

CHAPTER-III: STAMPS AND REGISTRATION FEES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 97.49 lakh selected from observations noticed during our test check of records relating to short levy of stamp duty and registration fees due to undervaluation and non-adherence of the market value guidelines by the Registration Department.
Decrease in tax collection	The contribution of receipts from stamps and registration fees to the total tax revenue of the State during the last five years ranged between 7.52 to 8.73 <i>per cent</i> . The receipts during the year 2011-12 decreased by 3.33 <i>per cent</i> as compared to the previous year which was attributed by the Department to two <i>per cent</i> exemption on stamp duty on the sale deeds made by women.
Importance not given to Internal Audit	During the year 2011-12, we observed that the Department did not approve any plan for conducting the internal audit and no audit was conducted. Further, against the sanctioned post of two Assistant internal audit officer, only one Assistant audit officer was posted in the wing.
Results of audit conducted by us in 2011-12	We conducted test check of the records of eight units relating to the Registration Department during the year 2011-12 and found inordinate delay in disposal of cases, underassessment of stamp duty, misclassification of instruments and other irregularities amounting to ₹ 4.17 crore in 517 cases. The Department accepted underassessment of ₹ 74.44 lakh in 76 cases.
Our conclusion	<p>The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the non-realisation, undercharge of duty, etc. pointed out by us, more so in those cases where it has accepted our contention.</p>

3.1 Tax administration

The Registration Department collects revenue for the Government in the form of Stamps and Registration fees which are the major sources of revenue for the Government. Stamp duty is leviable on the execution of instruments and registration fees are payable at the prescribed rates. Evasion of stamp duty and registration fees are commonly resorted to through undervaluation of properties, non-presentation of documents in the office of the Registration authority and non/short payment of Stamp duty by the executants on the documents submitted before the Registering authority.

The Department follows the under mentioned Acts and Rules for collection of Stamps and Registration fees:

- The Indian Stamp Act (IS Act), 1899;
- The Registration Act (IR Act), 1908;
- Indian Stamp Rules, 1975; and
- Chhattisgarh Preparation and Revision of Market Value Guideline Rules, 2000.

The Registration Department is headed by the Secretary at Government level and the Inspector General of Registration cum Superintendent of Stamps (IGR) is the head of the Department, who is assisted by two Deputy IsGR, 10 District Registrar cum Collector of Stamps (DR) and 88 Sub Registrars (SR).

3.2 Trend of receipts from Stamps and Registration Fees

Actual receipts from Stamps and Registration fees during the years 2007-08 to 2011-12 along with the total tax receipts during the period is exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	471.47	462.72	(-) 8.75	(-) 1.86	5,618.08	8.24
2008-09	520.00	495.59	(-) 24.41	(-) 4.69	6,593.72	7.52
2009-10	515.00	583.13	(+) 68.13	(+) 13.23	7,123.25	8.19
2010-11	650.35	785.85	(+)135.50	(+) 20.83	9,005.14	8.73
2011-12	875.00	845.82	(-)29.18	(-) 3.33	10,712.25	7.90

(Source: Finance Accounts of Government of Chhattisgarh)

The contribution of receipts from Stamps and Registration fees to the total tax revenue of the State during the last five years ranged between 7.52 and 8.73 per cent. The decrease (- 3.33 per cent) in actual receipts over the Budget estimates during the year 2011-12 as stated by the Department was due to two per cent exemption on stamp duty on the sale deeds made by women.

We found that during the year 2011-12, the Finance Department had approved the budget estimate of ₹ 875 crore as against the estimate of ₹ 864.10 crore proposed by the Department.

3.3 Analysis of arrears of revenue

The arrears of revenue in respect of Stamps and Registration fees as on 31 March 2012 amounted to ₹ 5.03 crore of which ₹ 2.87 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12:

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
2007-08	2.87	3.05
2008-09	3.05	3.68
2009-10	3.68	4.69
2010-11	4.69	5.43
2011-12	5.43	5.03

(Source: Figures as furnished by the Department)

3.4 Cost of collection

The gross collection in respect of Stamps and Registration fees, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant all India average percentage of expenditure on collection of the preceding years are indicated in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure on collection in the preceding year
2009-10	583.13	14.94	2.56	2.77
2010-11	785.85	18.52	2.36	2.47
2011-12	845.82	20.75	2.45	1.60

(Source:-Finance Accounts of the Government of Chhattisgarh)

It may be seen from the above table that though the percentage of cost of collection in the State was lower than the all-India percentage for the years 2009-10 and 2010-11, the same had increased during the year 2011-12.

