

## CHAPTER 9 OTHER TAX RECEIPTS

### 9.01 Results of audit

Test check of records in the offices dealing with assessments, collection and realisation of other tax receipts, namely, Stamp Duty and Registration Fees, Agricultural Income Tax and Luxury Tax, conducted in audit during the year 2000-2001, revealed underassessments/short levy of revenue amounting to Rs.15.50 crore in 79 cases as indicated below :

*(Rupees in crore)*

Sl. No.	Categories	No. of cases	Amount
1.	Stamp Duty and Registration Fees	73	15.43
2.	Agricultural Income Tax	4	0.04
3.	Luxury Tax	2	0.03
<b>Total</b>		<b>79</b>	<b>15.50</b>

During the course of the year 2000-2001, the concerned department accepted underassessments etc of Rs.12.56 crore involved in 60 cases. All the cases had been pointed out in audit during the year 2000-2001.

A few illustrative cases involving Rs.10.21 crore highlighting important observations on Stamp Duty and Registration Fees are given in the following paragraphs :

### STAMP DUTY AND REGISTRATION FEES

#### 9.02 Non-realisation of deficit stamp duty and registration fees

(a) Under the Registration Act, 1908, the Registrar of a district in which a Presidency town is included and the Registrar of Delhi may receive and register any document without regard to the situation in any part of India of the property to which the document relates. Copies of such documents and of

the endorsements and certificates thereon are to be forwarded to every Registrar within whose district any part of the property to which the instrument related is situated.

Under the Indian Stamp Act, 1899, where any instrument has become chargeable in any part of India, other than West Bengal becomes chargeable to duty in West Bengal, the amount of duty chargeable on such instrument shall be the amount, chargeable on it at prescribed rates, less the amount of duty, if any, already paid on it in the State in which the instrument was registered. In terms of the West Bengal Stamp (Prevention of Under valuation of Instruments) Rules, 1994, the market value in relation to any land shall be determined on the basis of the highest price for which sale of any land of similar nature and area, in a comparable locality has been settled during the five consecutive years immediately preceding the date of execution of any instrument.

Verification of 519 transfer documents in the office of the District Registrar, South 24-Parganas duly received by them between June and December 1996, registered in Delhi (352 cases) and Mumbai (167 cases) between February 1995 and November 1996 in respect of properties situated mostly in Kolkata metropolitan area under the jurisdiction of the District Registrar, South 24-Parganas revealed (between March and July 2000) that the value of the properties set forth therein was much lower than the market value of the properties of similar nature and description in the respective areas. The rates of stamp duty applicable in Delhi and Mumbai are also lower than those prevailing in West Bengal. For taking further action by the Collector towards realisation of the deficit stamp duty, the District Registrar, South 24-Parganas instead of sending certified copies of all those documents forwarded (September 1998) only a list of 352 cases registered in Delhi, which were lying with the Collector without any follow up action. The deeds (167 nos.) registered in Mumbai were still lying (December 2000) with the District Registrar. Failure of the District Registrar and the Collector, South 24-Parganas to initiate proper action for recovery of the deficit duty resulted in non-reralisation of stamp duty amounting to Rs.6.96 crore. A list

of top ten cases involving such evasion has been shown in the table below by way of illustration.

*(Rupees in lakh)*

Sl. No.	Deed No. and date of Registration	Value of the property in South 24-Parganas	Value set forth in the deeds	Non-realisation of Stamp Duty
1.	676/96 dt.25.4.96	68,59,800	4,75,200	8.04
2.	430/95 dt.17.4.96	63,96,000	5,75,000	7.45
3.	314/95 dt.16.10.95	48,84,000	4,00,000	5.75
4.	672/96 dt.24.4.96	34,68,000	23,50,000	3.22
5.	677/96 dt.25.4.96	31,68,000	1,90,080	3.73
6.	497/95 dt.30.11.95	32,62,000	80,000	3.59
7.	527/95 dt.7.12.95	22,06,890	4,87,000	2.45
8.	528/95 dt.7.12.95	21,22,776	6,81,000	2.27
9.	519/95 dt.6.12.95	21,36,000	4,00,000	2.40
10.	714/95 dt.14.3.96	18,94,050	45,312	2.25

On these being pointed out (March 2000), the District Registrar, South 24-Parganas stated (between March and December 2000) that action was being taken to send the cases of Mumbai to the Collector while the Collector South 24-Parganas stated (September 2000) that instead of the copies of the documents, they have received only a list of 352 documents on which no action could be taken. The reply further indicates absence of coordination between the concerned wings of the Government.

