

CHAPTER - III: STAMP DUTY AND REGISTRATION FEE

3.1 Results of audit

Test check of the records relating to assessment, levy and collection of stamp duty and registration fee (Registration Department) during 2008-09 indicated cases of fraud committed by the executants and stamp vendors; non/short assessment of stamp duty and registration fees; loss of revenue due to undervaluation, misclassification and inordinate delay in disposal of cases amounting to Rs. 6.63 crore in 635 cases which could be classified under the following categories.

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
1.	Inordinate delay in disposal of cases	263	4.14
2.	Loss of revenue due to undervaluation of instruments	240	1.55
3.	Loss of revenue due to misclassification of instruments	41	0.59
4.	Loss of revenue due to underassessment of stamp duty	24	0.18
5.	Others	67	0.17
Total		635	6.63

During the year 2008-09, the department accepted deficiencies involving Rs. 38 lakh in 13 cases.

After issue of the draft paragraphs, the Registration Department recovered Rs. 1.76 lakh in seven cases.

A few illustrative audit observations involving revenue of Rs. 1.60 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of the records of the various registration offices indicated cases of non-compliance of the provisions of the Indian Stamp Act, 1899, Registration Act, 1908 and Government notifications/instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out repeatedly, but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

3.3 Non-compliance of provisions of the Act/Rules

The provisions of Indian Stamp Act, Registration Act and Rules made thereunder provide for:

- (i) levy of stamp duty on market value of the property;*
- (ii) exemption of stamp duty on fulfillment of prescribed conditions; and*
- (iii) correct classification of documents.*

The registering authorities did not observe some of the above provisions at the time of registration of document in cases mentioned in the paragraphs 3.4 to 3.7.

3.4 Short levy of stamp duty and registration fees due to fraud committed by the executants and stamp vendor

According to Section 2(12) of the Indian Stamp Act, a deed is executed when it is signed and immediately becomes chargeable. Charges are payable on the basis of value of the property mentioned in the deed and it shall be paid by way of stamp or franking as prescribed in the section 2(11) of the Indian Stamp Act. Further, according to section 23 of the Registration Act, the deed may be presented for registration within a period of four months from the date of execution, alongwith the essential documents specified in Section 21 of Registration Act, without which the deed can not be registered. The stamp vendors maintain stamp sales registers. Whenever a stamp is sold, the stamp vendor records in the register, the details of sale; such as the date of sale of stamp paper, name of the purchaser and purpose for which the stamp papers are to be used and simultaneously records the serial number of the stamp sale register, name of purchaser and purpose on the body of the stamp.

Test check of the records of Sub-registrar (SR), Raipur in May 2008 indicated that in ten cases, the stamp duty and registration fees were levied by assessing the value based on market rate of 2005-06. Of these, in six deeds, the serial numbers of the stamp sale register recorded on the body of related stamp papers were actually not available in the stamp sale register of the vendor. In other four deeds, the serial numbers of the stamp sale register recorded on the body of stamp paper were found to be related to some other sales. After establishing that the serial numbers were fictitious, it was further verified from the treasury that the stamp papers used in eight deeds were actually issued by the treasury in

June/July 2006, subsequent to the execution dates shown on the deeds. In two other cases, the stamp vendor sold the stamp papers in July 2006, as evident from the stamp sale register. It was evident that the stamp papers were actually sold in 2006-07 and the deeds executed during the same year. The valuation of the properties should have been done on the market rates fixed for 2006-07 but the deeds were fraudulently backdated so that lower valuations of 2005-06 could be applied.

This fraudulent act resulted in undervaluation of property as Rs. 40.98 lakh instead of the actual value of Rs. 3.05 crore and consequent short levy of stamp duty along with registration fees of Rs. 27.76 lakh.

After the cases were pointed out (March 2009), the Government stated (October 2009) that the sub-registrar, who was *prima-facie* found responsible in eight cases, had been suspended and the district registrar had been directed to lodge a first information report with the police against the stamp vendor concerned. The remaining two cases were being examined in the court of district registrar as instances of undervaluation. A report on recovery of deficit stamp duty in the eight cases had not been received (November 2009).

3.5 Short levy of stamp duty and registration fees due to acceptance of incomplete deeds

According to Section 21 of the Registration Act, the sale deed of a property will not be accepted for registration, till it is supported with the land map, B-1 kind of property, *khasra*¹, etc. Further, according to Section 23 of the Registration Act, a deed must be presented for registration within a period of four months from the date of its execution.

