

**CHAPTER-IV**  
**STAMP DUTY AND**  
**REGISTRATION FEE**

## CHAPTER-IV: STAMP DUTY AND REGISTRATION FEE

### 4.1 Tax administration

Receipts from stamp duty (SD) and registration fee (RF) in the state are regulated under the registration act, 1908, the Rajasthan Stamps (RS) Act, 1998 and the rules made thereunder. According to section 3 of the RS Act, every instrument shall be chargeable with duty according to the rates mentioned in the schedule to the RS Act. The SD is leviable on execution of instruments and RF is payable on registration of instruments. Surcharge is also chargeable on SD with effect from 9 March 2011.

The Registration and Stamps Department (Department) functions under the administrative control of Finance Department. The Inspector General, Registration and Stamps (IGRS) is the head of the Department. He is assisted by two Additional Inspector Generals in administrative/enforcement matters and by a Financial Adviser in financial matters. Besides, an Additional Inspector General, Jaipur functions as Chief Vigilance Officer. The entire state has been divided into 17 circles which are headed by Deputy Inspector General (DIG) cum *Ex-officio* Collector (Stamps). There are 113 Sub Registrars (SRs) and 426<sup>1</sup> *ex-officio* SRs<sup>2</sup>.

### 4.2 Internal audit

The Department has an internal audit wing under the charge of the Financial Advisor and has six internal audit Parties. Planning for internal audit of units is done on the basis of relative importance and revenue realisation. The status of internal audit conducted during 2016-17 to 2020-21 is given in the Table 4.1 below:

Table 4.1

Year	Units pending	Units due for audit during the year	Total units due for audit	Units audited during the year			Units remaining unaudited	Percentage of units remaining unaudited
				Pertaining to previous years	Pertaining to current year	Total		
2016-17	1018	291	1309	219	109	328	981	75
2017-18	981	291	1272	261	81	342	930	73
2018-19	930	294	1224	455	137	592	632	52
2019-20	632	294	926	282	88	370	556	60
2020-21	556	294	850	126	40	166	684	80

Source: Information provided by the Department.

The shortfall in coverage of units due for audit ranged between 52 *per cent* and 80 *per cent* during this period. It is evident that while the shortfall in coverage of units has been consistently high, it registered a significant increase from 2018-19 to 2020-21.

1 As per Administrative report 2020-21 of IGRS.

2 *Tehsildars* and *Naib Tehsildars* have been declared as *ex-officio* SRs.

It was noticed that 8,302 paragraphs of internal audit reports were outstanding at the end of 2020-21. Year-wise breakup of outstanding paragraphs of internal audit reports is given in the Table 4.2 below:

**Table 4.2**

Year	Upto 2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	Total
Outstanding paragraphs of the audit conducted during the year	5,861	323	421	752	651	294	8,302

Source: Information provided by the Department.

It can be seen that out of 8,302 paragraphs, 5,861 paragraphs were outstanding for more than five years for want of compliance/corrective action.

The Department stated (October 2021) that 5,861 paragraphs of the period upto 2015-16 were outstanding due to non-realisation of recovery under all the instruments of a paragraph and problems in recovery arising out of further sale of property by the executants. The Department also attributed the units remaining unaudited and lack of settlement of paragraphs to COVID-19 pandemic and deployment of staff for elections of *Panchayats* and *Nagar Parishad*.

*The Government may ensure that concerted efforts are made to complete the audit of the pending units on priority and to reduce the number of the pending paragraphs.*

#### **4.3 Results of audit**

There are 558 auditable units<sup>3</sup>, including 19 administrative units, in the Registration and Stamps Department. Out of these, audit selected 29 units (approximately 5 per cent) including one administrative unit for audit during the year 2020-21. In these units, 2,41,551 instruments were registered, out of which 72,414 instruments (approximately 30 per cent) were test checked. During scrutiny, audit noticed short/ non-realisation of SD and RF of ₹15.38 crore in 946 instruments (1.31 per cent of sampled instruments).