We recommend that the Government may take appropriate steps to reduce the cost of collection.

3.5 Impact of audit

3.5.1 Position of Inspection Reports: During the period 2006-07 to 2010-11, we had pointed out through our Inspection Reports (IRs) underassessment of stamp duty, misclassification of instruments etc. with revenue implication of ₹ 18.68 crore in 2,150 cases. Of these, the Department/Government had

accepted audit observations in 1439 cases involving ₹ 10.20 crore. The details are shown in the following table:

(₹ in lakh)

Year	No. of units audited	Amount objected		Amount accepted	
		No. of cases	Amount	No. of cases	Amount
2006-07	14	132	182.33	131	182.33
2007-08	30	515	100.31	511	97.86
2008-09	20	635	663.00	13	38.00
2009-10	11	326	293.00	298	282.00
2010-11	28	542	629.00	486	420.00
Total		2,150	1,867.64	1,439	1,020.19

3.5.2 Position of Audit Reports : In the Audit Reports 2006-07 to 2010-11, cases of underassessment, exemption from stamp duty etc. and other irregularities involving ₹ 12.17 crore were indicated. The Department accepted observations of ₹ 1.78 crore as shown in the table below:

(₹ in crore)

Sl. No.	Year of Audit Report	Total money value	Amount accepted
1	2006-07	8.69	0.03
2	2007-08	Nil	Nil
3	2008-09	1.60	1.14
4	2009-10	Nil	Nil
5	2010-11	1.88	0.61
Total		12.17	1.78

3.6 Internal audit

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

We observed that against the sanctioned post of two Assistant Internal Audit Officers, only one Assistant Audit Officer was posted in the wing. Further, the Department did not approve any plan for conducting internal audit during the year 2011-12. Therefore, the Department could not detect deficiencies noticed by us during our audits.

The Department stated that as the auditor posted in the wing was engaged for preparing material for Audit Committee Meeting for the settlement of outstanding paras, no internal audit was conducted.

We recommend that the Internal Audit Wing may be strengthened and an audit plan prepared for carrying out the audit.

3.7 Results of audit

We conducted test check of the records of eight units relating to the Registration Department during the year 2011-12 and found inordinate delay in disposal of cases, underassessment of Stamp duty, misclassification of instruments and other irregularities amounting to ₹ 4.17 crore in 517 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Inordinate delay in disposal of cases	208	2.09
2.	Loss of revenue due to undervaluation, misclassification of instruments and under assessment of stamp duty	162	0.58
3.	Other irregularities	147	1.50
Total		517	4.17

During the year, the Department accepted underassessment of ₹ 74.44 lakh in 76 cases, which were pointed out in 2011-12.

The Department also recovered the full amount of ₹ 3.25 lakh in one case pointed through a draft paragraph.

A few illustrative cases involving ₹ 97.49 lakh are mentioned in the succeeding paragraphs.

3.8 Audit observations

We scrutinised the records of various Registration offices and found several cases of non-observance of the provisions of the Acts/ Rules/ Government notifications/ instructions leading to loss of Stamp duty, Registration fees etc. and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the registering authorities are pointed out by us each year, but not only do the irregularities persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

3.9 Non-adherence to guidelines

As per the Chhattisgarh Preparation and Revision of Market Value Guideline Rules, 2000, market value of the properties shall be determined in accordance with the provisions envisaged in the Guidelines and the Indian Stamp (IS) Act, 1899 and accordingly Stamp duty and Registration fee shall be levied. Further under Section 47(A) of the IS Act, if the registering authority has reasons to believe that the market value of any property which is the subject matter of such instrument has been set forth less than the minimum value determined in accordance with any rules under this Act, he shall, before registering such instrument, refer the same to the Collector for the determination of the market value of such property and the proper duty payable thereon. As per clause 8 of Form I of the Market Value Guidelines, the market value of diverted land in rural areas shall be calculated as two and a half times the rate for irrigated land in the same area.

3.9.1 During test check (October 2011) of instruments registered (July 2010 and February 2011), in the office of SR Raipur, we noticed from two documents that diverted land¹ of an area admeasuring 1.703 hectares was sold. The lands were situated in rural areas. As per the clauses of the guidelines, the market value of these properties was ₹ 3.71 crore on which Stamp duty of ₹ 27.09 lakh and Registration fee of ₹ 2.97 lakh were leviable. However, the SR, without proper scrutiny of these documents, determined the market value of these properties at ₹ 2.94 crore and levied stamp duty of ₹ 21.49 lakh and registration fees of ₹ 2.36 lakh. This resulted in short

levy of stamp duty and registration fees of ₹ 6.21 lakh².