Scrutiny of the records of the SR, Raipur (May 2008) indicated that three deeds were presented for registration on 14 February 2006. The SR registered these deeds on 11 March 2008 and assessed stamp duty of Rs. 1.46 lakh using the valuation rates applicable for the year 2005-06 considering the date of presentation of the deeds.

Verification of the supporting essential documents i.e. *khasra*, B-1, map etc., attached to the deeds revealed that these were issued by the concerned authorities in August 2007. Thus, it is evident that these essential documents could not have been enclosed when the deeds were presented, i.e. on 14 February 2006, to the SR. Therefore, he should not have accepted the incomplete cases for registration as per Section 21. Had the SR acted as per provisions, the executants would have been forced to resubmit the cases only in August 2007, when they acquired the essential documents and stamp duty would have been assessed at Rs. 11.96 lakh using the rates applicable for the year 2007-08. However, the SR accepted the incomplete deeds and assessed the duty at the rates of 2006-07 and this resulted in undue benefits to the executants and short realisation of stamp duty and registration fees of Rs. 10.50 lakh.

¹ Field book containing record of rights with the area and assessment of agriculture survey number.

After the cases were pointed out (March 2009), the Government stated (October 2009) that the cases had been sent to the collector of stamps for effecting recovery and the SR concerned had been suspended. A report on recovery had not been received (November 2009).

3.6 Undervaluation of properties

The Indian Stamp Act requires the market value of property to be specified in any deed for its conveyance. This value is the basis for determining the stamp duty and registration fee leviable. The Act empowers a SR to refer the documents to the collector for determination of market value of the property. If there are reasons to believe that market value of the property have not been truly set forth in the document then such cases are to be finalised by the collector within a period of 90 days, as per Inspector General Registration and Superintendent of Stamps instructions of September 2003.

3.6.1 Test check of the records of eight² SRs indicated that 85 instruments registered between April 2002 and March 2008 were valued at Rs. 10.49 crore whereas the market value of these documents was Rs. 21.22 crore at the time of execution. The SRs did not refer these cases to the collector for determination of correct market value. This resulted in short realisation of stamp duty and registration fee of Rs. 1.10 crore.

After this was pointed out (July 2008 and July 2009), the Government stated (April 2009 and September 2009) that the SR, Takhatpur had made recovery of Rs. 27,747 in two cases; valuation had been found correct in one case and further action was being taken in the remaining four cases. As regards the cases pertaining to SR, Raipur, 18 cases had been referred to the collector of stamps for determination of the correct market value. In cases pertaining to SR, Kathghora, recovery of Rs. 1.48 lakh had been made in five cases and further action was being taken in four cases. Replies have not been received in the remaining 51 cases pertaining to the other five SRs³ (November 2009).

3.6.2 Test check of the records of SR, Raigarh (June 2007) indicated that 15 cases were referred by the SR to the collector of stamps for determination of the correct market value of properties during the period September 1995 to March 2007. The cases were still pending with the collector of stamps for determination of the correct market value. The delay ranged between 2 and 14 years. The pending cases involved unrealised revenue of Rs. 8.23 lakh.

After the cases were pointed out (August 2008) the department stated (January 2010) that in 15 cases, the objected amount is Rs. 2.56 lakh instead of Rs. 8.23 lakh. Recovery of Rs. 83,849/- was made in eight cases and the market value has been correctly declared in five cases and remaining two cases are pending for decision. The reply is not in consonance with the audit objection as out of 15 cases referred by Sub Registrar only 2 cases relate to the audit objection which is pending for decision. This is brought to the notice of the Department (January 2010).

The matter was reported to the Government (August 2008); their reply has not been received (January 2010).

² Bilaspur, Bemetara, Kawardha, Kathghora, Patthalgaon, Raipur, Surajpur and Takhatpur.

³ Bilaspur, Bematara, Kawardha, Patthalgaon and Surajpur.

3.7 Short levy of stamp duty and registration fees due to misclassification of instruments.

As per the provision of Indian Stamp Act, every instrument mentioned in its schedule I-A shall be chargeable to stamp duty at the rates prescribed in the schedule.

Test check of the records of Sub-registrar, Patthalgaon indicated (June 2008) that two instruments were registered in October 2005 and January 2007 as family arrangement deed and lease deed respectively whereas according to the contents and clauses of the documents, they should have been classified as release and conveyance deeds. This resulted in short levy of stamp duty of Rs. 4.44 lakh.

After the cases were pointed out (November 2008), the Government replied (July 2009) that the documents had been referred to the collector of stamps and its decision would be intimated to audit. The decision has not been received (November 2009).