These cases are illustrative only as these are based on test check of records. Though audit pointed out similar omissions in earlier years, these irregularities persist and remain undetected till next audit is conducted. Irregularities noticed broadly fall under the categories in Table 4.3 below:

**Table 4.3**

SL. No.	Category	(₹ in crore)	
		Number of Cases	Amount
1	Incorrect determination of market value of properties	266	6.12
2	Non/short levy of SD and RF	72	8.70
3	Other irregularities related to:		
	(i) Revenue	515	0.56
	(ii) Expenditure	93	0.00
<b>Total</b>		<b>946</b>	<b>15.38</b>

3 558 auditable units: 539 SRs (Registering authorities) and 19 administrative offices.



The Department accepted under-assessment and other deficiencies in 1,735 cases involving ₹ 28.15 crore of which 777 cases involving ₹ 14.39 crore were pointed out during the year 2020-21 and the rest in the earlier years. The Department recovered ₹ 5.67 crore in 925 cases during the year 2020-21, of which 16 cases involving ₹ 0.11 crore were related to the year 2020-21 and rest to the earlier years.

Few illustrative cases involving ₹ 3.58 crore are discussed in the succeeding paragraphs. It is pertinent to mention here that most of these issues have been raised earlier and published in the CAG's Audit Report of previous years wherein the Government accepted the observations and initiated action/recoveries. However, it is seen that the Department took action only in cases pointed out by audit. Recurrence of issues of similar nature points to weakness in the internal control system of the Department.

#### 4.4 Undervaluation of Immovable Properties

##### **Undervaluation of Immovable properties by Registering Authorities resulted in short levy of Stamp duty, Surcharge and Registration Fee**

According to article 21(i) of the schedule to the Rajasthan Stamps Act (RS Act), 1998, stamp duty<sup>4</sup> (SD) on the instrument of conveyance relating to immovable property shall be levied on market value of the property. Rule 58 of the Rajasthan Stamps Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by State Government, whichever is higher. Surcharge is chargeable on the SD at the rate of 20 *per cent* with effect from 8 March 2016.

The registration fee (RF) is chargeable at the rate of one *per cent* of the valuation with the maximum limit of rupees three lakh w.e.f. 12 February 2018. Maximum limit was removed w.e.f. 27 May 2019.

During test check (between June 2020 and December 2020) of records at the offices of seven Sub-Registrars (SRs)<sup>5</sup>, it was noticed that 15 instruments<sup>6</sup> pertaining to agricultural/residential/commercial/industrial lands were registered (between February 2018 and October 2019) as sale deed/developer agreement/ certificate of sale/amended lease deed.

Scrutiny of these instruments revealed that the concerned Registering Authorities (RAs) had assessed the market value of properties at ₹ 50.35 crore instead of correct valuation of ₹ 89.42 crore due to reasons such as adoption of incorrect rates with respect to location and nature of properties, considering lower face value instead of higher consideration amount, *etc.* The RAs, thus, levied SD, surcharge and RF of ₹ 2.93 crore<sup>7</sup> instead of ₹ 4.45 crore<sup>8</sup> resulting in short levy of SD, surcharge and RF of ₹ 1.52 crore.

4 SD: At the rate of five *per cent* with effect from 8 July 2009.

5 SR: Jaipur-II, Diggi (Tonk), Bhiwadi, Chaksu, Kalwar (Jaipur), Ajmer-I and Jaipur-X.

6 Instruments: Ten Sale deeds, three Developer Agreements, one Certificate of Sale and one Amended Lease Deed.

7 ₹ 2.93 crore: SD of ₹ 2.26 crore, Surcharge of ₹ 0.45 crore and RF of ₹ 0.22 crore.

8 ₹ 4.45 crore: SD of ₹ 3.37 crore, Surcharge of ₹ 0.67 crore and RF of ₹ 0.41 crore.

The matter was reported to the Department and the State Government (July and September 2021). The State Government replied (October 2021) that entire objected amount has been recovered in one instrument, notices for recovery have been issued to the executants in four instruments, cases have been registered with Collector (Stamps) in seven instruments and recovery is pending in remaining three instruments. Further progress was awaited (December 2021).

