

CHAPTER-IV

STAMP DUTY AND REGISTRATION FEE

4.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) are regulated under the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the rules framed there-under as applicable in Odisha and are administered at the Government level by the Principal Secretary, Revenue & Disaster Management (R&DM) Department. The Inspector General of Registration (IGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by one Joint Inspector General (JIG), three Deputy Inspector General (DIGs), 30 District Registrars (DRs) and 30 District Sub Registrars (DSRs) at the district level and 151 Sub Registrars (SRs) at the unit level.

4.2 Internal Audit

The Internal Audit Wing (IAW) of R&DM Department was created in the year 1969. During 2013-14, out of 68 units planned for audit, the IAW of the Department covered only 53 units thereby resulting in shortfall of 15 units. The reason for shortfall has been attributed by the Department to shortage of staff.

4.3 Results of audit

In 2013-14, test check of the records of 50 units of the R&DM Department, showed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 20.52 crore in 5,056 cases, which fall under the categories given in **Table 4.1** below:

Table 4.1

A. REVENUE RECEIPT

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Performance Audit of “e-Registration system”	4,257	7.17
2	Incorrect determination of market value of property	261	0.94
3	Non/short levy of stamp duty and registration fee	303	11.07
4	Other irregularities	235	1.34
Total		5,056	20.52

During the course of the year, the Department had accepted under assessments and other deficiencies of ₹ 17.04 crore in 363 cases which were pointed out in earlier years. An amount of ₹ 1.11 crore was realised in 18 cases during the year 2013-14. A few illustrative cases involving ₹ 17.30 crore are discussed in paragraphs 4.4 to 4.6.9.

Similarly, test check of records relating to Expenditure Accounts showed irregularities in Management of cash involving ₹ 35.70 lakh in 61 cases.

B. EXPENDITURE

(₹ in lakh)

Sl. No	Category	No. of cases	Amount
1	Irregular Management of cash	61	35.70
Total		61	35.70

The Department accepted all 61 cases involving ₹ 35.70 lakh and recovered ₹ 3,690 in one case.

4.4 Performance Audit of “e-Registration System”

Highlights:

Selection of concessionaire was made without competitive bidding process and without considering existing NIC software-“ORIS” for the project.

(Paragraph 4.4.9.1)

Non-adherence to service level agreement led to delay in delivery of e-Governance services to the citizens. Penalty of ₹ 49.57 lakh for delay in rendering services as per the service level matrices was not imposed on the concessionaire.

(Paragraph 4.4.10.9)

Irregular fixation of user charges for additional pages of deeds beyond six pages resulted in undue burden of ₹ 1.26 crore over the citizens.

(Paragraph 4.4.11.3)

Non-mapping of Business Process Rules in case of Leases and Sale Certificates instruments resulted in short realisation of Stamp Duty and Registration Fees of ₹ 47.98 lakh.

(Paragraph 4.4.12)

In absence of system for generating alerts/ warnings, there was risk of fraudulent multiple sale of same property by seller to different buyers.

(Paragraph 4.4.14.1)

Partial capture of data for important fields like ID proof and number, Boundary details led to generation of incomplete information affecting quality of data. Besides, there was lack of validation control for important fields like PAN Number, Market value etc.

(Paragraphs 4.4.14.2, 4.4.14.4 and 4.4.14.5)

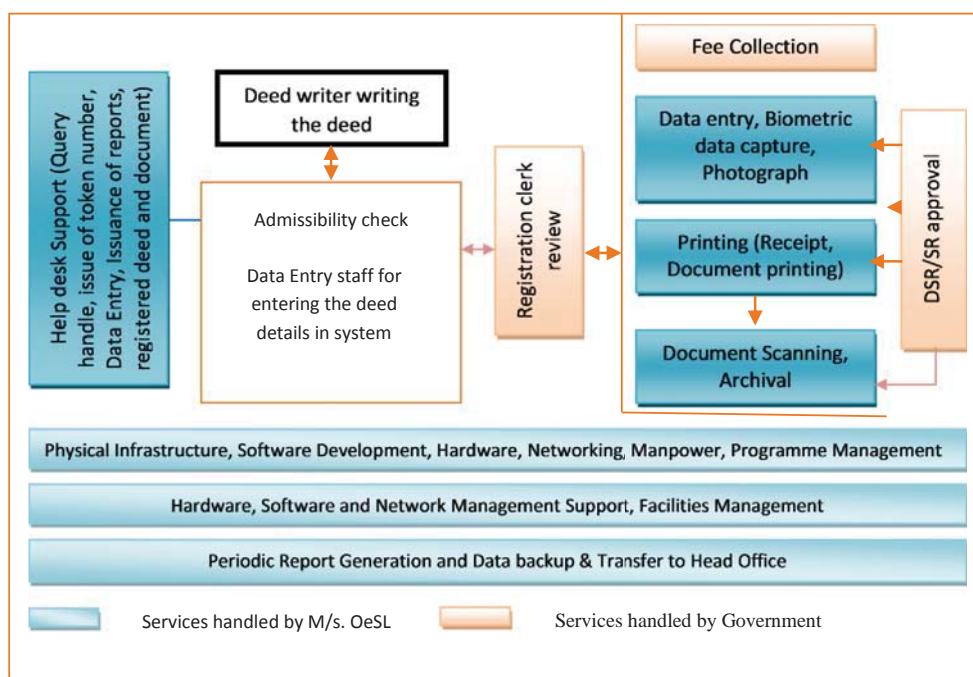
4.4.1 Introduction

Receipts from stamp duty and registration fee in the State are regulated under Indian Stamp Act, 1899, the Registration Act, 1908, Odisha Registration Rules, 1988, Odisha Stamp Rules, 1952 and Market Value guidelines prescribed under Odisha Stamp (Amendment) Rules 2001. Computerisation of registration offices (DSRs/ SRs) was a State Mission Mode Project (MMP) under National e-Governance Plan (NeGP) of Government of India (GoI). As per the decision of a high powered committee (HPC) chaired by the Chief Secretary in November 2007, it was decided to set up a Special Purposes Vehicle¹ (SPV) comprising of Infrastructure Leasing and Financial Services² (IL&FS) and

¹ Special purpose vehicle (SPV) is a company or entity or business association of entities formed under the Companies Act, 1956.

² Infrastructure Leasing and Financial Services is a company promoted by some Indian banks and others.

Odisha Computer Application Centre³ (OCAC) for enabling delivery of e-Governance services to the citizens in implementing State MMPs. Accordingly, the project “e-Registration System” in the State was awarded to SPV named M/s. Odisha e-Governance Services Limited (OeSL)⁴, Bhubaneswar on Build Own Operate and Transfer (BOOT) basis for implementing the project on a Public Private Partnership (PPP) mode. A Concession Agreement (CA) was signed on 26 December 2009 among Revenue & Disaster Management (R&DM) Department, OCAC and OeSL to implement the project for a period of five years from the date of scheduled commercial operation. The project started on 4 January 2010 and manual registration process was withdrawn from 15 May 2010. The objective of e-Registration system in Odisha was to replace existing manual system of registration of deeds, valuation of properties, capturing and preserving copies of documents, conducting searches and maintaining back office records, enhancing the quality and speed of service delivery to the citizens and maintaining transparency in valuation. The workflow and process flow of the project are as follows:



4.4.2 Organisational set up

Inspector General of Registration (IGR), Odisha, Cuttack being the head of the registration wing of R&DM Department of Government of Odisha (GoO) exercises overall supervision and control over the working of registration offices comprising of 30 District Sub-Registrars (DSRs) and 147 Sub Registrars (SRs). He is assisted by one Joint IGR, three Deputy IGRs at the State level and

³ Odisha Computer Application Centre (OCAC) is a Government agency and a society registered under Societies Registration Act 1860 and is designated as Technical Directorate w.e.f August 2003 and the nodal agency under IT Department of Government of Odisha (GoO).

⁴ OeSL is a SPV formed by OCAC and IL&FS through a memorandum of association (MoA) on 23 October 2008 to design, develop, implement, operate and maintain e-Governance projects in the State of Odisha.

District Registrars generally in the rank of Additional District Magistrates (ADMs) at the district level who supervise the registration works in districts. DSRs and SRs at field level are responsible for collection of stamp duty (SD) and registration fee (RF).

4.4.3 Funding pattern

Funding pattern of the e-Registration Project implemented on a PPP mode is as follows:

Capital Expenditure (GoO + IL&FS)	Operational/Revenue expenditure (from revenue generated/user fees)	Legacy data digitisation by GoO from NLRMP and State plan
₹ 28 crore (₹ 19 crore + ₹ 9 crore)	₹ 35 crore (₹ 7 crore X 5 years)	₹ 8.27 crore

Initial capital expenditure came to the SPV in shape of term loan of ₹ 12.50 crore from IL&FS during the year 2009-10 as against capex share of ₹ 9 crore. Operational expenditure and staff salaries were met out of revenue collected towards service charges. Government component of ₹ 19 crore towards capital grant⁵ and ₹ 8.27 crore⁶ for legacy data digitisation was to be met from grants under State Plan as well as National Land Record Modernisation Programme⁷ (NLRMP). Actual release of Government funds and expenditure incurred till date was ₹ 26.12 crore as against total commitment of ₹ 27.27 crore (₹ 19 crore + ₹ 8.27 crore).

4.4.4 Features of application software and system overview

The “e-Registration system” through ‘*e-DhaRani*’ application software was developed by IL&FS using ‘Asp.Net’ as front-end tool and Oracle 10g as backend database. The database is a centralised architecture with MPLS VPN⁸ and VPN on Broad Band connectivity across all DSRs/SRs for real-time synchronisation of data. The system has biometric based login, capture of biometrics, signatures and storage of scanned documents. Modules of the software are Registration, Marriage, Wills, Certified Copy, Encumbrance Certificate, Money lending license, Miscellaneous receipts and Management Information System (MIS) reports.

⁵ Article 4.4 of the concession agreement regarding release of capital grant of ₹ 19 crore in a phased manner.