After we pointed this out to the Government/Department (May 2012), the Department stated (June 2012) that the cases have been referred to the Collector of Stamps and are pending for decision.

¹ Diverted land- It means such land which was diverted for use other than agricultural purpose.

² Calculation has been made on hectare rate.

As per clause 7 of Form I of the Market Value Guidelines, when any piece of agricultural land in a municipal area is purchased collectively by more than one purchaser who are not members of the same family and the share of each purchaser is upto 0.243 hectares, then the valuation of the property shall be done on slab basis. As per clause 5 of Form III the market value of agricultural land in municipal areas below 0.243 hectares shall be calculated at hectare rate if the land is adjacent to the land of the buyer. A certificate in this regard shall be given by the *Patwari*.

3.9.2 During test check (between October and November 2011) of the records of SR Raipur, it was noticed that in three documents involving a total area of 1.101 hectares of land situated in municipal areas, the vendees were not members of the same family and the share of each vendee was less than 0.243 hectare. In another case

in SR Dhamtari it was noticed that in one instrument land admeasuring 0.110 hectare was situated in the municipal area and as per the patwari's certificate, this land was not adjacent to the purchaser's land. The market value of these four properties was ₹ 5.20 crore as per slab basis³ on which Stamp duty of ₹ 42 lakh and Registration fees of ₹ 4.16 lakh were leviable. However, the SRs, instead of adopting the slab basis for calculating the market value, applied the hectare rates⁴ while determining the valuation of land and valued the property at ₹ 1.44 crore and levied stamp duty of ₹ 11.52 lakh and registration fee of ₹ 1.09 lakh. This resulted in undervaluation of property by ₹ 3.75 crore and consequential short levy of stamp duty of ₹ 30.48 lakh and registration fees of ₹ 3.07 lakh.

After we pointed this out to the Government/Department (May 2012), the Government (August 2012) stated that cases are pending for decision.

³ The market value of the land admeasuring upto 0.243 hectare in municipal area will be calculated on slab basis, i.e. 100 *per cent* of plot rate for first 0.05 hectare then 75, 40 and 25 *per cent* of plot rate for subsequent 0.05 hectare each.

⁴ Hectare rates- Hectare rates are calculated per hectare of agricultural land admeasuring more than 0.243 hectare, in urban areas. Similarly, plot rates are calculated per sq.m for small piece of land (up to 0.243 hectare).

As per clause 5 of Form III of the Market Value Guidelines, the market value of agricultural land in municipal areas below 0.243 hectares shall be calculated at hectare rate if the land is adjacent to the land of the buyer. A certificate in this regard shall be given by the *Patwari*. Similarly, as per special clause in the Market Value Guidelines, the market value of property situated near the limits outside the municipal area of specified villages (32 villages including Baroda village) shall be calculated as per clause 1 of Form I of Market Value Guidelines, i.e. on slab basis if the area of land is equal to or below 0.101 hectares for some villages and 0.150 hectares for the remaining villages.

3.9.3 During test check (October 2011) of instruments registered in the office of SR, Raipur we noticed that in four instruments, the provisions of the guidelines were not followed. Out of the four instruments, in two instruments area of land admeasuring 0.323 hectare was situated in the municipal area and in the other two instruments, land admeasuring 0.409

hectare, was situated outside the municipal area. In all these cases, no certificates were issued by the patwari as to whether the land was adjacent to the land of the buyer. Thus the lands were to be valued on slab basis but the SR determined the value of properties at hectare rates. As per the guidelines, the market value of these properties was ₹ 87.59 lakh on which stamp duty of ₹ 6.32 lakh and registration fee of ₹ 70,653 were leviable. However, the market value of the property was determined at ₹ 43.91 lakh and stamp duty of ₹ 3.19 lakh and registration fee of ₹ 35,716 were levied. This resulted in undervaluation of the property by ₹ 43.68 lakh and short levy of stamp duty and registration fees of ₹ 3.48 lakh.

After we pointed this out to the Government/Department (May 2012), the Department stated that the cases have been referred to the Collector of Stamps and the same are pending for decision.

