

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

4.1 Results of audit

Test check of the records of the Stamp and Registration Department conducted during the year 2008-09, disclosed non/short levy of stamp duty and registration fees amounting to Rs. 14.70 crore in 608 cases which fall under the following categories :

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Short levy of stamp duty due to misclassification of documents	167	4.73
2.	Short levy of stamp duty and registration fee due to under valuation of properties	398	9.19
3.	Other irregularities	43	0.78
Total		608	14.70

During the year 2008-09, the department accepted and recovered Rs. 7.73 lakh, involving 20 cases of non/short levy of stamp duty and registration fees and other irregularities, of which in one case involving Rs. 12,808 related to the year 2008-09 and the balance to the earlier years.

A few illustrative audit observations involving Rs. 4.05 crore, are mentioned in the succeeding paragraphs.

4.2 Audit observations

Scrutiny of records in the offices of Stamp and registration department revealed cases of non/short levy of stamp duty, incorrect determination of market value of the property, etc. as mentioned in succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only 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 recurrence of such lapses in future can be avoided.

4.3 Non-observance of the instructions of the Government

The instructions issued under Indian Stamp Act, 1899 by the Government/department provide for;

- (i) charging of stamp duty at prescribed market rates of the land and building; and*
- (ii) charging of stamp duty for lease deed.*

Non-compliance of the above instructions in cases mentioned in paragraphs 4.3.1 to 4.3.4, resulted in non/short realisation of Government revenue of Rs. 4.05 crore.

4.3.1 Under the Indian Stamp Act, on an instrument, where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purport to be for any definite term, stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property. The Inspector General (Stamp and Registration) clarified on 22 April 2003 that if a lease for a period upto 30 years, contained provision for further extension for a certain or indefinite period, stamp duty shall be charged on the consideration of market value of the property.

Test check of the records of 26 Sub-Registrars revealed that 43 lease deeds for a period upto 30 years were registered between February 2005 and June 2008, on which stamp duty of Rs 17.92 lakh was levied. Since the recital of the deeds contained the provision of extension, stamp duty of Rs. 3.62 crore, based on market value of the property of Rs. 39.29 crore was leviable. Incorrect computation of lease period resulted in short levy of stamp duty of Rs. 3.44 crore as shown in Appendix-IX.

The matter was reported to the department and Government between September 2007 and January 2009; their reply has not been received (August 2009).

4.3.2 Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. As per Uttar Pradesh Stamp (Valuation of property) Rules 1997, market rates of various categories of land situated in a district are to be fixed biennially by the collector concerned for the guidance of the Registering Authorities.

Test check of the records of six Sub-Registrars between September 2007 and September 2008 revealed that five deeds of conveyance relating to non-agricultural land were registered for a consideration of Rs. 1.18 crore at agricultural rates instead of Rs. 4.84 crore and three deeds of conveyance relating to commercial land and building were registered for a consideration of Rs. 53.26 lakh at residential land and building instead of Rs. 1.40 crore. The incorrect valuation of property resulted in short levy of stamp duty amounting to Rs. 39.88 lakh as shown in Appendix-X.

The matter was reported to the department and Government between May 2008 and January 2009; their reply has not been received (August 2009).

4.3.3 Under the provisions of Indian Stamp Act 1899, if a building is constructed on a land by a person other than the owners of the land having a stipulation that after construction, such building or part thereof shall be held or sold jointly or severally by that other person and the owner of the land, stamp duty on such agreement shall be charged as a conveyance for a consideration equal to the amount or value of land.

Test check of records of Sub-Registrar, Sadar-IV, Varanasi in December 2008 revealed that an agreement was registered in June 2008 between the builder and the owner of the land. Stamp duty of Rs. 4.69 lakh was levied on value of land of Rs. 46.84 lakh, against the stamp duty of Rs. 10.81 lakh leviable on the value of owner's share in the building valued at the circle rate amounting to Rs. 1.08 crore which resulted in short levy of stamp duty of Rs. 6.12 lakh.

The matter was reported to the department and Government between December 2008 and March 2009; their reply has not been received (August 2009).

4.3.4 As per Government order issued by the Housing department on 20 July 2002, read alongwith guidelines issued by the Inspector General Registration (IGR), Uttar Pradesh on 14 August 2002, possession of all the properties of development authorities where total cost has been fully paid, should be handed over to the allottees, only after registration of the sale deed. Further, under the provisions of Indian Stamp Act 1899 and Registration Act 1908, stamp duty and registration fees is leviable on valuation of property at the rate of Rs. 100 per thousand (including additional stamp duty) and two *per cent* subject to the maximum of Rs. 5,000 respectively.

Test check of the records of Gorakhpur Development Authority, Gorakhpur in August 2008 revealed that cost of 49 houses/shops valued at Rs. 1.27 crore was paid in full by allottees to the development authority during the year 2007-08, but possession of these houses/shops was transferred to the allottees without registration of documents. This resulted in non-levy of stamp duty and registration fees amounting to Rs. 14.68 lakh.

The matter was reported to the department and Government in November 2008; their replies has not been received (August 2009).