

CHAPTER IV
STAMP DUTY AND REGISTRATION FEES

4.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2004 to March 2005 revealed under valuation, etc., amounting to Rs.9.82 crore in 365 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1	Under valuation of properties	84	1.12
2	Misclassification of documents	56	0.32
3	Others	225	8.38
	Total	365	9.82

During the course of the year 2004-05, the Department accepted underassessment etc., amounting to Rs.2.97 crore in 200 cases, out of which 35 cases involving Rs.1.29 crore were pointed out during the year and the rest in earlier years. Of these, the Department recovered Rs.70.13 lakh.

A few illustrative cases involving Rs.1.30 crore are mentioned below:

4.2 Incorrect allocation of transfer duty surcharge to local body

Under the provisions of Tamil Nadu Panchayat Act, 1994, a duty on transfer of property shall be levied in the form of surcharge (transfer duty surcharge) along with stamp duty imposed under Indian Stamp Act, 1899, (IS Act), on instruments of sale, exchange, gift etc., of immovable property. The rate of surcharge was five *per cent* upto 20 November 2003 and two *per cent* thereafter on the market value of the property transferred. The surcharge, so collected, is to be allocated to the local bodies.

In eight³⁴ sub registries (SR), it was noticed that in respect of 210 documents, transfer duty surcharge was erroneously allocated or allowed in excess to local bodies between August 2002 and March 2005. This resulted in incorrect allocation of Rs.1.09 crore.

After this was pointed out in audit between December 2002 and March 2005, the Department stated between August 2004 and March 2005, that an amount of Rs.0.65 crore has already been adjusted. Further details are awaited (September 2005).

The matter was reported to the Government between February 2005 and April 2005. Government accepted in May and June 2005 audit observation in two cases (Periamet and Tambaram). Further reply is awaited (September 2005).

4.3 Short levy of stamp duty and registration fees in respect of lease deeds

According to Article 35(a)(vi) of Schedule to IS Act, in respect of a lease deed relating to immovable property where the lease period exceeds 30 years but not exceeding 100 years, the stamp duty leviable shall be the same duty as a conveyance for a market value equal to 75 *per cent* of the market value of the said property. As per Article 35(c) of the Act, where the lease is granted for a fine or premium or for money advanced, in addition to rent reserved, the same duty as a conveyance for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease, is leviable in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered. The rate of stamp duty for conveyance is seven *per cent* and registration fee is one *per cent*.

It was noticed in SRs, Wallajah Nagar and Perundurai that five lease deeds were executed by SIPCOT³⁵ during the year 2002 and 2003, for which stamp duty was collected at 75 *per cent* of market value. It was, however, seen that the lessees paid Rs.1.26 crore towards plot deposit and development charges. Stamp duty and registration fees, though leviable on the above amount, was not levied. This resulted in short levy of stamp duty and registration fees of Rs.10.05 lakh.

³⁴ Adayar, Chennai (South), Mylapore, Periamedu, Tambaram, Thousand Lights, Triplicane and Virugambakkam.

³⁵ Small Industries Promotion Corporation of Tamil Nadu.

The matter was reported to the Government (February/March 2005). Government accepted audit observation in May 2005. Further reply on recovery of dues is awaited (September 2005).

4.4 Short levy due to under valuation of property

According to Article 23 of Schedule I to IS Act, stamp duty is leviable on the market value of the property conveyed. The rate of levy was 13/12 *per cent* depending upon the area where the land is situated, upto 20 November 2003 and at eight/seven *per cent* thereafter. Under Section 27 of the Act *ibid*, consideration and all other facts affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein.

In three³⁶ SRs, it was noticed in March/April 2003 and April 2004 that there was under valuation of buildings in respect of seven properties conveyed during 2002 and 2003. This resulted in short levy of stamp duty and registration fees amounting to Rs.5.54 lakh.

After this was pointed out between May 2003 and January 2004, the Department stated between February and May 2005 that an amount of Rs.3.05 lakh relating to Ambattur and Marakkanam, has since been collected. In respect of Mylapore, it was stated that out of five cases, amount has since been collected under samadhan scheme in four cases and the document was being referred under Section 47 A (3) in one case. Further reply is awaited (September 2005).

The matter was reported to the Government in January/April 2005. Government accepted audit observation between April and June 2005. Further reply on recovery of dues is awaited (September 2005).

4.5 Incorrect adoption of rate of stamp duty resulted in short levy

According to Section 2(6) of the IS Act, every instrument shall be chargeable with duty under the law in force, when such instrument was executed. In terms of Section 17 of the Act, all instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution. The rate of stamp duty on conveyance was reduced from 13 to eight *per cent* with effect from 21 November 2003.

³⁶ Ambattur, Marakkanam and Mylapore.

In the Office of the Joint-II SR, Chinglepet, it was noticed in April 2004 that in respect of a sale deed executed on 20 November 2003 and presented for registration on 27 November 2003, stamp duty at eight *per cent* was charged instead of 13 *per cent*. Thus incorrect application of rate of stamp duty resulted in short levy of stamp duty and registration fees amounting to Rs.5.04 lakh.

After this was pointed in June 2004, the Department accepted in March 2005 audit observation and stated that action has been initiated to recover the loss. Report on recovery is awaited (September 2005).

The matter was reported to the Government (January 2005). Government accepted in May 2005 audit observation. Further reply on recovery of dues is awaited (September 2005).