

Chapter V: Stamp Duty and Registration Fees

5.1 Results of audit

Test check of records of stamp duty and registration fees during the year 2006-07, revealed irregularities amounting to Rs. 11.05 crore in 458 cases, which broadly fall under the following categories:

(In crore of rupees)

Sr. No.	Category	Number of cases	Amount
1.	Non/short levy of stamp duty and registration fees	361	10.17
2.	Misclassification of instruments	5	0.08
3.	Short levy of stamp duty and registration fees on lease deeds	22	0.07
4.	Non/short levy of stamp duty and registration fees due to under valuation	36	0.25
5.	Other irregularities	34	0.48
Total		458	11.05

During the year 2006-07, the department accepted audit observations involving Rs 7.41 crore in 325 cases and recovered Rs. 91.60 lakh in 203 cases pertaining to the audit findings of earlier years.

A few illustrative cases highlighting important irregularities involving financial effect of Rs. 8.97 crore are given in the following paragraphs:-

5.2 Short levy of stamp duty and registration fee

Under the Punjab Stamp Rules, 1983 as amended in 2002, the Collector of a district in consultation with the committee of experts as defined thereunder, fixes the minimum market value of land/properties, locality wise and category wise in the district, for the purpose of levying stamp duty on instrument of transfer of any property.

During test check of records of 26* sub registrars/joint sub registrars (SRs/JSRs), it was noticed between July 2005 and November 2006, that in respect of 95 conveyance deeds registered during years 2004-05 and 2005-06 on account of sale of residential/ agricultural/commercial property/godowns and built up houses, stamp duty was charged on consideration of Rs. 8.49 crore as set forth in the instruments instead of Rs.113.31 crore i.e. the value of land determinable on the basis of price fixed by the respective Collectors. This resulted in short levy of stamp duty and registration fee amounting to Rs.7.91 crore.

After this was pointed out, it was stated by SRs/JSRs that recovery due would be made. Further report has not been received (August 2007).

The matter was brought to notice of the department and referred to Government between August 2006 and January 2007; replies are awaited (August 2007).

5.3 Incorrect grant of exemption to charitable institutions

By a notification issued in February 1981, Government exempted from levy of stamp duty and registration fee, instruments of transfer of land by sale or gift executed in favour of a charitable institution within the meaning of the Charitable Endowments Act, 1890 (Central Act of 1890) for the purpose of construction of roads or buildings of schools, colleges, hospitals and dispensaries on such land.

During test check of records of four** SRs/JSR, It was noticed between October 2005 and June 2006 that stamp duty of Rs.26.12 lakh including registration fee was not levied on 16 conveyance deeds of land valuing Rs. 3.81 crore executed between April 2003 and June 2005 in favour of charitable institutions without recording the purpose in the sale deeds as laid down in the Central Act of 1890. This resulted in incorrect grant of exemption of Rs. 26.12 lakh.

* Amloh, Amritsar II, Balachaur, Bathinda, Bholath, Budhlada, Batala, Dasuya, Ferozepur, Gidderbaha, Hoshiarpur, Jagroan, Jalandhar I, Jalandhar II, Kapurthala, Kharar, Malout, Muktsar, Mukerian, Mohali, Phillaur, Sangrur, Shahkot and Sunam. JSR Dirba and Majitha.

** Jagraon, Kharar and Patiala- JSR Adampur (Jalandhar).

After this was pointed out, all SRs/JSR stated that reply would be sent after verification of records. Final development of recovery is still awaited (August 2007).

The matter was brought to the notice of department and referred to Government between September and November 2006; replies are awaited (August 2007).

5.4 Non levy of additional stamp duty

By a notification issued in February 2005, Punjab Government levied additional stamp duty at the rate of three *per cent* under Indian Stamp Act, 1899 on instrument if such an instrument is executed in the area falling within the jurisdiction of municipalities and municipal corporation or within five km. from the outer limit of municipalities and municipal corporation as the case may be or the area as may be specified by the collector.