3.10 Incorrect valuation of properties of irrigated lands and bi-crop lands

As per clause 7 of the provisions of Form III of the market value guidelines for the valuation of property for the year 2010-11 (approved by Central Valuation Board, Chhattisgarh) the market value of irrigated bi-crop land shall be determined by increasing the rate of irrigated land by 25 per cent. The rates of irrigated land and non-irrigated land have been prescribed separately in the Market Value Guidelines. Further, as per clause 9, an additional 25 per cent is added for commercial crop to the market value.

During test check (between October and November 2011) of instruments registered in the office of the SR, Berla and Raipur we noticed that in 11 documents, the attached revenue records in five documents, the lands admeasuring 12.527

hectare declared as irrigated bi-crop lands, but the SR registered them as

irrigated land only. In the rest of the documents, the attached *patwari* reports and records (*Khasara, Rin pustika*) declared the land admeasuring 9.045 hectare as irrigated lands, but the SR registered them as non-irrigated lands.

As per the guidelines the market value of these properties was ₹ 2.70 crore⁵ on which stamp duty of ₹ 19.19 lakh and registration fee of ₹ 2.17 lakh was leviable. However, the SRs determined the market value as ₹ 1.98 crore and levied stamp duty of ₹ 14.32 lakh and registration fee of ₹ 1.60 lakh. Thus, omission on the part of the SRs in not valuing the properties on the basis of the records attached resulted in undervaluation of properties by ₹ 71.85 lakh and consequential short levy of stamp duty of ₹ 4.87 lakh and registration fees of ₹ 57,400.

After we pointed this out to the Government/Department (May 2012), the Government (August 2012) stated that in case of SR Berla the recovery is under process in one case and the remaining cases are pending for decision by the Collector of Stamps.

3.11 Short levy of Stamp Duty due to irregular exemption

As per Article 33 of Schedule I –A of Indian Stamp Act, 1899, the same stamp duty shall be leviable on gift deeds as is levied on conveyance for a market value of the property which is the subject of gift. Further, as per section 9(1) of *Upkar Adhinyam*, 1982, a cess of five *per cent* shall be leviable on the stamp duty paid. Government of Chhattisgarh vide notification dated 31.3.2008 reduced the rate of stamp duty by two *per cent* of the prevailing rates under Article 23 of the Act, in cases where the transfer of property was done exclusively in favour of women. However, in the case of “Jwala Prasad Vs. UP State” (AIR 2005), the Hon’ble High Court had held that reduction of stamp duty on conveyance shall not be applicable to gift deeds.

We found (June 2011) during test check of instruments registered in the office of Sub-Registrar (SR), Durg, that 14 gift deeds with market value of ₹ 2.98 crore were executed between October 2009 and March 2011. Stamp duty amounting to ₹ 13.37 lakh was levied by the SR on these deeds after allowing two *per cent* exemption on duty as the deeds were in favour of women.

However, as per the decision of the Hon’ble High Court the exemption allowed by the SR was irregular and stamp duty amounting to ₹ 19.64 lakh was leviable on these deeds. This resulted in short levy of stamp duty amounting to ₹ 6.27 lakh.

After we pointed this out to the Government/Department (May 2012), the Government (August 2012) stated that the cases were referred to the Collector of Stamps and based on the decision, ₹ 3 lakh has been recovered in six cases and the remaining eight cases are still pending for decision.

⁵ Calculation has been made on hectare rate.

3.12 Undervaluation of properties

As per Chhattisgarh Preparation and Revision of Market Value Guideline Rules, 2000, a Central Valuation Board shall be constituted which shall evolve norms for fixation of market value in respect of valuation of immovable property, receive information/data property transaction entered by District Valuation Committee along with the provisional rates of analysis and final approval. The rates called Market Value Guideline shall be made available to each registering authority in the state. The registering authority are required to work out the market value of the immovable property in accordance with the market value guidelines and in accordance with the provisions of IS Act and Registration Act. The Registering Officer i.e. Sub Registrar (SR), as per the provisions of Indian Stamp (IS) Act and Registration Act, is required to calculate the Stamp duty and Registration fee leviable on the document on the basis of value of the property as per the Guidelines and provisions there upon. As per section 47 (A) of IS Act, if the SR has sufficient reasons to believe that a document is not duly stamped or valued, he shall send the document to the District Registrar (DR) for correct valuation.