⁶ Decision of HPC chaired by the Chief Secretary on February 2008 and Department of Information Technology in their letter No. 1603/IT dated 07 April 2008 for legacy data digitisation estimated at ₹ 8.27 crore.

⁷ National Land Record Modernisation programme (NLRMP) Centrally Sponsored Plan is being implemented for the period from 2008-09 to 2015-16 in which computerisation of registration offices, scanning and digitisation of legacy data are the components besides land records modernisation. Under the scheme, three to five districts of the State are covered in each year for computerisation of registration offices and digitisation of legacy data. In NLRMP, the GoO contributes 75 per cent and GoI 25 per cent.

⁸ MPLS VPN is multi-protocol label switching virtual private network provided by BSNL, Maxtel etc.

4.4.5 Trend of registration of documents and revenue receipts for last five years

The trends of revenue receipts towards SD and RF, documents registered and service charges collected during last five years is given below:

Year	Revenue receipts towards SD and RF	Number of documents registered	Gross collection of user fees
	(₹ in crore)		(₹ in crore)
2008-09	495.66	3.56 lakh	-
2009-10	359.96	3.88 lakh	2.24
2010-11	415.82	4.23 lakh	9.49
2011-12	498.14	4.38 lakh	10.46
2012-13	544.88	4.52 lakh	11.43

Source: Audit Report (Revenue Sector) for the year 2012-13 and data collected from OeSL.

4.4.6 Audit objectives

Performance Audit (PA) of “e-Registrations system” under R&DM Department was conducted to ascertain whether-

- Department has sound IT Governance to enable meeting of business goals;
- functionalities of the system are operational and application level controls are in place, input and validation controls are adequate and appropriate business rule mapping is in place;
- appropriate security controls and business continuity plan are in place to ensure continuity of business in the event of loss or damage to resources; and
- performance of the concessionaire was in accordance with the agreement signed with the Government and confidentiality agreements are in place to ensure data security.

4.4.7 Audit Criteria

Provisions of following Acts and Rules were used as audit criteria.

- Indian Stamp Act, 1899
- The Registration Act, 1908
- Odisha Registration Rules, 1988
- Odisha Stamp Rules, 1952 and amendments thereon
- Executive instructions issued by IGR and Government
- Concession Agreement between the Government of Odisha and M/s. OeSL
- Good industry practices followed in implementation of IT systems.

4.4.7.1 Scope of Audit and Audit methodology

The Performance Audit was conducted between May and July 2014 in 10 out of total 30 DSRs selected through stratified random sampling technique taking three strata based on risk perception i.e. number of documents registered

through e-Registration process from inception i.e. January 2010 to March 2013. The percentage of sample selected from each stratum is given below:

Stratum	Range of stratum (Number of documents registered)	No. of DSRs under the stratum	Percentage of sample selected	No. of DSRs selected from the stratum
I	Above 75,000	5	80	4
II	10,000 to 75,000	20	25	5
III	Below 10,000	5	10	1
Total		30		10

Besides, 11 out of 152 SRs⁹ under these 10 DSRs were selected for test check on the basis of higher number of documents registered.

The e-Registration system in the State had been in operation for more than three years. In view of criticality of the system and complete dependency of the registration process on the System, Audit felt it appropriate to conduct Performance Audit on e-Registration system. The entire data was collected from the central database at State Data Centre with the help of DBA¹⁰ and analysis was done using computer assisted audit techniques through IDEA tools. Audit also checked the physical records relating to computerisation and Concession Agreement in the R&DM Department, OCAC and IGR office. Besides, records pertaining to assessment and collection of SD, RF and user fees in respect of registration of documents in DSR/SR offices were also checked for corroboration of audit findings. Entry conference was held on 8 May 2014 where objectives, criteria and methodology were discussed and the audit findings were discussed in the Exit Conference held on 25 November 2014. Replies of the Government (November 2014) have been duly incorporated in the report.

4.4.8 Acknowledgement

Audit acknowledges the co-operation of the Department in providing necessary information and records to audit and for furnishing compliance to the audit observations.

Audit observations

4.4.9 Implementation of e-Registration project

4.4.9.1 Vendor Selection

As per the decision of the HPC chaired by the Chief Secretary in November 2007, it was decided to set up an SPV comprising of IL&FS and OCAC, for enabling delivery of e-Governance services to citizens. A presentation was made by IL&FS before the HPC followed by submission of detailed project report (DPR) on computerisation of registration offices. The letter of intent (LOI) was issued to the SPV in May 2008. Accordingly the project

⁹ The number of DSRs/SRs has increased from 177 during the year 2010 to 182 during the year 2013 and accordingly the number of SRs increased from 147 to 152 during the year 2013.

¹⁰ Database Administrator.

“e-Registration system” was awarded to the SPV through a CA signed in December 2009 for implementing it on Build Own Operate and Transfer (BOOT) basis.

A property registration automation software named “ORIS” developed by National Informatics Centre (NIC) was operational in Odisha since 2003. This application was in operation in 14 major DSR offices from 2003 to 2009 for property registration and no service charges were being collected from the citizen. The software application was not considered for the e-Registration project despite NIC’s proposal in October 2009 for continuance of “ORIS” with some additional features. CA was signed on 26 December 2009 among R&DM Department, OCAC and OeSL to implement the project for a period of five years.

It was noticed in audit that

- appropriate procedures were not followed for vendor selection for the project where the Government committed to bear 68 *per cent*¹¹ of the capital cost of the project in addition to total cost for digitisation of legacy data.
- No competitive bids were insisted for selection of vendor and discovery of service charges.
- Moreover, the selected vendor (IL&FS) had no prior experience in developing automation software for property registration in any other State.
- There was no significant advantage of e-Registration system through “*e-DhaRani*” application software developed by IL&FS as compared to the ORIS software developed by NIC except the former being web based centralised.
- ORIS would have trouble free integration with the land record software “*Bhulekh*” in view of NIC support. Major States¹² in India had opted for NIC for software support and service provider (BOT operator) for delivering e-services to citizens.
- Since legacy data was available in 14 DSRs in which ORIS was operational from 2003 to 2009, expenditure incurred on re-digitisation of legacy data for those offices could have been avoided had ORIS been continued with the modifications proposed by NIC.

Thus, non-consideration of ORIS software in which legacy data of 14 major DSRs for the period from 2003 to 2009 was available, selection of OeSL for development of new software application and consequent expenditure incurred on software development (₹ 2.47 crore), re-digitisation of legacy data in 14 major DSR offices was injudicious.

Government stated (November 2014) that since this was a new innovative/unique project in which OCAC, a public sector organisation of the

¹¹ ₹ 19 crore out of total capital cost of the project of ₹ 28 crore.

¹² Bihar:- Score, Andhra Pradesh:- Card, Karnataka:- Kaveri, Maharashtra:- Sarita etc.

State Government was involved, the selection was done without bidding. This reply of Government amounts to acknowledgement of deviation from NLRMP guidelines which required competitive bidding in PPP projects.

4.4.9.2 Deficiencies in Concession Agreement

Concession Agreement (CA) was signed for implementation of the e-Registration project for a period of five years.

As per agreement service charges collected from citizens at the rate upto ₹ 200 from 4 January 2010 onwards in lieu of services rendered for registration of documents was directly credited to the account of OeSL. OeSL shall accordingly transfer 90 *per cent* of the service charges so collected to IETS¹³ (100 *per cent* subsidiary of IL&FS), through a standing instruction to the designated bank as per the conditions¹⁴ of CA. The remaining 10 *per cent* of the service charges was credited to Government. The operational expenditure of the SPV was incurred out of their revenue share of 90 *per cent*.

It was noticed that:

- The agreement did not include confidentiality clause with the concessionaire to ensure security of sensitive data. The project was directly vested with OeSL instead of OCAC though the original plan was to have 50:50 participation. Thus, the private partner of the SPV (IL&FS/OeSL) was given unrestrictive access to the sensitive documents, signatures and biometrics and become the major custodian/owner of the system and database for a period of five years.
- There was improper apportionment of user charges between Government and Concessionaire at the ratio of 10:90 respectively despite capital investment¹⁵ in the project being at the ratio of 68:32 respectively between Government and the Concessionaire and the ratio of total project cost including legacy data digitisation¹⁶ being at 77:23 respectively. Compared to above, the models adopted in some other states have a better apportionment of user charges between Government and Concessionaire at 60:40.
- There was no provision in the CA regarding performance guarantee. As a result, performance security/guarantee was not obtained from the concessionaire towards ensuring compliance to various performance clauses of the CA.
- As per Schedule IV of the CA, service charges would be revised to ensure a minimum return of 25 *per cent* on the capital expenditure incurred on the project. The clause “ensuring a minimum return” would have adverse legal implication on Government while being advantageous to the concessionaire ultimately.

¹³ IL&FS Educational & Technology Services Ltd (IETS) is an affiliate and 100 *per cent* subsidiary of IL&FS having domain expertise in information and digital inclusion services. IETS is the technical, functional & implementing partner of e-Registration project. IETS is having sub-contract/agreement with IL&FS under the assignment clause of the CA.

¹⁴ As per service charge collection procedure under Schedule-IV clause of the Concession Agreement.

¹⁵ Total capital cost of the project is ₹ 28 crore out of which Government contributes ₹ 19 crore.

¹⁶ Total cost of legacy data digitisation for ₹ 11.76 crore was released by Government as against estimates of ₹ 8.27crore.

- Although the HPC had clarified that the source code and intellectual property rights (IPR) would need to be vested with the Government, the same did not find place in the CA.
- During the presentation made before the HPC, IL&FS had projected to deliver single page registered deed within one hour of presentation and on the basis of the said projection, it was selected for the e-Registration project. However, the said projection did not find place as a performance standard parameter in the CA.

Government stated (November 2014) that punishment is provided in the IT Act, 2008 for attempt to commit any offence. On the issue of apportionment, Government stated that it was a prudent decision of the Government. Government further stated that registered deeds have not yet been standardised to make it one page and the matter is being looked into.