#### **4.5 Short levy of stamp duty on registration of lease deeds**

##### **Incorrect valuation of lease deeds led to short levy of stamp duty, surcharge and registration fee**

**4.5.1** According to para 05 of the notification dated 24 July 2015 issued by the Finance Department, Government of Rajasthan, if the lease deed is issued on the basis of unregistered or insufficiently stamped instruments executed after 31 May 2013, the SD would be chargeable on the value calculated on the basis of prevalent rates of reserve price of the area prescribed by Local Authority concerned. SD would be charged on the basis of reserve price of nearby area, if rates of reserve price of that area are not prescribed, subject to the condition that the lease holder along with his lease deed shall submit the certificate before the Registering Officer issued by the Urban Local Body concerned stating therein the number and date of execution of intermediary unregistered and unstamped instruments executed in respect of the immovable property.

During the test check (June 2020) of records for the year 2019-20 of SR Jaipur-I, it was noticed that a group housing project (project) was developed on a land<sup>9</sup> situated in villages *Bhankrota* and *Sirsi* (Jaipur). Further scrutiny of records revealed that a lease deed was issued (23 August 2017) by the Jaipur Development Authority (JDA) for the said project wherein the land was valued at ₹ 1.83 crore. This lease deed was registered with SR Jaipur-II on 28 August 2017 on the basis of an unregistered possession letter given by the landowner to the lease holder and SD, surcharge and RF of ₹ 12.82 lakh<sup>10</sup> was levied on the value of ₹ 1.83 crore. However, the instrument of lease deed was required to be valued at ₹ 17.01 crore<sup>11</sup>, calculated at the rate of reserve price prescribed by the JDA for *Bhankrota* village which was also applicable for *Sirsi*<sup>12</sup> village, on which SD, surcharge and RF of ₹ 1.06 crore<sup>13</sup> was chargeable. Therefore, non-application of relevant rule and resultant incorrect valuation of instrument of lease deed led to short levy of SD, Surcharge and RF amounting to ₹ 93.24 lakh<sup>14</sup>.

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9 Measuring 18410.20 sqmt.

10 ₹ 12.82 lakh: SD of ₹ 9.16 lakh, Surcharge of ₹ 1.83 lakh and RF of ₹ 1.83 lakh.

11 ₹ 17.01 crore: 18410.20 sqmt X ₹ 8400 per sqmt (the reserve price fixed for *Bhankrota*) + 10 per cent (corner).

12 Reserve price for *Sirsi* village was not prescribed by JDA. Therefore, as per the notification *ibid*, the reserve price of nearby area (*Bhankrota* village) was applicable for *Sirsi* village as well.

13 ₹ 1.06 crore: SD of ₹ 85.05 lakh, surcharge of ₹ 17.01 lakh and RF of ₹ 4.00 lakh.

14 ₹ 93.24 lakh: SD of ₹ 75.89 lakh, surcharge ₹ 15.18 lakh and RF of ₹ 2.17 lakh.



The matter was reported to the Department and the State Government (May 2021). The State Government replied (October 2021) that a case has been registered with Collector (Stamps). Further progress was awaited (December 2021).

**4.5.2** According to article 33 of the schedule to the RS Act, where the lease purports to be for a term in excess of thirty years<sup>15</sup> or in perpetuity, the stamp duty (SD) as on a conveyance on the market value of the property which is the subject matter of the lease, shall be chargeable.

Further, as per the notification dated 19 April 2018 issued by the Finance Department, Government of Rajasthan, if the lease deed or sale deed is executed by Jaipur Development Authority (JDA) in respect of land allotted or sold by them after 30 September 2018<sup>16</sup> and submitted for registration within two months from the date of its execution, the SD shall be chargeable on the amount of consideration or 50 per cent of the value of the land calculated on the basis of market rates of such land, whichever is higher.

Surcharge is chargeable on the SD at the rate of 20 per cent w.e.f. 8 March 2016. The registration fee (RF) is chargeable at the rate of one per cent of the market value of property w.e.f. 9 March 2015. The maximum limit was fixed as rupees three lakh w.e.f. 12 February 2018.

