Ltd.	Pfizer Ltd	01/12/2003	4.81	0.47	0.34	0.13
		04/05/2005	6.66			
Gala Spring Pvt. Ltd.	Gala Precision Technology Ltd	01/04/2004	Nil	0.10	0.07	0.03
		06/08/2005	1.42			
Total				95.64	25.41	70.23

Thus, the department by not taking the market value of shares on the appointed date had allowed unintended extra concession in these cases.

The Government stated (September 2007) that the matter would be referred to the Law and Judiciary Department and appropriate action for recovery of differential duty would be taken on the lines suggested by the Law and Judiciary Department.

The Government may therefore consider prescribing a system of obtaining periodical information from the ROC for registration of instruments of companies amalgamated under the schemes of amalgamation.

3.2.8 Concession of stamp duty on instruments of IT units

By a notification (December 2003), the Government granted 100 *per cent* concession in SD, effective from 4 June 2003 to 31 May 2008, on instruments executed by the IT units or IT Enabled Services (ITES) units for starting 'new IT units' in public sector IT parks and 75 *per cent* concession if the new IT unit was located in a private IT park. Location of the unit in public or private IT park was to be certified by the Development Commissioner (Industries) or any authorised officer. **This notification, however, did not stipulate any mechanism for ascertaining that the IT units which had availed the concession had subsequently complied with the conditions under which the concessions were granted.**

It was noticed that the Marathi version of the notification (December 2003) stipulated grant of concessions in SD to leasing and financial institutions for acquiring space/premises in public/private sector IT parks on the basis of instruments evidencing the lease of the space/premises to IT or ITES units. English version of the notification (December 2003), however, stipulated that the leasing and financial institutions would be granted concession in SD for subsequent lease of the space/premises to IT or ITES units. No time frame for execution of instrument of lease in favour of the IT or ITES unit 'subsequent' to availing of the concession was, however, prescribed. **Thus, there was a substantial difference in the two versions of the same notification.** The omissions noticed while granting concessions are as under:

3.2.8.1 Short levy of stamp duty

Scrutiny of the records relating to IT units in six SR and two JDR offices of four⁵ districts revealed that the registering authorities by ignoring the conditions put forth in the notification had allowed unintended extra concession in 16 instruments which led to short levy of SD of Rs. 20.71 crore as mentioned below:

⁵ Mumbai, Mumbai Suburban, Pune and Thane

(Rs. in lakh)

SR/JDR	Number of instruments	SD leviable	SD levied	SD short levied	Nature of irregularity
Andheri II	2	59.19	15.89	43.30	Requisite certificate from the authorised officer indicating starting of a new IT unit was not on record.
Kurla III	4	66.23	19.04	47.19	
Haveli VIII	1	56.25	14.06	42.19	
JDR, Pune	1	14.85	3.71	11.14	Concession was granted for extension of an existing IT unit.
Borivali I	1	327.30	65.57	261.73	Concession was granted for construction of IT parks.
Thane III	1	187.76	Nil	187.76	
JDR, Thane	1	650.00	Nil	650.00	
Haveli VII	1	10.00	1.00	9.00	
Haveli VIII	2	187.50	46.87	140.63	
Borivali I	1	646.00	Nil	646.00	Concession was granted for acquisition of an entire IT park.
Borivali I	1	42.21	10.52	31.69	The unit was not in an IT park.
Total	16	2,247.29	176.66	2,070.63	

The Government accepted (September 2007) the observations and agreed to issue notices for recovery of SD.

3.2.8.2 Irregular availing of concession

SRs Kurla III and Borivali IV (Mumbai Suburban) granted concession of SD of Rs. 12.27 crore on 14 instruments of leasing and financial institutions/companies executed (October 2005-April 2006) for acquiring space/premises in IT parks. However, these institutions/companies did not subsequently lease the space/premises in IT parks to IT or ITES units as of May 2007. The institutions/companies, thus, violated the condition of production of the evidence of lease of space/premises for availing the concession or evidence for subsequently leasing the space/premises leading to irregular availing of concession of Rs. 12.27 crore in payment of SD.

The Government accepted (September 2007) the omission and agreed to issue notices for recovery of SD.

3.2.8.3 Breach of conditions after availing concession in stamp duty

In the offices of the JDR, Thane and SR, Mulshi (Pune) it was noticed that three IT units availed concession in SD of Rs. 55 lakh (July 2001-March 2005) for acquiring open plots/premises for starting new IT units. These units, however, sold the open plots/premises to other IT units without starting their

own units. **Since the scheme did not provide for any penal provision/ withdrawal of concession already availed on violation of condition for grant of concession, the department did not withdraw the concession of Rs. 55 lakh already availed in these cases.**

The Government accepted (September 2007) the omission and agreed to issue notices for recovery of SD.