4.4.9.3 Inadequate IT Governance

The CA was signed to implement the e-Registration project for a period of five years. As such, the IGR and R&DM Department is required to monitor the e-Registration project through different levels of committees with reporting hierarchy and defined responsibilities. Further, the HPC has no role in monitoring the project except awarding it to the SPV.

Audit noticed that proper monitoring of the e-Registration project by the IGR or R&DM Department was not done. Besides, a project management unit was required to monitor every deliverable from the concessionaire in the e-Registration project such as:

- Accuracy of Service Level Agreement (SLA) compliance
- Deposit of 10 *per cent* Government share
- Monthly comparison of data at warehouse
- Clauses of the concession agreement
- Maintenance of hardware, user access and change management etc.

The project management unit was neither existent in the IGR nor in the Department. As a result, the e-Registration system could not be monitored effectively.

Government stated (November 2014) that steps would be taken to bridge the gaps in monitoring level.

4.4.10.1 Short deposit of Government's share and non-reconciliation of service charges by the concessionaire

As per Schedule-IV of the CA, the Concessionaire shall be entitled to levy, demand and collect different service charges from the users for rendering specified services. The service charges collected every day shall be deposited by the Sub-Registrar or his authorised representative in a designated account of OeSL in the SBI Branch. OeSL shall transfer 90 *per cent* of the service charges so collected to IETS, through a standing instruction to the designated bank. The

remaining 10 per cent of the service charges shall be credited to an account duly designated by the R&DM Department. Further, at the end of office hours, reconciliation of the collection of service charges shall be done based on computerised report generated from the e-Registration software and signed by DSR and his representative as well as OeSL representative. At the end of the month, OeSL shall reconcile such computerised report with the bank statement and submit the reconciled report to R&DM Department.

Scrutiny of records in R&DM Department and IGR revealed that out of ₹ 3.36 crore collected during the period from inception to March 2013 towards 10 per cent Government's share of service charges, an amount of ₹ 1.26 crore had not been deposited by the concessionaire. The year-wise details are given below:

(Amount in ₹)

Year	Gross user fees collected	10 per cent Government share	Amount not deposited
2009-10	2,24,26,980	22,42,698	22,42,698
2010-11	9,48,69,799	94,86,980	94,86,980
2011-12	10,46,16,576	1,04,61,658	4,61,658
2012-13	11,42,62,399	1,14,26,240	4,25,240
Total		3,36,17,576	1,26,16,576

Audit noticed that there was no regular deposit/credit of 10 per cent share to Government Account on monthly basis after due reconciliation as a result of which 100 per cent service charges relating to 2009-10 and 2010-11 were retained by the private partner of the SPV for more than two years.

Government stated (November 2014) that IGR is being instructed to take corrective measures to ensure non-occurrence of such irregularity in future.

Further analysis of database in the 'e-Registration system' as well as scrutiny of records such as Fee Book/Bank Statement/Cash Book relating to 10 DSRs and 11 SR offices for the period from 4 January 2010 to 31 March 2013, Audit noticed several discrepancies in deposit of user fees to the tune of ₹ 22.60 lakh due to non-reconciliation of user charges on monthly basis.

Government stated (November 2014) that appropriate action would be taken to ensure no discrepancy in collection of user fees as per the database figure and amount remitted to appropriate account on day to day basis.

4.4.10.2 Non-completion of works as per the scope of the project

As per the agreement there were major deliverables by the vendor with finite milestones such as:

1. Certification of legacy data for ensuring accuracy and migration to the system
2. Software interface with banks for deposit of registration fees
3. Training to the end users etc.

It was noticed that while the vendor did not deliver the component No. 2, component No. 1 was delayed beyond milestones and component No. 3 was not

adequate. The concessionaire was liable to pay damage charges of ₹ 78,200 at the rate of ₹ 100 per day¹⁷ for non-completion of different milestones in accordance with the project completion schedule.

While admitting the facts, Government stated (November 2014) that IGR has been instructed to take appropriate corrective steps.

4.4.10.3 Implementation of functional modules

The ‘e-DhaRani’ application software automates the management of information related to document registration, MIS reports and facility management services. The system also manages information related to Encumbrance Certificates (EC), Certified Copies (CC), Wills, Marriages, request logger user management and report etc. Audit noticed that the following modules of “e-DhaRani” were not in operation as on date:

- Marriage module.
- Society registration module.
- Payment gateway and payment module.

Thus, due to non-operation of the above modules, the citizens were deprived to get the benefits of the e-Registration system.

Government stated (November 2014) that IGR and the service provider are being instructed to take necessary steps to fully utilise the modules.

4.4.10.4 Display of performance standard and service charges in DSR offices

As per the terms of the CA, the concessionaire or service provider has to display (i) the rates of service charges for the specified services¹⁸, (ii) performance standard at all times¹⁹, (iii) business hours²⁰ prominently at least at two places in each DSR/SR office. Besides, the concessionaire had to maintain public relation unit and helpdesk for redressal of public grievances under Article-12.2.7 and to maintain Complaint Register for lodging complaints.

During test check in DSR/SR offices, Audit noticed that rates of service charges and performance standards, etc. as required under the CA were not displayed. Further, the helpdesk provision was also not available to the citizens in the DSR/SR offices. Thus transparency in activities and citizen empowerment could not be ensured.

Government stated (November 2014) that IGR is being instructed to ensure display of performance standard, the rates of service charges for transparency.

¹⁷ From 9 February 2011 to 31 March 2013 (782 days), being 45 days after one year from the appointed date i.e. 26 December 2009.

¹⁸ Article- 6.1.6 of the agreement.

¹⁹ Article -7.1.1 of the agreement.

²⁰ Article -12.2.3 of the agreement.

4.4.10.5 Absence of certification of commercial operation date of the project

Under Article-12.1.5 of the CA, the date of commercial operation of the project shall be the date on which OCAC certifies that the facilities of the project can be put to satisfactory use in accordance with the scope of the project, specifications and other terms and conditions of the CA.

Scrutiny of records revealed that except for the event of inauguration of the project on 4 January 2010, no other documentation such as certifying commercial operation of the project by OCAC, phase-wise completion of different components and milestones prescribed in the DPR was available.

Government admitted (November 2014) the fact that the commercial operation of the project has not been notified by Government.

4.4.10.6 Non-engagement of Government appointed hardware and software supervisors

As per Article- 12.2.11 of the CA, the concessionaire shall engage hardware and software supervisors appointed by Government in each field unit i.e. SR/ DSR/ IGR offices and the supervisors shall be available throughout the working hours.

During scrutiny of records in R&DM Department, IGR and DSR/SR offices, Audit noticed that the concessionaire had not engaged any hardware and software supervisor appointed by Government in any such field units to manage system/network in case of hardware malfunctioning, application and network errors. Thus, the conditions of the clause of the CA were violated ultimately affecting system uptime caused by network/hardware/application errors in DSR/SR offices.

Government stated (November 2014) that OCAC has been requested for deployment of adequate numbers of hardware and software supervisors.

4.4.10.7 Exit management plan of the e-Registration project

As per Article 3.3.17 of the CA, the exit management plan of the e-Registration project should be submitted to Government by the concessionaire within 90 days from the appointed date²¹ in consultation with OCAC. Audit noticed that no step had been taken in this regard as per scheduled timeline. In deviation to the agreement, adequate training and capacity building of Government officials were not in place to enable eventual takeover of the system. Further, frequency of training in the functionalities of the application system was not adequate and not monitored. The software application was developed at a cost of ₹ 2.47 crore by IETS. However, the documentation related to system development and project's IPR was not transferred to Government as of July 2014.

²¹ Appointed date is 26 December 2009.

Government stated (November 2014) that OeSL has already submitted the exit management plan and Government had decided to take over the project. Further it was stated by IGR in the exit conference that the project's IPR is transferred from OeSL in which NIC is working on development of new application software.

4.4.10.8 Non-appointment of external auditor

As per Article 14.3.1 of the CA, GoO/ OCAC may at all times appoint external auditors to audit and inspect various functions comprising but not limited to accounts, security, technical and data management systems and the concessionaire shall submit its compliance report within seven days of receipt of the inspection report. But no steps had been taken for appointing such auditor till date. The concessionaire had received the revenue and expenditure statement from ITL²² for the years 2010-11 and 2011-12 as certified by their auditors but on verification of the expenditure statement, Audit noticed that such expenditures included various expenses which were not related to the project and hence inadmissible.

The CA ensures a minimum return of 25 *per cent* on investment as certified by an independent auditor acceptable to both GoO and concessionaire. Audit noticed that despite such a provision in the CA, no parameter had been fixed for classification of operating or capital expenditures and no monitoring mechanism was also put in place. Consequently, there is a risk of incurring a contingent liability for ensuring a return of 25 *per cent* to the PPP partner in future.

Government admitted (November 2014) that neither Government nor OCAC has appointed external auditor to audit and inspect various functions of the project.

4.4.10.9 Non-levy of penalty for non-adherence to Service Level Agreement

As per agreement following service level matrices were defined:

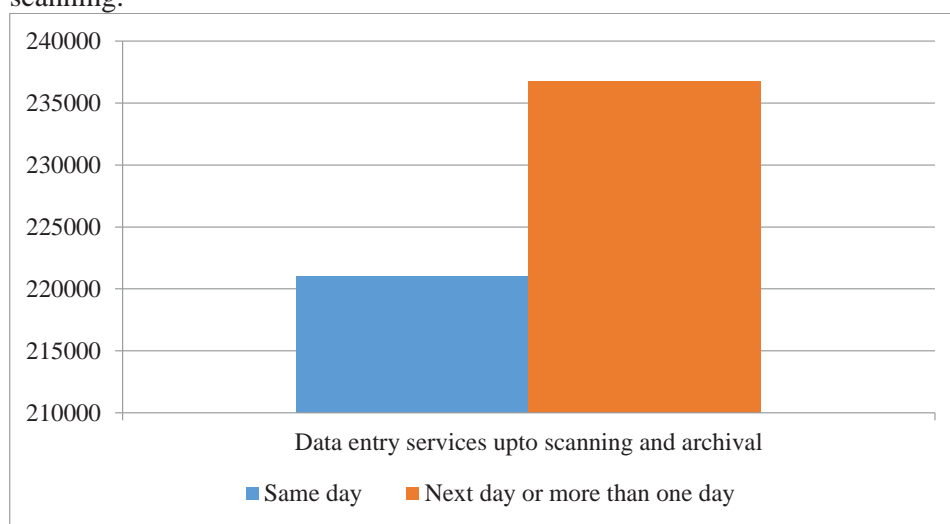
Services	Performance	To be achieved
Data entry, photograph, Biometrics, finger print capture and scanning.	System operational time of 45 minutes to capture deed details, photograph, biometric, electronic signature and archiving scanned deed.	90 <i>per cent</i> on monthly basis (Billing Cycle).