Test check of records of five* SRs for the years 2004-05 and 2005-06 revealed that 13 instruments were executed between March 2005 and January 2006 pertaining to the area falling within five km. from the outer limit of municipalities and municipal corporation with consideration of Rs. 5.48 crore without levy of additional stamp duty. This resulted in non levy of additional stamp duty of Rs.16.44 lakh.

After this was pointed out, three** SRs stated between October 2005 and September 2006 that reply would be given after verification of records while SR Khanna stated in September 2006 that recovery would be made whereas no reply was furnished by SR Sangrur.

The matter was brought to the notice of department and referred to Government between August 2006 and January 2007; replies are awaited (August 2007).

5.5 Misclassification of instrument

Under the provisions of Stamp Act, every instrument is chargeable with duty at prescribed rates. A 'mortgage deed' includes every instrument whereby, for the purpose of securing money advanced by way of loan or an existing or future debt, one person transfers or creates in favour of another, a right over or in respect of specified property. For availing cash credit facility from commercial and banking institutions, property mortgaged by individuals without possession was required to be stamped under the Act.

* Abohar, Khanna, Kapurthala, Patiala and Sangrur.

** Abohar, Kapurthala and Patiala.

During test check of records of JSR Bariwala (Muktsar), it was noticed in February 2006 that an instrument was executed in June 2004 as collateral security for securing loan of Rs. 3.35 crore. Since the instrument was executed for securing loan for the construction of a building, purchase of equipment and furniture for building, the instrument was to be classified as mortgage deed without possession. Thus, misclassification of instrument resulted in short levy of stamp duty of Rs. 6.03 lakh.

The matter was brought to the notice of department and referred to Government in December 2006; replies are awaited (August 2007).

5.6 Incorrect grant of exemption

Government vide notification issued on 21 June 2001, exempted stamp duty and registration fee on instruments executed by a person in favour of any commercial/banking institution to meet the expenditure for any of the items specified in connection with agricultural purposes or purpose allied to it.

During test check of records of three* SRs/JSR, it was noticed that seven instruments were executed between August 2003 and October 2005 for securing loan of Rs. 26.80 crore from scheduled banks against security of immovable property. These loans were secured for the purpose of non farming sector i.e. for the construction of college building and godowns etc. not specified in the notification. Thus, remission of stamp duty and registration fee was not admissible. Incorrect grant of exemption resulted in non levy of stamp duty of Rs. 54.30 lakh including registration fee.

After this was pointed out, JSR Adampur stated in February 2006 that recovery would be effected after verification, SR Kharar stated in January 2006 that necessary action would be taken while SR Batala stated in May 2006 that reply would be sent after verification of records.

The matter was brought to the notice of department and referred to Government between September and November 2006; replies are awaited (August 2007).

5.7 Non charging of stamp duty on sale of machinery

According to the Indian Stamp Act, 1899, 'conveyance' includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule I-A of the Act. In July 1961, Government clarified that documents containing essential ingredients of a conveyance would amount to sale and therefore, stamp duty and registration fee under the Indian Stamp Act, 1899 and Indian Registration Act, 1908, be charged accordingly.

* Batala and Kharar-JSR Adampur (Jalandhar).

During test check of records of SR, Abohar, it was noticed in October 2005 that a sale deed was executed in June 2004 by Agro Food Punjab Ltd. for the sale of land together with building machinery constructed thereon with appurtenance rights, tenements and hereditament*. Stamp duty was paid on the value of land and building but no stamp duty was levied on the value of machinery of Rs.45.98 lakh. This resulted in short levy of stamp duty amounting to Rs. 2.76 lakh.

After this was pointed out in October 2005, SR intimated in September 2006 that notice for recovery was issued and efforts are being made for recovery.

The matter was brought to the notice of department and referred to Government in November 2006; replies are awaited (August 2007).

* Any property that may pass on to heir.