The Government may, therefore, consider bringing out a clarification to the effect that the concession in SD shall be available to specified leasing and financial institutions only on the basis of instruments evidencing the lease of the space/premises to IT or ITES units to maintain uniformity between the notification in Marathi version and English version. They should also incorporate a penal provision and withdrawal of concession in case of any subsequent violations.

3.2.9 Delay in disposal of cases and realisation of demand

The BS Act provides for levy of penalty and recovery of non-realised SD as arrears of land revenue. **No time limit for disposal of cases referred for adjudication to the adjudicating authorities has been prescribed.** This led to non-realisation of revenue as discussed below:

In the office of SOS, 37 cases of amalgamation referred for adjudication between 1997 and 2007 were decided between 2004 and 2006 and SD of Rs. 30.12 crore was levied. The SD was, however, not realised even though a period ranging between one month and 34 months had already expired from the date of issue of demand notice. Further, the SOS had not decided SD leviable in 158 cases of instruments of amalgamation referred between 1994 and 2007. Age wise pendency of these cases was as under:

Age of pendency	Number of cases
6-12 years	30
1-5 years	103
Below 1 year	25

The Government stated (September 2007) that based on audit observations demand notices were issued in 37 adjudication cases, Rs. 2.33 crore were recovered in eight cases and final action in rest of the cases would be completed by December 2007. In respect of 158 cases, it was stated that these cases would be expedited. It was also stated that, indicative time limit would be considered for deciding the cases by adjudicating authorities.

The Government may, therefore, consider prescribing a time limit for disposal of adjudication cases by the adjudicating authorities.

3.2.10 Inadequate inspection

The departmental instructions (November 1991 and June 2001) stipulate checking of all instruments by JDR which are registered by the SR after grant of concession in SD. The DIG and JDRs/Assistant IGRs are also required to

annually inspect 48 and 36 offices of SRs respectively. It was noticed that this important internal control was not implemented strictly resulting in shortfall in scrutiny of instruments as discussed below:

During scrutiny of records of the IGR it was noticed that during the years 2002 to 2006 shortfall in annual inspections by eight DIGs, three assistant IGRs and 33 JDRs ranged between 53 and 61 *per cent* as detailed below :

Year	DIG		Assistant IGR		JDR	
	Inspections due/done		Inspections due/done		Inspections due/done	
2002	384	175	108	24	1,584	501
2003	384	195	108	16	1,584	632
2004	384	177	108	20	1,584	735
2005	384	123	108	72	1,584	636
2006	384	228	108	86	1,584	551
Total	1,920	898	540	218	7,920	3,055
Overall percentage of shortfall	53		60		61	

Shortfall in inspections contributed to shortfall in scrutiny of instruments on which concessional SD was levied. Records at IGR revealed that 12,001 instruments of concessional SD from 2002 to 2006 were to be checked by six JDRs⁶. It was observed that JDR Jalna and Mumbai did not check any instruments while the rest of the JDRs checked 2,246 instruments (out of 12,001 instruments).

The Government accepted (September 2007) the position and stated that cases of short levy would be seen on a regular basis in addition to regular inspections. Further, steps to rationalise and streamline the system of inspection would be taken.

Compliance deficiencies

3.2.11 Failure to levy stamp duty on the market value of immovable properties

As per the BS Act, SD and registration fee 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. These rates are prescribed in the ready reckoner.

⁶ Amaravati, Jalna, Mumbai, Raigad, Solapur and Thane.

It was noticed in four instruments of amalgamation of companies that the value of immovable property i.e. the fixed assets/plant and machinery was incorrectly worked out which led to short levy of SD of Rs. 28.74 crore as mentioned below:

(Rs. in crore)

Name of the company		Value of assets to be considered SD leviable	Value of assets/ consideration considered	SD levied	Short levy of SD	Remarks
Transferor	Transferee					
Rhone Poulenc (India) Ltd. and 2 others	Nicholas Piramal (India) Ltd.	<u>117.72</u> 8.24	58.18	2.87	5.37	Incorrect valuation of properties
Piramal Holdings Ltd & others	Morarjee Realtors Ltd.	<u>196.25</u> 9.81	124.15	6.21	3.60	Valuation was based on the ready reckoner rates for the year 2006 instead of the rates for the year 2005.
National Organic Chemical Industries Ltd (NOCIL)	Relene Petro Chemicals Pvt. Ltd. NOCIL Petrochem Ltd.	<u>292.02</u> 20.44	19.00	1.90	18.54	Market value was not considered for the levy of SD.
Clariant (India) Ltd. and 3 others	Colourchem Ltd.	<u>172.99</u> 8.65	148.30	7.42	1.23	Value of plant and machinery was not considered
Total		<u>778.98</u> 47.14	349.63	18.40	28.74	

In the above cases, unintended extra concession through improper valuation of properties and/or adoption of incorrect rates was allowed by the department.