The CA further provides that in the event of non-achievement of the above service level matrices within the system operational time of 45 minutes in 90 *per cent* cases in a billing cycle (monthly), the concessionaire is required to pay penalty ranging from one *per cent* to five *per cent* of monthly invoices for the concerned billing cycle as below:

²² IL&FS Technologies Ltd (ITL) is a part of IL&FS group to which the e-Registration project relates. Though, the entity has no contractual relation with the OeSL SPV, the revenue collected towards service charges was directly transferred to ITL as per the minutes of 15th board meeting held on 30 July 2011 assigning the responsibility of implementation/maintenance of the e-Registration project.

SI No	Achievement of Uptime	Penalty
1.	85 to 90 per cent	One per cent of monthly invoice
2.	80 to 85 per cent	Two per cent of monthly invoice
3.	75 to 80 per cent	Three per cent of monthly invoice
4.	70 to 75 per cent	Four per cent of monthly invoice
5.	Below 70 per cent	Five per cent of monthly invoice

Audit analysed the actual transaction data for 4.57 lakh records in 10 DSR and 11 SR offices. It was noticed that in 12 per cent cases, data entry services to capture deed details and biometrics only excluding scanning extended to next day or by more than one day while in 52 per cent cases, data entry services upto scanning and archival of deeds as envisaged in the CA extended to next day or by more than one day. Thus, in more than 50 per cent cases, provisions of SLA were violated during the entire period in respect of data entry services including scanning.



It was however found that the concessionaire, in its weekly/ monthly/ periodic SLA compliance reports furnished to Government, had shown all the documents having been delivered within 45 minutes in all the DSR/SR offices. On verification of the said compliance reports, Audit noticed that the concessionaire had exhibited date and time for each step of e-registration process separately showing the step having been completed within 45 minutes instead of showing the total time taken for the entire process including scanning.

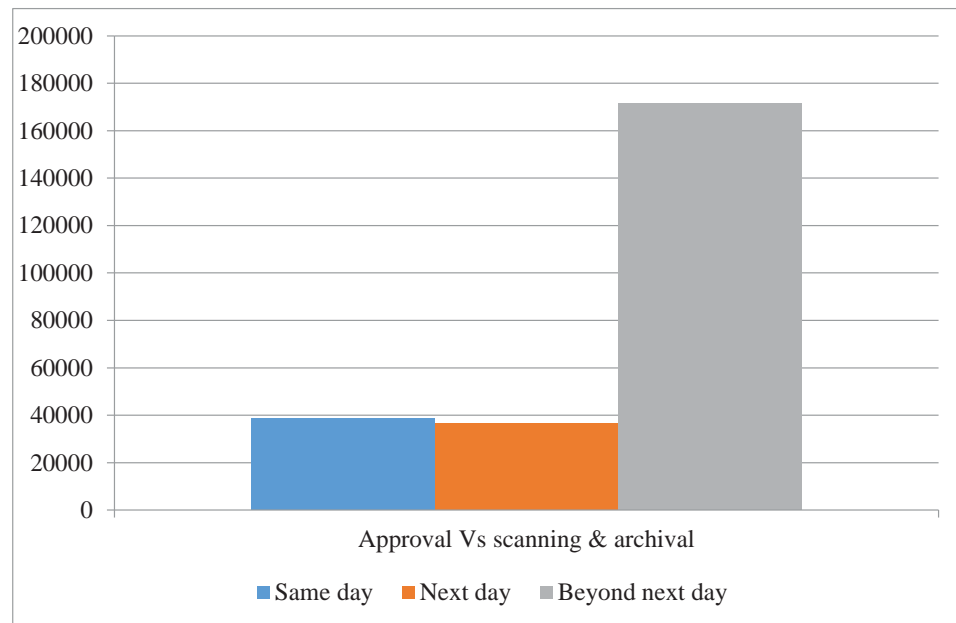
Besides, the reports did not show scanning time as required under the CA. This indicated that the SLA compliance reports submitted by the concessionaire were not verified by the Department or any project management unit to ensure correctness of information. Taking into consideration the delay in rendering services as per service level matrices, the concessionaire was liable to pay a penalty of ₹ 49.57 lakh at the rate of five per cent of the invoice value. However, it was noticed that no penalty was imposed on the concessionaire for such delays as per the conditions of SLA.

Government stated (November 2014) that non-adherence to SLA might have occurred due to factors beyond the control of OeSL and DSR/SR. However IGR is being instructed to issue show cause notice for the lapses on their part in proper delivery of services in accordance with the SLA. Further in the exit

conference Government agreed to develop proper monitoring mechanism for citizen service delivery through SLA reports.

4.4.10.10 Delay in scanning/archival of documents after approval by DSR/SR

During analysis of database and test check of records in 10 DSR and 11 SR offices, Audit noticed that there were delays in scanning and archival of documents after approval by DSR/ SR. Audit noticed that only in 16 per cent of cases, the documents were scanned/ archived within the same day after approval of DSR/ SR, in 15 per cent of cases, the documents were scanned/ archived on next day while in the remaining 69 per cent cases, the documents were scanned/ archived beyond the next day after approval by DSR/SR thereby defeating the very objective of the project for enabling prompt delivery of e-Governance services to the citizens.

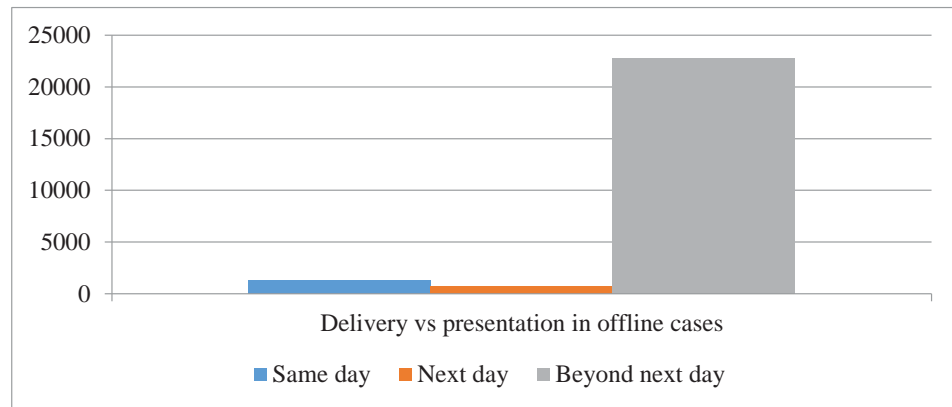


Government stated (November 2014) that the lapses might have occurred where the Sub-registrar approved on a date in the system and gave his signature in the document on another day. However, appropriate steps would be taken to ensure non recurrence of such lapses in future.

4.4.10.11 Delay in delivery of documents in off-line transactions

Analysis of database and test check of records in 10 DSR and 11 SR offices revealed that there were delays in delivery of services in respect of off-line transactions due to non-generation of fee receipts by the system. There was no redundant/ alternate network in case of failure of primary network. There was no timeline for switching over to State Wide Area Network (SWAN) even after four years of operation. Audit noticed that only in four per cent cases, the documents were delivered within the same day, in three per cent of cases, the documents were delivered on next day while in the remaining 93 per cent cases, delivery was made beyond the next day in respect of off-line transactions. Thus,

delay in delivery of documents at DSR/SR offices from the date of presentation of documents due to absence of redundant/ alternative network in case of failure of primary network defeated the objectives of the project.



Government stated (November 2014) that soon after availability of OSWAN network which is being done on war footing basis, the facility would be integrated with the e-Registration system to overcome such deficiencies in services.

4.4.11 Miscellaneous issues

4.4.11.1 Irregular transaction with ITL on user charges

The SPV i.e. OeSL was setup comprising of IL&FS and OCAC to implement and operate the project. As per the CA, the user charges collected every day shall be deposited in the designated account of OeSL. OeSL shall transfer 90 *per cent* of the user charges to IETS and the remaining 10 *per cent* to Government account.

Audit noticed that with effect from July 2011, IL&FS roped in another entity²³ named as ITL with whom neither the OCAC nor the R&DM Department had any contractual relation. The revenue collected towards service charges was irregularly credited to the account of ITL and shared between ITL and Government in 90:10 ratio without having an agreement.

Government stated (November 2014) that the irregularity was not brought to the notice of Government earlier. However the service provider is being asked to submit necessary clarification in the matter.

²³ The entity i.e. "ITL" has no contractual relation with the OeSL SPV. However, the revenue collected towards service charges was directly transferred to ITL as per the minutes of 15th board meeting held on 30 July 2011 assigning the responsibility of implementation/maintenance of the e-Registration project.

4.4.11.2 Delay in remittance of user charges/service charges by DSRs/SRs

As per the Schedule-IV of the CA, user charges collected every day shall be deposited by the DSR/ SR or his authorised representative in designated account of OeSL in the SBI branch. OeSL shall accordingly transfer 90 *per cent* of the user charges so collected to IETS, through a standing instruction to the designated bank.

Test check of records in 10 DSR and 11 SR offices revealed that though the user fees were required to be deposited by DSR every day, it was deposited in the designated account with delays ranging from seven to more than 90 days.

Government stated (November 2014) that appropriate disciplinary action would be taken against the defaulting registering officers.

4.4.11.3 Irregular fixation of user charges for additional pages of deeds beyond six pages

As per Schedule-IV of the CA signed on 26 December 2009, user fees of ₹ 200 per deed for registration of deed of 10 pages and ₹ 10 per additional page beyond 10 pages had been fixed.