During test check (between June 2020 and September 2020) of records of the office of three Sub-registrars (SR)<sup>17</sup>, it was noticed that eight lease deeds were issued (between October 2018 and November 2019) by JDA for commercial/residential/institutional purposes. Of these, seven lease deeds were issued by JDA after regularization of the land under section 90-A of the Rajasthan Land Revenue Act, 1956 on the basis of unregistered documents (*patta*) issued by the housing societies. The concerned Registering Authorities (RAs) had levied and recovered SD applicable on conveyance on the registered value determined by JDA instead of market value of the land. In the remaining case, the concerned RA had levied and recovered SD on 50 per cent of the market value of the land instead of the consideration amount which was higher.

Therefore, the RAs had assessed the value of these lease deeds at ₹ 6.32 crore instead of ₹ 10.25 crore resulting in short levy of SD, surcharge and RF of ₹ 27.01 lakh<sup>18</sup>.

The matter was reported to the Department and the State Government (August 2021). The State Government replied (October 2021) that cases have been registered with Collector (Stamps) in five instruments and recovery is pending in remaining three instruments. Further progress was awaited (December 2021).

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15 Amended vide notification dated 8 March 2017.

16 Amended vide notification dated 30 June 2018.

17 SR: Jaipur-II, Amer and Jaipur-X.

18 ₹ 27.01 lakh: SD of ₹ 20.15 lakh, Surcharge of ₹ 4.03 lakh and RF of ₹ 2.83 lakh.

#### 4.6 Transfer of immovable property from 'sponsoring body' to 'private university'

##### **Incorrect valuation of institutional land by the registering authority led to short levy of stamp duty, surcharge and registration fee**

According to notification dated 9 March 2015 issued by the Finance Department, Government of Rajasthan, the rates of converted land for institutional purposes or agricultural land being used for institutional purposes shall be equal to twice the rate of agricultural land of that area.

Further, the SD chargeable on the instrument of transfer of immovable property from 'sponsoring body' to 'private university' shall be reduced and charged at the rate of one *per cent* of market value of property. RF is chargeable at the rate of one *per cent* on market value of such property w.e.f. 27 May 2019. Surcharge is also payable on SD at the rate of 20 *per cent* w.e.f. 8 March 2016.

During test check (July 2020) of records of SR Jaipur-II, it was noticed that a deed of consent was executed (10 July 2019) for transfer of institutional land<sup>19</sup> from a sponsoring body to a private university. Scrutiny of the records revealed that while finalizing the registration (2 August 2019) of the deed, the Registering Authority charged SD, surcharge and RF aggregating ₹ 10.75 lakh<sup>20</sup> on market value of ₹ 6.72 crore<sup>21</sup> assessed at DLC rate of agricultural land situated away from the main road. However, the land was being used for institutional purposes and was situated at main road as per the *Mauka* Report (2 August 2019) of SR Jaipur-II. Therefore, the market value of the land was required to be calculated at twice the DLC rate of agricultural land situated at main road amounting to ₹ 18.24 crore<sup>22</sup> on which SD, surcharge and RF of ₹ 29.18 lakh<sup>23</sup> was chargeable. Therefore, non-application of relevant provisions and resultant incorrect valuation of land by the registering authorities led to short levy of SD, surcharge and RF amounting to ₹ 18.43 lakh<sup>24</sup>.

The matter was reported to the Department and the State Government (May 2021). The State Government replied (October 2021) that a case has been registered with Collector (Stamps). Further progress was awaited (December 2021).

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19 Measuring 48.48 *bigha* situated in village *Vatika* (*Tehsil* Sanganer) and village *Fathepura Vas Vatika* (*tehsil* Chakshu).

20 ₹ 10.75 lakh: SD of ₹ 3.36 lakh, surcharge of ₹ 0.67 lakh and RF of ₹ 6.72 lakh. Entitlement Certificate under Rajasthan Investment Promotion Scheme, 2014 had been granted (5 July 2019) by Commissioner of Industries for 50 *per cent* exemption in SD for utilization of land for the university.

21 ₹ 6.72 crore: ₹ 13.86 lakh per *bigha* as per DLC rates of agriculture land X 48.48 *bigha*.