We found during test check (June 2011) of instruments registered in the office of SR Durg, that in 12 instruments registered between March 2010 and March 2011, the market value was neither correctly determined by the SR nor were the cases sent to the DR for determination of the correct value. As per the approved guidelines, the market value of the properties mentioned in these documents was ₹ 1.91 crore on which stamp duty and registration fees of ₹ 17.71 lakh was leviable. However, while determining the market value of the properties, the provisions of the

guidelines were not followed by SR and the properties were valued at ₹ 1.40 crore. Accordingly stamp duty and registration fees of ₹ 12.97 lakh was levied. Thus, non-observance of the provisions of the guidelines by the SR for determining the value of the properties led to undervaluation of these properties by ₹ 51 lakh and consequential short levy of stamp duty and registration fees of ₹ 4.74 lakh⁶ (as shown in *Appendix-3.1*).

After we pointed this out to the Government/Department (May 2012), the Government (August 2012) stated that all the cases were referred to the Collector of Stamps and as per his orders, an amount of ₹ 1.66 lakh was recovered in seven cases, ₹ 1.72 lakh is pending for recovery in one case and the remaining four cases are still pending for decision.

⁶ The calculation has been made on hectare rates, slab rate and plot rate in six, three and three instruments respectively

3.13 Undervaluation of properties situated on main road

As per clause 6(A) of Form I of the Market Value Guideline Rules, 2000 in urban areas, the properties situated upto a depth/distance of 20 meters from the main road shall be valued as situated on the main road. Also, if any vendee purchases land having depth/distance of more than 20 meters, the whole property shall be valued as located on the main road. In rural areas, as per clause 11 of Form III, this limit is upto 46 meters from the main road.

During test check (between October and December 2011) of documents registered in the office of SR Dhamtari and Raipur, we found that in 14 documents, the supporting evidences viz *patwari* report and map indicated that the properties were located

on the main roads (as shown in *Appendix-3.2*). Hence as per guidelines the market value of the properties was ₹ 6.03 crore on which stamp duty and registration fees of ₹ 52.84 lakh was leviable. However, the SRs did not consider the supporting evidences and valued these properties treating them as being located away from the road and determined the market value of these properties at ₹ 3.70 crore on which stamp duty and registration fees of ₹ 33 lakh was levied. This resulted in undervaluation of property by ₹ 2.33 crore and short levy of stamp duty and registration fees of ₹ 19.84 lakh⁷.

After we pointed this out to the Government/Department (May 2012), the Government (August 2012) stated that cases are pending with Collector of Stamps for decision.

3.14 Undervaluation of properties in sale of land of two or more vendors in single document.

The Indian Stamp Act empowers a Sub Registrar (SR) to refer the document to the Collector of Stamps for determination of the correct market value of the property, if there are reasons to believe that the market value of the property has not been set forth in the instrument truly. As per clause one of Form I of the Market Value Guideline for the valuation of property for the year 2010-11 (approved by Central Valuation Board, Chhattisgarh, Raipur), the market value of agricultural land in urban areas shall be calculated on slab basis if the area of land is equal to or less than 0.243 hectares. Limit for such calculation in some areas is 0.150 hectares as specified in the special provision appended with the guidelines.

During test check (October 2011) of documents registered in the office of SR, Raipur we found that in four documents registered between July 2010 and March 2011, land was purchased from two or more vendors in each document. The individual property of each vendor in the documents was below 0.243 hectares. Since each vendor had a

⁷ The calculation has been made on hectare rate, slab rate and plot rate in 10, two and two instruments respectively

separate *Khasra* and *Rin pustika* for his piece of land, for the purpose of Stamp duty and Registration fee, each property should have been valued separately. However, the executants clubbed the properties of two or more vendors in each document by which the area in each document exceeded the limit of 0.243 hectares and the valuation was done on hectare rate.

As per the approved guidelines, the market value of the properties mentioned in these documents was ₹ 2.85 crore on which stamp duty of ₹ 22.99 lakh and registration fees of ₹ 2.29 lakh was leviable. As against this, the property was valued as ₹ 84.48 lakh by the SR and stamp duty of ₹ 6.64 lakh and registration fees of ₹ 68,164 were levied. This resulted in undervaluation of properties by ₹ 2.01 crore and short levy of stamp duty and registration fees of ₹ 17.96 lakh⁸.

After we pointed this out to the Government/Department (May 2012), the Government (August 2012) stated that the cases were forwarded to the Collector of Stamps for decision which is pending (December 2012).

⁸

Calculation has been made on slab rate.