During scrutiny of records, Audit noticed that subsequently R&DM Department on 2 January 2010, prescribed the revised rate at ₹ 200 per deed for registration of deed of six pages and ₹ 10 per page for additional pages beyond six pages in contravention of the provisions of the CA. Thus, revision of the rate of user charges by replacing the existing clause in the CA benefitted the concessionaire and resulted in undue burden of ₹ 1.26 crore over the citizens.

Government stated (November 2014) that it was a conscious decision of the Government considering the cost factor and operational cost at the time of issuance of revised order. In the exit conference it was committed to furnish necessary documentary proof to justify revision, if available, within seven days, which was still awaited.

4.4.11.4 Submission of incorrect utilisation certificates for NLRMP fund

NLRMP included a component on connectivity of Registration Offices with Revenue Offices. Funds were linked to each component and no diversion of fund shall be permissible. The State Government shall submit item wise expenditure, physical progress and utilisation certificate in respect of funds released under the scheme including State share on a quarterly basis.

During scrutiny of records relating to sanction of funds and submission of utilisation certificates (UCs) in R&DM department and IGR office, Audit noticed that NLRMP funds to the tune of ₹ 6.97 crore was released during 2008-09 to 2012-13 which included ₹ 97.03 lakh for providing connectivity of

SROs with revenue offices. The entire amount of ₹ 97.03 lakh²⁴ was utilised for computerisation of SROs and utilisation certificates were submitted to the GoI. No activity was taken up to establish connectivity of SROs with Revenue Offices for which the amount was earmarked. Thus, the very purpose of funds released under NLRMP for the sub-component relating to connectivity of SROs with revenue offices was defeated. Audit further noticed that although funds under NLRMP were released for specific districts for three to five districts in a year, the funds were irregularly spent for all districts of Odisha for computerisation of Registration Offices and scanning and digitisation of legacy data.

In the exit conference (November 2014) it was stated that Government had decided to take up the task of connectivity of SROs with Revenue (Tahsil) offices under a separate scheme named as Odisha State Wide Area Network. Hence the fund allotted under the sub-component were utilised in other sub-component of “Computerisation of Registration Offices”. Further it was stated that the funds allocated to the sub-component had actually been utilised for execution of other sub-components which should not be treated as diversion as instructions of GoI permit inter-component diversion of fund. Incorrectness of UC submitted before seeking approval for connectivity sub-component under “Computerisation of Registration Offices” inter-component diversion of fund from GoI was however not explained.

Adequacy of Application Controls

4.4.12 Non mapping of Business Rules

4.4.12.1 Leases

As per Section 35(c) read with Article 35 (a) (vi) of the Schedule of the Indian Stamp Act, 1899 (Odisha Amendment), when a lease is granted for a fine or premium or for money advanced along with rent reserved, Stamp Duty (SD) and Registration Fee (RF) would be leviable on total of premium and four times of ground rent and cess by treating it as conveyance. As per Industry Department order dated 2 March 2007 in IPR-2007, the ground rent should be fixed at the rate of one *per cent* on the market value of the land.

During analysis of database and test check of deeds in DSR/SR offices, Audit noticed that lease parameters for calculation of SD and RF in case of lease deeds granted by Odisha Industrial Infrastructure Development Corporation (IDCO) to other parties under Section 35(a) or (b) or (c) of the Act was not appropriately mapped in the system. Besides, land rate or premium prescribed by IDCO for the industrial estates as per its notification effective from 24 February 2010 and IPR 2007 were also not mapped properly in the system. Further scrutiny revealed that the system mapped lease transactions as a category under Section 35(b)²⁵ instead of 35(c) due to improper customisation. In absence of proper mapping of the clause, there was a risk of revenue loss for the Department. For

²⁴ 2008-09: ₹ 35.875 lakh, 2009-10: ₹ 21 lakh and 2010-11: ₹ 40.15 lakh.

²⁵ Where the lease is granted for a premium and where no rent is reserved.

instance, Audit found in two test checked cases of registration, there was short realisation of SD and RF of ₹ 41.26 lakh during registration at DSR, Balasore and SR, Khandagiri.

Government stated (November 2014) that the concerned DSR/SR shall be taken to task. The IGR is being instructed to put in place the required mechanism to incorporate lease parameters.

4.4.12.2 Sales Certificates

Article 18 (b) of Schedule I-A of Indian Stamp (Odisha Amendment) Act, 2001, as amended in 2003, certificate of sale of any property, sold by public auction shall be treated as conveyance and SD shall be chargeable at the rate of five *per cent* of the consideration equals to the amount of purchase money. Under the SARFAESI²⁶ Act, 2002 and in exercise of the powers conferred under Section 13 read with Rule 12 of the Security Interest (Enforcement) Rules, 2002, the immovable property secured from borrowers in favour of secured creditor/institution/Bank towards financial facility are put to auction to recover the secured debt. The secured creditor/institution/Bank acknowledges the receipt of the sale price in full and hands over the delivery and possession of the scheduled property to the purchaser on the basis of registration of a Sale Certificate under Rule 9 (6) Appendix-V of the Act, 2002 and the sale of the scheduled property are made free from all encumbrances. Thus, the sale certificate is registered on receipt of consideration of the property the possession of which is handed over to the purchaser and right of the property is recorded in the sale certificate and endorsed under Section 60 by the DSR as “duly registered” was recorded.

During analysis of database and test check of deeds in DSR/SR offices, Audit noticed that SD and RF for Sale Certificates were not customised and mapped properly in the system at the rate of conveyance equal to the amount of purchase money. Due to non-mapping of the provisions pertaining to Sales Certificates, there was short-realisation of SD and RF of ₹ 6.72 lakh in DSR, Cuttack in one case.

Government stated (November 2014) that the registering officer has to file the sale certificate under Section 89(2) of the Registration Act, 1908.

However, the sale certificate issued by bank in exercise of its power under Section 13 of the SARFAESI Act was to be registered compulsory and hence stamp duty was leviable at appropriate rate. In the exit conference Government agreed to examine the issue and to instruct OeSL to map the provision.

4.4.13 Deficiencies in system design for ensuring better e-Governance

For delivering better e-Governance services, certain basic facilities are required in a computerised environment. During analysis of master tables and transaction tables, Audit noticed that there were certain deficiencies in the system such as:

²⁶ SARFAESI: Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

- A field in the land table in respect of extent of area sold/conveyed out of total area of a plot was not included. This may result in non-restricting multiple sales of properties by the sellers in the system in case of division of plots.
- A field in the land table for entering Shop Number in case of sale of shops in shopping complex/Malls/Apartments was not included. This may result in non-restricting sale of different shops by the sellers in the system in a shopping complex.
- Non-capture of the details of fields such as Stamp Vendor Id, Sl. No., Licence No. and Validity of Licence etc. by the system due to non-validation of the said fields in the system as mandatory. Since e-Stamping had not been introduced in Odisha and use of franking is not encouraging, these fields should be mandatorily captured in the system for ensuring transparency in stamp paper transactions and accountability of stamp vendor.
- Mobile number field was not made mandatory for capturing the mobile numbers for sending SMS alerts to buyer and seller and tracking of application status.
- Attachment of copies of map or plan for proper identification of property was not made mandatory by creating a field for the purpose.
- **Master data quality**- Further scrutiny revealed that several redundant codes were allotted to various plot categories or *Kissam* field in the Master Database as given below:

<i>Code</i>	<i>Kissam</i>	<i>Date of insertion</i>	<i>'Y'-Active, 'N'-Inactive</i>
1510	JALASAYA I	21/12/2012	Y
1481	JALASAY I	21/12/2012	Y
1478	BAJEFASAL-1	21/12/2012	Y
1477	BAJEFASAL I	21/12/2012	Y
1484	BAJAFASAL II	21/12/2012	Y
1514	BAJA PHASAL-II	21/12/2012	Y
1512	BAGAYAT III	21/12/2012	Y
1471	BAGAYAT III	21/12/2012	Y
315	TAILA-I	16/09/2009	Y
1438	TAILA I	20/12/2012	Y

Besides, in case of legacy data, the system of assigning unique number (doc-id) as in case of new documents did not exist for tracking and downloading through the system or web services. As a result, downloading and tracking of legacy documents through web services was made through old document No., village name, plot No. etc. which was not user-friendly. In view of this, the replacement unique doc-id for legacy documents needs to be provided for accessing, tracking and downloading of old legacy documents by citizen through the online services in public domain as in case of new documents.

Government stated (November 2014) that appropriate action would be taken for the recommendations.

4.4.14 Absence of Input/validation controls

4.4.14.1 Multiple sales of same land due to absence of validation control

Data analysis in audit revealed that in 711 cases, the same land schedule/properties (*Khata, Mauza*, plot and area) were sold by a single seller to multiple buyers in several records. This indicated that required input validation checks for showing alerts to the registering authority were not built in the system. Besides, due to absence of validation, the ‘sub-plot’ field was not entered in case of division of plot. Similarly, the field specifying ‘area sold’ out of the total plot area was absent in the database/system design. The multiplicity of sale of a single plot by seller ranged from two or more times.

In absence of validation in the system for generating alert/ warning, such multiple sale of same plot could lead to a risk of forged sale of same property by a seller to different buyers prohibited under Section 82 of Registration Act, 1908. Thus the objective of e-Governance to enable transparency in the registration services was defeated.

While appreciating the observation in the exit conference, Government agreed to take appropriate steps as suggested by audit to prohibit such multiple sale of property by the seller to different buyers. Government further stated (November 2014) that OeSL would be asked to provide alert mechanism in the system to prohibit such multiple sale of land.

4.4.14.2 Data Quality

As per the good practices followed in e-Governance under National e-Governance Plan (NeGP) and executive instructions issued from time to time, registration of documents/deeds should contain detailed information/description about the property.