22 ₹ 18.24 crore: 48.48 *bigha* X 2 times of ₹ 18.81 lakh per *bigha*.

23 ₹ 29.18 lakh: SD of ₹ 9.12 lakh, surcharge of ₹ 1.82 lakh and RF of ₹ 18.24 lakh.

24 ₹ 18.43 lakh: SD of ₹ 5.76 lakh, surcharge of ₹ 1.15 lakh and RF of ₹ 11.52 lakh.

#### 4.7 Misclassification of the instrument of conveyance

##### **Failure of the registering authority to correctly classify the instrument of conveyance led to short levy of stamp duty and surcharge**

According to Article 21(i) of the Schedule to the RS Act, SD on the instrument of conveyance<sup>25</sup> relating to immovable property shall be levied on the market value of the property. Rule 58 of the Rajasthan Stamps Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by State Government, whichever is higher. Surcharge is chargeable on the SD at the rate of 20 *per cent* w.e.f. 8 March 2016.

The RF is chargeable at the rate of one *per cent* of the market value of property w.e.f. 27 May 2019.

During test check (between June and July 2020) of records of office of the SR Jaipur-II, it was noticed that a transfer deed of a commercial property<sup>26</sup> was registered on 26 June 2019. Scrutiny of the documents revealed that an instrument of Developer Agreement<sup>27</sup> was registered between landowners and the developer on 12 August 2005 for development of a commercial project on the land wherein the owner's and developer's share in the developed property was 50 *per cent* each.

Subsequently, the ownership rights and the 50 *per cent* share in the developed property was transferred by the owners to the developer through the transfer deed. During the registration of the transfer deed, the RA categorized the deed as a transferable development right and recovered SD and RF of ₹ 4.54 lakh<sup>28</sup> on the market value assessed at ₹ 4.53 crore<sup>29</sup>. However, as the ownership rights were being transferred through the transfer deed, it was required to be classified as conveyance and SD, Surcharge and RF of ₹ 31.71 lakh<sup>30</sup> was leviable on the market value. Therefore, misclassification of the instrument by RA led to short levy of SD and surcharge aggregating to ₹ 27.17 lakh<sup>31</sup>.

The matter was reported to the Department and the State Government (June 2021). The State Government replied (October 2021) that a case is being registered with the Tax Board to review the decision of the Collector (Stamps) to levy SD at the rate of 1.5 *per cent* (of the market value of property) on

25 SD chargeable at the rate of five *per cent* with effect from 8 July 2009.

26 50 *per cent* of land area of plot No. SB-115-A, situated on main Tonk Road, Bapu Nagar, Jaipur. Total area 255.47 (510.94/2) sqmt and constructed area 4300 sqft.

27 SD at the rate 1.5 *per cent* of the market value of the proportionate part of the land under developed property agreed to be given to promoter or developer in consideration w.e.f. 8 March 2018.

28 ₹ 4.54 lakh: SD of ₹ 500 and RF of ₹ 4.53 lakh.

29 ₹ 4.53 crore: 255.47 sqmt X 1,61,181/- per sqmt plus construction cost of 4300 sqft X ₹ 960 /- per sqft (after allowing 20 *per cent* depreciation in construction cost).

30 ₹ 31.71 lakh: SD of ₹ 22.65 lakh, surcharge of ₹ 4.53 lakh and RF of ₹ 4.53 lakh.

31 ₹ 27.17 lakh: SD of ₹ 22.64 lakh and surcharge of ₹ 4.53 lakh.



developer's share in the developer agreement. Further progress was awaited (December 2021).

#### 4.8 Non-utilization of information available with RERA

##### Failure of Registering Authorities to utilize information available with RERA led to short levy of Stamp Duty and Surcharge

Given the ever-expanding quantum and scope of registration of documents, the State Government notified certain offices as "*public office*"<sup>32</sup> authorizing them to levy SD on the documents presented before them for registration. Further, the Inspector General, Registration and Stamps (IGRS) issued directions<sup>33</sup> to the Deputy Inspectors General (Stamps) (DIG) and SRs to conduct effective inspections of the records of public offices to ensure realisation of SD according to provisions of RS Act as the lack of effective control was resulting in loss of revenue to the State Government. Records of the public offices are increasingly being maintained in digital format due to continued thrust of the Central and State Government on digitization. Hence, there is ample opportunity for the SRs/DIGs to view them online through websites.