The Government stated (September 2007) that in the case of Rhone Poulenc (India) Ltd., demand of Rs. 5.37 crore has been raised, in respect of the other two cases revaluation of properties would be undertaken and in the case of Clariant (India) Ltd the movable and immovable properties would be segregated and subjected to SD.

3.2.12 Concession in stamp duty on instruments of new industries

By a notification issued on 29 December 2003, the Government granted concession in SD on instruments of hypothecation, pawn, pledge, deposit of title deeds, conveyance, further charge on mortgage of property, lease, mortgage deed etc. for starting a new industry/new extension of industry in notified areas on the basis of a certificate issued by the Development Commissioner (Industries) or any authorised officer.

In 14⁷ SR of nine districts⁸ and JDR, Satara, in 30 instruments of lease, mortgage etc. concession in SD was granted by classifying the instruments as instruments of new industries. From the recitals in the instruments it was, however, observed that the classification was incorrect which led to non-levy of SD of Rs. 47.29 lakh. A few illustrative cases are mentioned below:

(Rs. in lakh)

Name of SR/ JDR	Number of instruments	SD leviable	SD levied	SD non/ short levied	Remarks
Gangapur	01	1.34	0.01	1.33	Instruments are of assignment/transfer of lease chargeable to SD under Article 60 of the Act.
Jalna I	02	1.44	0.003	1.44	
Nagpur VI	04	10.93	0.64	10.29	
Saoner	01	16.25	1.40	14.85	
Beed I	07	10.33	0.01	10.32	Instruments related to obtaining of loan for farming/cattle rearing, building contractor for business purpose and a car dealer.
Sidkheda	01	3.10	Nil	3.10	
Satara	01	4.22	Nil	4.22	Requisite certificate from the authorised officer was not attached.
Miraj I	02	1.75	0.01	1.74	
Total	19	49.36	2.07	47.29	

The Government accepted (September 2007) the omissions in all the cases except for four documents of the SR I, Beed, where the certificates were stated to be available. These certificates were, however, not produced for verification (October 2007).

3.2.13 Conclusion

A reliable database of revenue forgone which is a pre-requisite for informed decision making was absent. Hence, the revenue remitted during 2002-07 on account of grant of concessions in stamp duty could not be quantified by the Inspector General of Registration. Revenue from registration of instruments of companies amalgamated under the scheme of amalgamation and increase in share capital of companies was also not tapped in the absence of a system for collection of relevant details from the ROC. The provisions of notification for concession of SD to IT units were also not complied with. The internal control mechanism to monitor grant of concession in SD was weak as is evidenced by the arrears in periodical inspection of all the registration units and number of

⁷ Aurangabad, Beed-1, Bhandara, Gangapur, Georai, Jalna-1, Miraj 1 and 2, Nagpur 6 and 7, Saoner, Satara 1, Sidkheda, Solapur 1,

⁸ Aurangabad, Beed, Bhandara, Buldana, Jalna, Nagpur, Sangli, Satara and Solapur.

pending cases with the adjudicating authorities for adjudication and realisation of SD.

3.2.14 Summary of recommendations

The Government may consider:

- maintenance of a centralised database of the concessions in SD for effective monitoring and instituting deterrent penalties for their abuse;
- prescribing a system of obtaining periodical information from the ROC for registration of instruments of companies amalgamated under the schemes of amalgamation;
- bringing out a clarification to the effect that the concession in SD shall be available to specified leasing and financial institutions only on the basis of instruments evidencing the lease of the space/premises to IT or ITES units to maintain uniformity between Marathi version and English version of the notification of December 2003 and check misutilisation of the concession; and
- prescribing indicative time limit for disposal of adjudication cases by the adjudicating authorities.

3.3 Short levy of stamp duty due to undervaluation of property

As per the BS Act, SD and registration fees on conveyance deed are leviable on the true market value of property at the rates applicable to the area in which the property is situated. These rates are prescribed in the ready reckoner⁹.

In the offices of the SOS, Mumbai and SR II, Nagpur, it was noticed between October 2005 and May 2006 that 14 instruments of conveyance were adjudicated (Mumbai 1)/registered (Nagpur 13) between May 2003 and April 2004 and SD and registration fees of Rs. 5.05 crore was collected on the consideration of Rs. 52 crore. It was, however, observed that true market value of the properties was Rs. 68.86 crore on which SD and registration fees of Rs. 6.59 crore was leviable. Thus, undervaluation of the properties led to short levy of SD of Rs. 1.54 crore.