During analysis, Audit noticed that data capture was partial even in some of the crucial fields of the database. Some of these are given below:

1. The system accepted transactions without entries of ID No., ID proofs (Voter Identity Card/PAN/DL card etc.) of sellers in 83,325 cases and buyers in 1,46,859 cases although these details were made mandatory by the IGR through executive instructions.
2. In 55,330 cases, the system accepted transactions without entries of ID No., ID proofs (Voter Identity card/PAN/DL card etc.) of the identifiers.
3. In 8,552 cases, the system accepted data entry of sale of land without boundary details.

Thus, analysis and generation of reports based on incomplete and non-validated database was fraught with the risk of generating incomplete and unreliable information.

Government stated (November 2014) that steps would be taken on the observation of audit.

4.4.14.3 Inaccuracy of legacy data

The SD and RF on instruments/documents relating to immovable property is levied on the basis of certain parameters such as consideration money or benchmark value (BMV), land area, address (*Mauza* or village), Plot No., *Khata* No. and category of land (*Kissam*) in case of sale transaction. Besides, boundaries of each plot are required for identification of the property and determining the fees for search in case of EC. Accuracy of legacy data is a pre-requisite for ensuring reliability of the database.

Audit test checked legacy data entry of 2,005 sale deeds documents prior to e-Registration pertaining to the period from 1995 to 2009. In 21 DSR/SR offices Audit found discrepancies in data entry in crucial fields as given below:

1. In 13 documents, details of *Khata*/Plot number/*Mauza* were not entered correctly.
2. In 10 documents, details of total area such as Plot No. and extent of area/sub-plot in the current transaction pertaining to the particular document were not entered correctly.
3. In 32 documents, the details of *Kissam* of the land were not entered correctly.
4. In eight documents, names of sellers/buyers/identifiers were not entered correctly.
5. In three documents, data was not entered in respect of its boundaries.
6. In 12 documents, building details were not entered correctly.
7. In 19 documents, data regarding details of property were not entered in the system.

Government stated (November 2014) that the matter was taken seriously by Government. IGR and OeSL were instructed to ensure that the entry made in legacy data is free from errors.

4.4.14.4 Lack of data validation and control mechanism

The computerised system should have certain inbuilt parameters and range of figure/ data for automatic validation of correct data by following a set of pre-determined Rules during document registration.

Audit noticed that data validation was not proper even in some crucial fields of the database. Some of these are given below:

1. In 26,120 cases, the system accepted property transactions by buyers and sellers above ₹ 5 lakh without capturing PAN Numbers although the said

details are required under Section 139A of the Income Tax Act, 1961.

2. In 2,976 cases, the system accepted property transactions by buyers and sellers above ₹ 30 lakh without capturing PAN numbers as required in Annual Information Return (AIR).
3. In 18,326 cases, the system did not restrict biometrics capture in respect of deeds entered in the system beyond office hours.
4. In 11,644 cases, the system did not restrict registration fee collection beyond office hours.
5. In 236 cases, the system did not restrict creation of ID for document registration beyond office hours.

Government stated (November 2014) that restrictive measures have been developed for non-generation of money receipts and biometrics beyond office hours. Steps would be taken on other issues.

4.4.14.5 Continued dependence on manual intervention in defining market value

The features of e-Registration system envisage that the system should generate updated benchmark value (BMV) as a result of which the SD, RF and other fees would be calculated or generated automatically by the system on the consideration money or BMV whichever is higher. This would ensure transparency in valuation and collection of SD and RF without any manual intervention in calculation. Further, under Rule 40 (1) of the Odisha Stamp (OS) Rules, 1952, the BMV shall be revised biennially from the 1st April. In case the Valuation Committee fails to revise the BMV, the Collector as Chairman of the Valuation Committee, would enhance the value by 10 *per cent* of the value so fixed under Rule 40 (2) of the OS Rules.

During analysis of database and test check of records in 10 DSR and 11 SR offices, Audit noticed that there was manual intervention in defining value of land in the system due to absence of in-built mechanism for system generated benchmark value of land belonging to specific areas and categories. The registering authorities had to rely on hard copies of approved market value (BMV) instead of system generated valuation.

Further, the following data inconsistencies were noticed due to absence of proper validation control in the system.

- The system neither automatically updated the market values instantly by 10 *per cent* after a lapse of two years under Rule 40(2) nor generated any warning for such updation/ revision of BMV becoming due as per provisions.
- Audit noticed that in 2,335 cases, the system accepted zero value and irrelevant figures (below 10,000) in market value field. However, SD/RF were realised correctly by intervening manually in defining market value field.
- The system also did not have validation range of maximum BMV figure to show alerts to the registering authority regarding wrong/unrealistic

value of land having been entered in the value field. This may result in risk of short realisation of SD/RF.

- Audit noticed in 10 cases that the land value field in the system accepted BMV as high as ₹ 55 crore per acre although the actual BMV was ₹ 5.5 crore per acre.

Thus, due to manual intervention despite e-Registration system, maintaining transparency in valuation of land could not be ensured. Besides, the manual intervention coupled with absence of input/ validation control, was also fraught with the risk of undervaluation/ over valuation of properties and consequential short/ excess realisation of SD and RF.

Government stated (November 2014) that OeSL and the registering officers have been instructed to ensure timely entry and validation so as to obviate manual reference of hardcopy of BMV.

4.4.14.6 Lack of continuity of registered numbers and document id

The unique numbering pattern adopted for allotting document-id/application id and registered deed number (Regd-No.) in the application system is as follows:

Registration number/Deed Number	Application/Document id (Doc-id)
i.e. 1 39 11 15792 (say) where '1' is Book Number, '39' is Registration Office, '11' is Year and '15792' is Registration Number	i.e. 39 11 35269 (say) where '39' is Registration Office, '11' is Year and '35269' is Application Number

Analysis of database in Registration table and in Document table revealed that 12 numbers were found missing in Doc-id/application number and one number was found missing in Deed number/Registration number. Thus, lack of continuity of document number/registration number was fraught with the risk of possible backend manipulation.

Government stated (November 2014) that due to some reasons if a person did not appear or did not deposit fees, the registration number is not generated. However, the continuity of registration number has no relevance to appearance or deposit of fees which is generated after completion of all processes. The gap may be due to backend correction. In the exit conference Government stated that OeSL would be asked to explain the reasons for gap in registration number/document id.

4.4.14.7 Generation of MIS reports from e-Registration system

The application software for e-Registration system (*e-DhaRani*) has the facility of generating several instant MIS reports like Fee Book (Form-13), DSR/ SR Report on revenue generation, Valuation Register etc.

Scrutiny of records in DSR/ SR offices revealed that several MIS reports required under the Odisha Registration Rules, 1988 and Income Tax Act, 1961 were not customised as of date of audit for effective utilisation and monitoring of revenue collection at SR/DSR and IGR level. These are:

1. Annual Information Return (AIR) required to be submitted to IT Department for transaction exceeding ₹ 30 lakh;

2. Register Books No. 1 to 5; and
3. Register of Applications for Searches and Copies.

Due to absence of these reports, the information required for smooth monitoring of the e-Registration system was not made available to the Department.

Government stated (November 2014) that IGR is being instructed to take necessary steps to customise and utilise the MIS reports.

4.4.14.8 Registration of documents without proper scanning and archival

The objective of the project was to enable delivery of e-Governance services to the citizen in a transparent, faster and efficient manner. Analysis of database and test check of deeds at 21 DSR/SR offices revealed the following deficiencies:

- In 3,364 cases, registrations were completed without scanning and archival of approved deeds/documents. This would result in non-retrieval of registered deed from the system at the time of issuance of CC/EC to the citizen.
- In absence of a check/control mechanism, there existed the risk of uploading of scanned documents different than the document required to be uploaded.
- The work flow did not have a mechanism to certify the quality of scanning and archival of deeds. Monitoring of maintenance and replacement of scanners did not exist at IGR. Scanned deeds were not readable due to improper scanning.

Government stated (November 2014) that suitable instruction is being issued to IGR to ensure proper scanning and to put into place a control mechanism to show alert about non-scanning and to ensure certification and quality check of scanned deeds.

4.4.15 Deficiencies in online citizen centric services

Computerisation of registration offices through e-Registration project aimed to replace the existing manual system of registration of deeds, enhancing the quality and speed of service delivery to the citizen and maintaining transparency through online services. Audit observed several deficiencies in providing online citizen centric services as discussed below:

- The basic facilities required for providing online citizen centric e-services such as downloading of formats of deeds and basic instructions, applying for issue of EC/CC, viewing status of documents, facility of registering documents anywhere in the State were not available to the citizens in the public domain. Further, facility of Odia interface and formats of deeds in Odia language was not available in the website of IGR thereby rendering it incomplete and less user-friendly.

- The system of automatic flow of data entry while preparing deeds at deed writer's level to the data entry operator's interface in e-Registration system was absent. This would restrict data entry errors.
- There was no web service link with Electoral authorities /Income tax authorities/Transport authorities for verification of identity i.e. voter id No./ PAN No. /Driving License No. produced by the buyers/ sellers/ identifiers during registration to check possible fraud and impersonation.
- Under Section 22-A of the Registration Act, 1908, the registering officer shall refuse to register any instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease, belonging to the State Government, or the local authority or any religious institution. Audit observed that master database of such restricted properties and properties as opposed to public policy was not created or consolidated by R&DM Department or IGR. In absence of such master database in the application system, the alerts for such properties could not be generated from the system.

Government stated (November 2014) that necessary steps shall be taken to incorporate such facilities in consonance with the statutory provisions.

4.4.16 Backup Policy

The backup policy and business continuity plan envisages off-site storage of data and testing of data for its retrieval and documentation thereof. Audit noticed that the documentation of testing of backup at off-site location was not conducted and there was no strategic plan to operate from Disaster Recovery (DR) site using DR infrastructure when the city hosting the primary site was not available/accessible in case of a disaster. Further, absence of off-site storage replication of data of State Data Centre, Bhubaneswar at the DR site, necessitated off-site storage and testing of back up data at IGR's own site in view of criticality of data and complete dependence on the system.

Government stated (November 2014) that the suggestion of audit shall be taken care of.