##### 4.8.1 Instrument of Development Agreement

During audit of SR Jodhpur-III, audit analysed the information<sup>34</sup> (February 2021) available on Rajasthan RERA website<sup>35</sup> related to properties falling under the jurisdiction of SR, Jodhpur-III. Audit noticed that an instrument of development agreement (DA) was executed (12 November 2018) between a landowner and a developer for a commercial project<sup>36</sup> with share of owner and developer as 45 *per cent* and 55 *per cent* respectively. The market value of the property was ₹ 8.50 crore<sup>37</sup> on which SD and Surcharge of ₹ 13.00 lakh<sup>38</sup> were payable. However, the DA was not registered with SR Jodhpur-III and was instead notarized with SD of ₹ 500 only. The SR had not utilized the information available on the RERA website despite the fact that RERA is a public office<sup>39</sup> under the RS Act.

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32 "Public office" as notified by State Government vide notification dated 16 December 1997 under the Indian Stamp Act, 1899. The provisions of this notification continue to be in force according to section 91(2) of Rajasthan Stamp Act, 1998.

33 December 2009, August 2010.

34 Real estate project details: RERA registration No. RAJ/P/2019/1033 dated 31 May 2019.

35 <https://rera.rajasthan.gov.in>.

36 On plot number 290 & 298-A & B situated at 4th 'A' road, Sardarpura, Jodhpur comprising an area of 801.66 sqyd or 7214.94 sqft (corners).

37 ₹ 8.50 crore: (7214.94 sqft X ₹ 10,710 per sqft plus 10 *per cent* for corner land).

38 ₹ 13.00 lakh: SD of ₹ 10.84 lakh and surcharge of ₹ 2.16 lakh calculated at 1.5 *per cent* on developer's share and one *per cent* on owner's share as per article 5(e) of the schedule to the RS Act. Surcharge is calculated at 20 *per cent* on SD as applicable from 8 March 2016.

39 As per State Government notification dated 16 December 1997, all the offices of State Government are designated as 'public office'. Rajasthan RERA was established by Government of Rajasthan due to which it falls within the definition of 'public office' as per the notification.

This led to non-imposition of prescribed SD and surcharge of ₹ 12.99 lakh<sup>40</sup>.

The matter was reported to the Department and the State Government (June 2021). The State Government replied (October 2021) that a case has been registered with Collector (Stamps). Further progress was awaited (December 2021).

#### 4.8.2 Instrument of agreement to sale

Similarly, Audit noticed that an instrument of agreement to sale of a residential land<sup>41</sup> for a consideration of ₹ 2.59 crore was executed on 26 July 2017. The possession of the land was also transferred at the time of execution of the agreement. Hence, the instrument was required to be deemed as conveyance according to explanation<sup>42</sup> (i) under Article 21 of the schedule to the RS Act and registered compulsorily under Section 17 of the Registration Act 1908 with SD, surcharge and RF<sup>43</sup> of ₹ 18.16 lakh<sup>44</sup> chargeable on the consideration of ₹ 2.59 crore<sup>45</sup>. However, the instrument of agreement to sale was not registered with SR Jodhpur-III and was instead notarized<sup>46</sup> with SD of ₹ 500 only. This led to non-imposition of prescribed SD, surcharge and RF amounting to ₹ 18.15 lakh<sup>47</sup>.

The matter was reported to the Department and the State Government (June 2021). The State Government replied (October 2021) that a case has been registered with Collector (Stamps). Further progress was awaited (December 2021).

*In addition to ensuring regular inspections of public offices as prescribed, the Department should instruct the SRs to explore digital records, such as information available on RERA website to identify documents escaping registration.*

### 4.9 Short levy of Stamp Duty on Irrevocable Power of Attorney

**Failure of registering authority to take cognizance of recital in the instrument of irrevocable power of attorney resulted in short levy of stamp duty, surcharge and registration fee**

According to explanation (i) given under article 21 of the schedule to the RS Act, an agreement to sell an immovable property or an irrevocable power of

40 ₹ 12.99 lakh: SD of ₹ 10.83 lakh and surcharge of ₹ 2.16 lakh.

