

Chapter 5: Stamp Duty and Registration Fees

5.1. Results of Audit

Test-check of records of Stamp duty and registration fees, conducted in audit during the year 2001-2002, revealed non-levy/short levy of Stamp duty and registration fees amounting to Rs.1.35 crore in 2018 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	1939	1.02
2	Evasion of stamp duty and registration fees due to misclassification of deeds	56	0.29
3	Short levy of stamp duty/registration fees on lease deed	23	0.04
	Total	2018	1.35

During the year 2001-2002, the revenue department recovered Rs.0.26 crore in 233 cases relating to audit findings of earlier years.

A few cases highlighting irregularities involving financial effect of Rs.0.19 crore are given in the following paragraphs:

5.2. Misclassification of instrument and non-levy of stamp duty and registration fee

Under the Indian Stamp Act, 1899, every instrument is chargeable with duty at rates prescribed in Schedule 1/1-A to the Act. Under the Act, 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 to, or in favour of another, a right over or in respect of specified property.

During test check of records of six* registering offices (SR), it was noticed that six instruments were executed for securing loan/cash credit limit aggregating to Rs.3.16 crore from scheduled banks and were registered (between July 1999 and September 2000), either as a 'Security Bond' or 'Simple Mortgage' or as 'Collateral Security'. As these instruments, were executed for securing loans/cash credit against the security of immovable property, they should have been classified as mortgage deed without possession. The misclassification of instruments resulted in short levy of stamp duty and registration fee of Rs.6.06 lakh (Stamp duty:Rs.5.95 lakh and Registration fee: Rs.0.11 lakh).

On this being pointed out in audit (between May and September 2001), SR Batala, Bhadson and Samana stated (June 2002) that matter had been referred to the Collector for recovery. SR Amritsar stated that an amount of Rs.0.27 lakh has been recovered whereas SR Kapurthala stated that the deed was registered as title deed and stamp duty was correctly levied. The reply was not tenable as specified property had been mortgaged for securing loan from the bank as such the document was liable to be stamped properly under the Act. SR Bhawanigarh, however, did not furnish any final reply.

The matter was brought to the notice of the department and reported to the Government (December 2001). This was followed up with reminder to the Financial Commissioner and Secretary to Government, Punjab, Revenue department in May 2002. In spite of such efforts, no reply was received (October 2002).

5.3. Non-levy of stamp duty and registration fee on mortgage deeds

Under the Indian Stamp Act, 1899, mortgage deed includes every instrument whereby, for the purpose of securing money advanced or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of another, a right over or in respect of specified property liable to duty chargeable at the rate of two *per cent* of the amount on such deed as prescribed in Article 40-b of the Act.

* Amritsar, Batala, Bhadson, Bhawanigarh, Kapurthala and Samana.

During test-check of records of four* registering offices (SR), it was noticed that four instruments were executed for securing loan of Rs.66.47 lakh from scheduled banks against the security of immovable property. These instruments were correctly registered as 'mortgage deeds without possession'. However, stamp duty of Rs.1.03 lakh and registration fee of Rs.0.31 lakh were not levied

On this being pointed out in audit (between February and September 2001), SR Batala and Bhadson stated (June 2002) that efforts were being made to effect recovery. SR Malout and Sangrur stated (June 2002) that recovery of Rs.0.30 lakh and Rs.0.21 lakh respectively had been made.

The matter was brought to the notice of the department and reported to the Government (December 2001). This was followed up with reminder to the Financial Commissioner and Secretary to Government, Punjab, Revenue department in May 2002. However, inspite of such efforts, no reply was received (October 2002).

5.4. Incorrect grant of exemption

Punjab Government suspended (February 1984) the levy of stamp duty on the documents/deeds executed or to be executed by Punjab State Co-operative Supply and Marketing federation Limited (MARKFED) for purchasing land for construction of godowns.

During the audit of a registering office, Malout (District Muktsar), it was noticed that stamp duty Rs.9.84 lakh and registration fee Rs.0.10 lakh were not levied on the deed of conveyance of property valued at Rs.1.64 crore executed by the liquidation of Punjab State Co-operative Spinning Mills Limited in favour of MARKFED for setting up a sugar mill.

On this being pointed out (June 2001) the department stated (June 2001) that MARKFED, a Co-operative institution, was exempted from payment of stamp duty and registration fee in terms of order issued by the Punjab Government in February 1984. Reply of the department was not tenable as the exemption was applicable only on the purchase of land by MARKFED for the construction of godowns.

Matter was brought to the notice of the department and reported to the Government (December 2001). The matter was followed up with reminder to the Financial Commissioner and Principal Secretary to Government, Punjab, Revenue department in March 2002. However, despite such efforts, no reply was received (October 2002).

* **Batala, Bhadson, Malout and Sangrur.**

5.5. Short levy of stamp duty on lease deeds

Under the Indian Stamp Act, 1899, as applicable to Punjab, stamp duty is chargeable on an instrument of lease on the basis of period of lease and the amount of the average annual rent-reserved. The Act further provides that where the lease is granted for a fine or premium or for money advanced in addition to rent reserved, the duty is also charged on the value of such fine or premium or money advanced set forth in lease deed.

During test-check of records of two* registering offices (SR), it was noticed that in respect of four instruments of lease registered between June and November 2000, periodical increase in rent reserved and premium/money advanced in addition to rent-reserved had not been taken into account while calculating the stamp duty. Non-inclusion of these considerations resulted in short levy of stamp duty of Rs.1.30 lakh.

On this being pointed out in audit (April 2001), SR Amritsar-II intimated (March 2002) that the recovery of Rs.0.86 lakh had been made. Final reply of SR Ludhiana (East) for recovery of Rs.0.44 lakh was, however, awaited.

The matter was brought to the notice of the department and referred to the Government (between February 2001 and February 2002). This was followed up with reminder to the Financial Commissioner and Secretary to Government, Punjab, Revenue department in May 2002. In spite of such efforts, no reply was received (October 2002)

* **Amritsar-II and Ludhiana (East).**