4.4.17 Conclusion

The Performance Audit of "e-Registration System" brought out several deficiencies. The objective of e-Registration System in enhancing the quality and speed of service delivery to the citizens and maintaining transparency in valuation and providing e-Governance citizen centric services was not fully achieved due to failure to implement Concession Agreement in full. Despite computerisation, continued dependence on manual intervention in arriving at valuation of properties continued. There was improper mapping/ non-mapping of Business Process Rules for several categories of documents leading to short realisation of Stamp Duty and Registration Fees. Capture of incomplete data in crucial fields along with lack of validation control in the system and inaccuracy of legacy data digitisation rendered the database unreliable. Several citizen

centric services like availability of format and online services were not available. Besides, web linking with other Departments like Electoral authority, Income tax Department was not available in the system to check identity of parties to avoid the risk of fraud and impersonation.

4.4.18 Recommendations

The Government may consider:

- ensuring delivery of deeds to the citizens within the time prescribed under Service Level Agreement by monitoring and making the concessionaire accountable for failure in delivery of deeds in time.
- integrating Benchmark Valuation with the e-Registration system and prompt updation/ validation of the same from time to time to do away with the continued dependence on manual practice of defining market value of property during e-registration.
- making capture of data for all important fields like PAN No., Voter ID, Sub plot, Boundary details etc. mandatory to maintain transparency in registration.
- linking with the web-services of Chief Electoral Officer, Odisha/ Income Tax Department/ Commerce and Transport (Transport) Department of the State for verification of Voter Id card/PAN card/Driving license of parties to avoid the risk of fraud and impersonation.
- proper mapping of business process rules for “Leases” and “Sales Certificates” in accordance with the provisions of Stamp Act and Rules made thereunder.

Government stated (November 2014) that appropriate steps would be taken to implement all the recommendations.

4.5 Other Audit observations

Audit scrutinised records relating to assessment and collection of stamp duty and registration fees which revealed short realisation of revenue due to under valuation of land, omission of ground rent and cess from the consideration money and wrong calculation of cost of buildings as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by audit. There is need for the Government to improve the internal control system including strengthening of internal audit so that these omissions can be avoided, detected and corrected.

4.6 Non-observance of the provisions of the Acts/Rules and Government instructions

The Indian Stamp (IS) Act, 1899 and the Registration Act, 1908 prescribe that deeds of agreements for sale, lease and conveyance etc. are to be registered on realisation of SD and RF at the prescribed rates on the consideration truthfully and correctly mentioned therein keeping in view the Market Value Guidelines (MVG) or the rates prescribed in the Industrial Policy Resolutions (IPRs) of the Government. The documents registered with under valuation of properties are to be impounded for correct valuation and realisation of deficit SD and RF.

Non-observance of the provisions of the above Acts by the Assessing Authorities (AAs) in the cases as mentioned in the following paragraphs resulted in under valuation of documents and short realisation of SD and RF.

4.6.1 Short levy/realisation of Stamp Duty and Registration Fees due to registration of documents under Agreement for Sale

As per Article 48(f) of Schedule I-A (Odisha Amendment) of Indian Stamp Act, 1899 (IS Act) read with explanation below Article 23 of the Act *ibid*, an agreement to sell any immovable property or a Power of Attorney shall, in case of transfer of possession of such property before or at the time of or after execution of such Agreement for sale/Power of Attorney, be deemed to be a conveyance and SD thereon shall be chargeable accordingly.

During test check of documents relating to Agreement to sell and General Power of Attorney (GPA) in three²⁷ DSRs and two²⁸ SRs, Audit noticed (between February and July 2013) in 13 Documents that the owners of land executed agreements to sell with prospective purchasers/ Attorney holders (second party) transferring them the possession of land measuring 99.922 acres valued at ₹ 67.21 crore. Audit noticed that despite the possession over land being transferred to the prospective purchasers, the Registering Authorities (RAs) while registering the documents, treated them as Agreements for Sale and realised SD and RF of ₹ 0.01 lakh thereon instead of treating them as deemed conveyance and realising SD and RF of ₹ 4.70 crore. This resulted in short realisation of SD and RF amounting to ₹ 4.69 crore.

After the cases were pointed out, the DSRs and SRs stated that Section 47A of the Act was not applicable in case of Power of Attorney and Agreement for Sale on value of the land. However, the RAs did not invoke Section 33 of the Act though these deeds were stamped as conveyance.

The matter was reported to the IGR, Odisha in March 2014 and to the Government in May 2014. Their replies are awaited (November 2014).

4.6.2 Short realisation of Stamp Duty and Registration Fees adopting incorrect consideration

Section 27 of the IS Act, 1899 (Odisha Amendment) provides that the consideration (if any), the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein. As per Article 35 (a) (vi) and Article 35 (c) of Schedule I-A of the IS Act (OA) read with Article 23 (b) of Schedule I-A (OA of 5 December 2005), where a lease is granted for a period exceeding 30 years but not exceeding 100 years for a fine or premium or for the money advanced in addition to rent reserved, SD is to be levied as a conveyance at the rate of five *per cent* on the amount of premium or consideration set forth in the deed or the market value of the property whichever is higher along with four times of annual ground rent and cess. If at the time of registration, the RA finds that the consideration was not correctly recorded in the document, he may book the case under Section 47A (undervaluation) or impound the case under Section 33 of the Act.

²⁷ Khurda at Bhubaneswar, Koraput and Puri.

²⁸ Balipatna and Khandagiri.

During test check of lease deeds in DSR, Khurda and SR, Khandagiri, Audit noticed (January and February 2013) that four parcels of land measuring 34.24 acres of both commercial and residential area in mouza Gothapatna and Chandrasekharapur were leased out during the period between January 2012 and December 2012 by two lessors to four lessees for a period ranging from 59 to 90 years. The market value of the above land as per Bench Mark Value²⁹ (BMV) was ₹ 134.78 crore on which SD of ₹ 1.55 crore and RF of ₹ 2.70 crore was leviable. Audit noticed that while registering the lease deeds³⁰, the RA accepted the consideration money of ₹ 18.86 crore recorded in the deeds without verifying the BMV of the land and accordingly levied SD of ₹ 0.78 crore and RF of ₹ 0.37 crore. This led to short realisation of SD of ₹ 0.77 crore and RF of ₹ 2.33 crore.

After Audit pointed this out, SR, Khandagiri stated (March 2013) that the fact would be intimated to Industrial Infrastructure Development Corporation of Odisha Ltd. (IDCO), Government of Odisha (GoO) and the lessees for necessary action, whereas DSR, Khurda stated that SD and RF was realised as per recital in the deed as the lease deeds did not come under purview of Section 47A of the IS Act. He further stated that the matter would be intimated to lessor and lessee. However, the Registration Act and Rules do not debar the RA to invoke Section 33 in the event of incorrect disclosure of the value of the property in the document presented for registration.

The matter was reported to the IGR, Odisha, Cuttack in January 2014 and to the Government in May 2014. Their replies are awaited (November 2014).

4.6.3 Short levy/realisation of Stamp Duty and Registration Fee on lease of private land to industries by IDCO

As per Section 27 of IS Act, 1899 (Odisha Amendment), the consideration, if any, and the market value of property and all other facts and circumstances affecting chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. Besides, as per Article 35(c) read with Article 35 (a)(vi) of Schedule I-A of the Act, where the lease is granted for a term exceeding 30 years but not exceeding 100 years for a premium, in addition to rent reserved, SD and RF are charged at the prescribed rates for a consideration equal to the amount of such premium along with four times the amount of average annual rent and cess of the property. GoO in R&DM Department clarified (February 2006) the components which constitute the consideration amount for charging SD and RF, in case of transferring the private land acquired by IDCO to Industrial houses.

During test check of lease deeds in DSR, Dhenkanal, Audit noticed (September 2013) that the RA registered a 90 years lease deed in respect of land measuring 184.392 acres in village Kharagaprasad, District- Dhenkanal, for a

²⁹ Benchmark Value (BMV): Under Bench Mark Valuation principle, Revenue & Disaster Management Department of Government of Odisha approves rates of land from time to time in all districts of the State which ought to be taken into consideration while determining the prevailing market rate/price of the land.

³⁰ Lease deed Document No. 11131203870 dt. 17.4.2012, Document No. 11131210870 dt. 11.12.2012, Document No. 11131205168 dt. 22.05.2012, Document No. 11131209257 dt. 16.08.2012, Document No. 11131203620 dt. 04.04.2012, Document No. 11081205754 dt. 06.03.2012, Document No. 11081201075 dt. 11.01.2012.

consideration of ₹ 9.23 crore as per recital in the document and realised ₹ 67.74 lakh towards SD and RF. Further scrutiny of document revealed that the value of land as per BMV record was ₹ 14.61 crore on which SD and RF of ₹ 102.26 lakh was realisable. Thus, registration of document without verifying the BMV, resulted in short realisation of SD ₹ 24.66 lakh and RF ₹ 9.86 lakh.

After audit pointed this out, Government held (June 2014) objection raised by Audit to be correct and IDCO has been instructed to issue instruction to the concerned Industrial Unit for depositing the deficit dues taking into consideration the BMV of the land.

4.6.4 Short realisation of SD and RF due to under valuation of buildings

As per Section 27 of IS Act, 1899, (Odisha Amendment) read with Section 3 of the Act, *ibid*, the consideration (if any), the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth in the document. Further, GoO issued guidelines in March 2011 for valuation of building/ superstructure with instruction to registering officers to follow the guidelines while checking the valuation of building/ Superstructure set forth in the instrument presented for registration.

During test check of conveyance deeds in two DSRs³¹ and five SRs³², Audit noticed (between May 2013 and September 2013) that 20 parcels of land measuring 13.52307 acres with building were sold by the vendors to the vendees for consideration of ₹ 6.13 crore. As per the Government's guidelines of March 2011, the value of the said property was ₹ 9.36 crore. However, the RAs while registering the documents between January and October 2012, did not adhere to the above guidelines. This resulted in undervaluation of property by ₹ 3.23 crore and consequential short realisation of SD and RF amounting to ₹ 22.52 lakh.