41 Measuring 5698.52 sqyd or 51286.68 sqft situated at village Kharda Randheer, District Jodhpur.

42 An agreement to sell an immovable property or an irrevocable power of attorney or any other instrument executed in the course of conveyance or lease, in case of transfer of the possession of such property before, at the time of or after the execution of any such instrument, be deemed to be a conveyance and the SD thereon shall be chargeable accordingly.

43 RF is chargeable at the rate of one *per cent* of the market value of property under maximum limit of rupees four lakh *w.e.f.* 8 March 2017.

44 ₹ 18.16 lakh: SD of ₹ 12.97 lakh, surcharge of ₹ 2.59 lakh and RF of ₹ 2.60 lakh.

45 Consideration value: Consideration value of ₹ 2.59 crore is higher than the market value of ₹ 1.28 crore (51286.68 sqft X ₹ 250 per sqft). Hence, consideration value is treated as market value.

46 On 15 May 2018

47 ₹ 18.15 lakh: SD of ₹ 12.96 lakh, surcharge of ₹ 2.59 lakh and RF of ₹ 2.60 lakh.

attorney (PoA) or any other instrument executed in the course of conveyance or lease, in case of transfer of the possession of such property before, at the time of or after the execution of any such instrument, be deemed to be a conveyance and the SD thereon shall be chargeable at the rate of conveyance *i.e. five per cent* on the market value of such property.

Section 20 of the act provides that any instrument has become chargeable in any part of India other than the State of Rajasthan with duty under the Indian Stamp Act, 1899 or under any other law for the time being in force in such part and thereafter becomes chargeable with a higher rate of duty in the state of Rajasthan under this Act, the amount of duty chargeable on such instrument shall be the amount chargeable on it under this Act less the amount of duty, if any, already paid on it in India.

During the test check (February 2021) of records of office of the Sub-Registrar (SR) Jodhpur-I, it was noticed that an instrument was registered (9 September 2019) as lease deed for residential land. Scrutiny of instruments enclosed with the lease deed revealed that an irrevocable power of attorney (PoA) was executed (5 September 2019) which was notarized (6 September 2019) in the State of Tamil Nadu with SD of ₹ 2,100 only. The possession of the land was transferred at the time of execution of the irrevocable PoA and therefore, the instrument was required to be classified as conveyance as per the article *ibid* and registered compulsorily<sup>48</sup> on which SD, surcharge<sup>49</sup> and RF of ₹ 10.06 lakh<sup>50</sup> were leviable on the market value of ₹ 1.44 crore<sup>51</sup> of the land.

However, the Registering Authority failed to take cognizance of the recital in the documents at the time of registration of the lease deed leading to short levy of SD, surcharge and RF of ₹ 10.04 lakh<sup>52</sup>.

The matter was reported to the Department and the State Government (June 2021). The State Government replied (October 2021) that a case has been registered with Collector (Stamps). Further progress was awaited (December 2021).

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48 Section 17 of the Registration Act 1908, provides that other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or contingent, of the value of ₹ 100 and above to or in immovable property, are required to be compulsorily registered. RF is chargeable at the rate of one *per cent* of the market value of property w.e.f. 27 May 2019.

49 Surcharge is chargeable on the SD at the rate of 20 *per cent* w.e.f. 8 March 2016.

50 ₹ 10.06 lakh: SD of ₹ 7.18 lakh, surcharge of ₹ 1.44 lakh and RF of ₹ 1.44 lakh.

51 ₹ 1.44 crore: 9000 (4500 X 2) sqft X 1125 per sqft + 5249.97 (2099.97 + 3150) sqft X 810 per sqft.

52 ₹ 10.04 lakh: SD of ₹ 7.16 lakh, surcharge of ₹ 1.44 lakh and RF of ₹ 1.44 lakh.