After the cases were pointed out, the IGR, Pune accepted the omission in November 2006 and directed the Collector of Stamps to recover the deficit SD and registration fees in respect of 13 instruments. SOS, Mumbai in May 2006, accepted the omission in respect of the instruments adjudicated by him. A report on recovery had not been received (October 2007).

The matter was reported to the Government between March and April 2007; their reply has not been received (October 2007).

⁹ Ready reckoner is an annual statement of rates of property prescribed by the Government

3.4 Short levy of stamp duty due to incorrect computation of market value

Under the provision of the BS Act, SD at prescribed rate is leviable on the market value of the property conveyed or delivered through instruments of conveyance or development agreements.

In the office of the SR, Haveli VII, Pune in October 2005, it was noticed that on two instruments of conveyance and development agreements executed in March 2004 and June 2004 respectively, SD of Rs. 22 lakh was levied on the consideration of Rs. 11.20 crore set forth in the instruments. Scrutiny of the instruments, however, revealed that the true market value of the properties conveyed/delivered for development was Rs. 22.18 crore on which SD of Rs. 53.73 lakh was leviable. Incorrect computation of market value thus led to short levy of SD of Rs. 31.73 lakh.

After the cases were pointed out, the Joint District Registrar, Pune accepted the omission in March 2007 and directed the SR to recover the deficit stamp duty. A report on realisation of deficit SD had not been received (October 2007).

The matter was reported to the Government in April 2007; their reply has not been received (October 2007).

3.5 Short levy of stamp duty on an instrument of lease

Under the provisions of the BS Act, on an instrument of lease, SD as leviable on a conveyance, is levied¹⁰ on the basis of the amount of average annual rent of the leased property, other considerations and premium, if any, paid.

In the office of the SR III, Nagpur it was noticed in December 2006 that an instrument of lease for a period of 25 years with a renewal clause was executed in March 2005. Further scrutiny revealed that as per the recital in the instrument, gross value of the average annual rent, premium and other consideration worked out to Rs. 5.04 crore on which SD of Rs. 25.19 lakh was leviable. The SR, however, levied SD of Rs. 8.11 lakh only, which led to short levy of SD of Rs. 17.08 lakh.

After the case was pointed out, Joint District Registrar, Nagpur (City) accepted the omission in February 2007 and directed the SR to recover the deficit SD. A report on recovery had not been received (October 2007).

The matter was reported to the Government in May 2007; their reply has not been received (October 2007).

¹⁰ Five *per cent* on 10 times of the amount of average annual rent (including annual municipal tax) and premium (deposit and advance rent) as per Articles 36 (a) (iv), (c) and 25 (b) (v) of the BS Act.

3.6 Short levy of stamp duty due to misclassification of instrument

Under the provisions of the BS Act, on instruments of conveyance and development agreements, SD at five and one *per cent* respectively is leviable on the market value of the property.

During test check of the records in the office of the SR, Haveli XV, Pune in May 2006, it was noticed that on three instruments of conveyance executed between February and July 2005, SD of Rs. 14.76 lakh was leviable on the market value of the properties amounting to Rs. 2.95 crore. The SR however, levied SD of Rs. 2.95 lakh only treating these instruments as development agreements. Misclassification of the instruments thus resulted in short levy of SD of Rs. 11.81 lakh.

After the cases were pointed out, the Joint District Registrar, Pune (City) accepted the omission in March 2007 and directed the SR to recover the deficit SD. A report on realisation of deficit SD had not been received (October 2007).

The matter was reported to the Government in May 2007; their reply has not been received (October 2007).

3.7 Short levy of stamp duty on a lease deed

Under the provisions of the BS Act, where the lease purports to be for a period in excess of 10 years with a renewal clause, SD shall be levied on 10 times of the amount of annual average rent at the rates prescribed in the Act.

In the office of the SR II, Nagpur it was noticed in October 2005 that in a lease deed for 12 years executed in August 2003, SD of Rs. 6.67 lakh was levied by working out 10 times of the annual average rent at Rs. 83.35 lakh. However, scrutiny of the recital in the deed revealed that there was a clause of enhancement of rent by 15 *per cent* after expiry of every three years. The amount of consideration based on this worked out to Rs. 1.49 crore on which SD of Rs. 11.92 lakh was leviable. Incorrect determination of consideration thus resulted in short levy of SD of Rs. 5.25 lakh.

After the case was pointed out, the Joint District Registrar, Nagpur (City) accepted the observation in June 2006 and directed the SR, Nagpur to recover the deficit SD. A report on recovery had not been received (October 2007).

The matter was reported to the Government in March 2007; their reply has not been received (October 2007).