Government to whom the cases were reported in February 2001 stated (June 2001), *inter alia*, that necessary steps were being taken by the Office of the Collector, South 24-Parganas for realisation of the deficit stamp duty. Report on realisation has not been received (October 2001).

(b) Under the Indian Stamp Act, 1899, as applicable in West Bengal read with departmental circular issued in July 1998 where the registering authority had reason to believe that the market value of the property had not been truly set forth in the document presented for registration, he is authorised to accept

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such document subject to determination of market value and after assessment of the market value issue notice to the party for payment of deficit stamp duty and registration fees within thirty days. In the event of non-payment within the stipulated period, the case is to be referred to the district collector within fifteen days for final determination of market value of the property and collection of the deficit stamp duty and registration fees.

Scrutiny of records of 69 registration offices in 13 districts (between March 1997 and February 2001) revealed that the concerned Registrars had accepted documents for registration subject to determination of market value but no proper action was taken to determine the same. This resulted in non-realisation of deficit stamp duty and registration fees of Rs.3.08 crore as follows :

*(Rupees in lakh)*

Sl. No.	Number of districts/ registration offices	Period from which pending (No. of deeds)	Assessable market value (Value set forth in the deeds)	Amount of deficit stamp duty and registration fees
1.	10 <sup>1</sup> /49	Between March 1994 and March 2000 (6768)	5569.76 (2384.45)	171.30
2.	12 <sup>2</sup> /47	Between June 1994 and November 2000 (2671)	3305.60 (1189.74)	136.75

On this being pointed out (between March 1997 and February 2001), the department stated (August 2001) that Rs.50465 was realised in 15 cases and appropriate steps had been taken to realise deficit duty and fees in the remaining cases. Further report on realisation has not been received (October 2001).

Government to whom the cases were reported (between August 1999 and February 2001) endorsed (October 2001) the views of the department.

<sup>1</sup> Bankura, Burdwan, Cooch Behar, Hooghly, Howrah, Jalpaiguri, Malda, Murshidabad, South 24-Parganas and UttarDinajpur

<sup>2</sup> Bankura, Burdwan, CoochBehar, Dakshin Dinajpur, Hooghly, Howrah, Jalpaiguri, Malda, Midnapore, Nadia, South 24-Parganas and Uttar Dinajpur

### **9.03 Short levy of stamp duty and registration fees due to undervaluation of properties**

In terms of the West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules, 1994, the market value in relation to any land shall be determined on the basis of the highest price for which sale of any land of similar nature and area, in a comparable locality, has been settled during the five consecutive years, immediately preceding the date of execution of any instrument setting forth such market value.

Scrutiny of records in 10 Additional District Sub-Registrar (ADSR)/ Sub-Registrar (SR) offices in 4 districts<sup>3</sup> revealed that the value of land set forth in 89 sale deeds executed between June 1994 and August 1999 was much lower than the market value. This resulted in short levy of stamp duty and registration fees of Rs.17.09 lakh.

On this being pointed out (between September 1998 and June 2000), 9 registering authorities agreed to take necessary action while the ADSR, Narayangarh stated that valuation is dependent on various factors and might vary from property to property. The reply is not tenable in view of the rule position.

The cases were reported to Government (between February 1999 and July 2000). The Government stated (June 2001) that valuation depends on various factors and hence the valuation was done correctly. The reply is not tenable in view of the rule position.

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<sup>3</sup> Bankura, Hooghly, Midnapore, South 24-Parganas