After Audit pointed this out, Government stated (June 2014) that deficit Government dues has already been realised by DSR, Keonjhar in two out of three cases. In respect of SR, Berhampur, Government stated (July 2014) that all the nine cases of conveyance deeds have been booked under Section 47 A (2a) of IS Act and the parties concerned have been issued with notices for deposit of deficit SD and RF. Further, in respect of DSR, Mayurbhanj, Government Stated (July 2014) that in one out of two cases, the deficit amount has been realised and in the another case, notice has been issued to the party. In respect of the remaining six cases relating to four SRs³³, reply from Government is awaited (November 2014).

4.6.5 Short realisation of Registration Fee

Under Section 27 of IS Act (Odisha Amendment), the consideration (if any), the market value of property and all other facts affecting levy of SD shall be

³¹ DSR, Keonjhar (three conveyance deeds) and DSR, Mayurbhanj (two conveyance deeds).

³² SR, Atabira (one conveyance deed), SR, Berhampur (nine conveyance deed), SR, Biramitrapur (one conveyance deed), SR, Bonai (three conveyance deed) and SR, G Udayagiri (one conveyance deed).

³³ SR, Atabira (one case), SR, Biramitrapur (one case), SR, Bonai (three cases) and SR, G. Udayagiri (one case).

fully and truly set forth in the document. As per Article 35 (a)(vi) and (c) of the Schedule I-A of the IS Act, in case of lease of any immovable property granted for a premium for a term exceeding 30 years but not exceeding 100 years executed against a premium, SD and RF shall be charged at the prescribed rates on the premium along with four times the average annual rent reserved for such property as applicable to conveyance. Further, as per Board of Revenue, Odisha letter dated 2 August 2010, ground rent at the rate of one *per cent* on the market value of land and cess at 75 *per cent* on the ground rent shall be levied irrespective of the land being allotted at concessional rate as per the Industrial Policy Resolution (IPR), 2007.

During test check of lease agreements in DSR, Cuttack, Audit noticed (March 2012) that Government allotted 52.690 acres of 'Patita'³⁴ land to IDCO for 99 years at the concessional rate of ₹ 2.00 lakh per acre for setting up of industries. Taking into account the BMV of land at ₹ 12.81 crore and four times of annual ground rent and cess thereon, total value of the above leased out land was ₹ 13.72 crore. As the SD was exempted under IPR, 2007, RF of ₹ 27.43 lakh was leviable at the rate of two *per cent* on the total consideration of ₹ 13.72 crore. However, the DSR calculated the value of land at ₹ 1.05 crore taking into account the concessional rate of ₹ 2.00 lakh per acre and adding ground rent and cess thereon levied RF of ₹ 2.27 lakh only. This resulted in short levy of RF of ₹ 25.16 lakh.

After Audit pointed this out, the DSR stated (March 2012) that RF was levied as per recital of the document and that the RA did not calculate the premium and rent which was decided at the level of the District Collector. However, as per the rules, SD and RF is leviable on the market value irrespective of the fact that the land has been allotted at a concessional rate.

The matter was reported to the IGR, Odisha, Cuttack and the Government in May 2014. Their replies are awaited (November 2014).

4.6.6 Short levy/realisation of Stamp Duty and Registration Fee

Under the provision of Section 27 of IS Act, 1899 (OA), the consideration (if any), the market value of the property and all other facts affecting levy of SD shall be fully and truly set forth in the document. As per Article 35 (a)(vi) and (c) of Schedule I-A of the Act and table of fees under the Registration Act as published in Revenue and Excise Department, Gazette Notification dated 30 January 2001, in case of lease deed of any immovable property for a term exceeding 30 years but not exceeding 100 years executed against a premium, SD and RF are charged as conveyance as per Article 23 along with four times of the average annual rent reserved for such property. Article 23 provides that in respect of immovable property, SD shall be levied at five *per cent* of the amount or value of the consideration for such conveyance as set forth therein or the market value of the property whichever is higher.

³⁴ Uncultivable land.

During test check of lease deeds in DSR, Balasore, Audit noticed (January 2014) that a lease deed³⁵ was executed (March 2012) between IDCO (lessor) and a private company (lessee) for lease of land measuring 101.73 acres of acquired private land in three villages for 90 years against a consideration of ₹ 2.78 crore. However, as per the BMV as well as the revised rates issued by IDCO³⁶ in March 2010 in respect of various industrial estates/ industrial areas etc., market value of the land was ₹ 3.51 crore and after adding ground rent, cess, additional land value and capitalised value aggregating to ₹ 0.97 crore, the total consideration money worked out to ₹ 4.48 crore on which ₹ 31.33 lakh was leviable towards SD and RF. Registering Authority, while registering the lease agreement on 15 March 2012, determined total consideration at ₹ 2.77 crore and realised SD and RF of ₹ 19.42 lakh. This led to short levy of ₹ 11.90 lakh towards SD (₹ 8.50 lakh) and RF (₹ 3.40 lakh).

After Audit pointed out the matter, Government stated (June 2014) that Audit has calculated the BMV rate of ₹ 30 lakh for village Balgopalpur while the BMV of ₹ 20 lakh for the said village was approved by the District Land Valuation Committee on 12 April 2012 effective from 4 June 2012 i.e. after the lease deed was registered on 15 March 2012. The above reply is not tenable as in respect of the said village falling under industrial area, the revised rate of ₹ 30 lakh per acre fixed by IDCO in its order dated 15 March 2010 and effective from 24 February 2010 was applicable. In respect of other two villages, reply from the Government is yet to be received (November 2014).

4.6.7 Short levy/realisation of Stamp Duty and Registration Fee

In terms of Article 35(c) read with Article 35(a)(vi) of Schedule I-A of IS Act, 1899, where the lease is granted for a fine or premium or for money advanced in addition to rent reserved and if the lease period exceeds 30 years but does not exceed 100 years, SD is leviable as a conveyance on the consideration money consisting of the amount of premium and four times of annual ground rent and cess. As per Industries Department Resolution of March 2007, annual ground rent at the rate of one *per cent* of premium will be realised from industrial entrepreneurs for the land allotted by IDCO. Again as per clause 17.2 of the above Resolution, for transfer of land by IDCO and Private industrial estate developers to new as well as existing large sector industrial units taking up expansion, modernisation and diversification, SD shall be exempted by 25 *per cent* of the applicable SD. Further in addition to SD, the State Government in 2001 prescribed for levy of RF at the rate of two *per cent* on the consideration money of the document registered.

During test check of lease deeds in DSR, Keonjhar, Audit noticed (August 2013) that in seven lease deeds executed during 2010 and 2011 between IDCO (lessor) and other private Industrial Units (lessees) for land measuring 281.248 acres, the RA while determining the consideration for levy of SD and RF, did not consider four times of annual ground rent and cess as required under Article-35 (a)(vi) of Schedule-I-A of the IS Act and arrived at the consideration of

³⁵ Document No. 10061202127 dated 15 March 2012.

³⁶ As per the rates of land issued by IDCO for various industrial Estates/ areas, the value of land per acre in village Balgopalpur was ₹ 30 lakh per acre.

₹ 19.95 crore in place of ₹ 21.03 crore. As a result as against SD of ₹ 82.68 lakh and RF of ₹ 42.06 lakh leviable, the RA levied SD of ₹ 78.43 lakh and RF of ₹ 39.91 lakh. Thus, there was short levy/ realisation of SD and RF amounting to ₹ 6.40 lakh.

After Audit pointed out this, Government stated (June 2014) that the parties concerned have been issued with notices to deposit the deficit dues and the ADM-cum-District Registrar, Keonjhar has been instructed to make repeated persuasion for early realisation of dues or to take action as deemed proper. Further, Government stated (July 2014) that IDCO, Bhubaneswar had also moved concerned four private Industrial Units for early payment of deficit Government dues as pointed out by Audit and progress made in this regard would be intimated to Audit.

4.6.8 Short realisation of Stamp Duty and Registration Fee on Development Agreement

As per Section 27 of IS Act, 1899 (Odisha Amendment), the consideration (if any), the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. As per explanation below Article 23 of Schedule I-A of the Act *ibid*, an agreement to sell any immovable property or a Power of Attorney shall, in case of transfer of the possession of such property before or at the time of or after execution of such agreement, be deemed to be a conveyance and the stamp duty thereon shall be charged accordingly.

During test check of records in two SRs³⁷ and one DSR³⁸, Audit noticed (between February 2013 and August 2013) that 16 documents involving 12.43367 acres of land with market value of ₹ 19.30 crore were registered between February and December 2012 as Agreement for Development of land. Audit noticed that as per recitals in the documents, the owners of land handed over or agreed to deliver peaceful and vacant physical possession of the said lands to developers/ builders upon execution of such agreements and by executing registered irrevocable GPA, authorised the developers to sell their shares of super built up area along with impartible undivided shares of land to intending buyers. The developers also agreed to hand over the land owners' share as consideration on completion of construction of buildings. Thus, the transaction evidenced transfer of property and based on the nature of transactions, the documents were required to be treated as Conveyance instead of Agreement for Development and SD and RF were to be levied at the rate of five *per cent* and two *per cent* respectively on the consideration set forth therein or market value (BMV) of the land whichever was higher. However, Audit noticed that although BMV of the property amounted to ₹ 19.30 crore on the date of registration, SRs and the DSR levied SD and RF on the nominal amount of ₹ 76.60 lakh set forth in the documents as advances given to land owners. This resulted in short realisation of SD amounting to ₹ 95.90 lakh and RF amounting to ₹ 37.72 lakh.

³⁷ SR, Dolipur and SR, Khandagiri at Bhubaneswar.

³⁸ DSR, Khurda at Bhubaneswar.

After Audit pointed this out, concerned DSR and SRs stated that the matter would be intimated to the Government for necessary orders as the agreements did not attract provisions under 47A of the IS Act 1899 to deal such undervaluation cases. However, the fact remains that the development agreements were to be registered as conveyance and SD and RF as applicable to conveyance was to be levied.

Audit reported the matter to IGR, Odisha, Cuttack in March 2014 and the Government in June 2014. Their replies are awaited (November 2014).