

CHAPTER-V

STAMPS AND REGISTRATION FEES

5.1 Tax administration

Receipts from stamp duty and registration fees are regulated under the Indian Stamp Act 1899, (IS Act), Indian Registration Act, 1908, (IR Act) and the rules framed thereunder as applicable in Uttar Pradesh. Stamp duty and registration fees are leviable on the execution of instruments at the prescribed rates fixed under the above Acts. Valuations of properties are decided as per circle rates fixed by the Collector of the District under the provisions of Uttar Pradesh Stamp (Valuation of Property) Rules, 1997.

The determination of policy, monitoring and control at the Government level is done by the Principal Secretary, *Kar Evam Nibandhan*. The Inspector General (Registration) (IGR) is the head of the Stamps and Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by 96 Assistant Inspector Generals (AIGs) at the district level and 354 Sub-Registrars (SRs) at the *tehsil* level respectively.

5.2 Internal audit

Internal Audit 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.

There is a Technical Audit Cell, which conducts internal audit under the overall supervision of Inspector General (R). Two Additional Inspector General's (R) and eight Assistant Inspector General (R) have been posted for Technical Audit.

The details of Internal Audit (IA) planning such as number of units planned for audit, number of units audited and short fall are shown in **Table 5.1**.

Table 5.1

Internal Audit

Year	Total number of units available	Number of units planned	Number of units audited during the year	Short fall	Percentage of short fall
2010-11	496	237	228	09	3.80
2011-12	496	250	243	07	2.80
2012-13	503	280	267	13	4.64
2013-14	504	309	307	02	0.65
2014-15	504	317	317	00	0.00

Source: Information provided by the Department.

This shows that the audit planning of the Department is gradually achieving its target. The number and amount of objections raised and settled during the year was not furnished by the Department despite request.

5.3 Results of audit

In 2014-15, Stamps and Registration Department realised revenue of ₹ 11803.34 crore. Test check of the records of 331 units out of 424 units of the Department during 2014-15 showed short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 24.10 crore in 1,168 cases, which fall under the categories as mentioned in **Table 5.2**.

Table 5.2
Results of Audit

			(₹ in crore)	
Sl. No.	Categories	Number of cases	Amount	
1.	Incorrect determination of market value of property	146	3.67	
2.	Short levy of stamp duty and registration fees due to misclassification of documents	579	18.35	
3.	Other irregularities	443	2.08	
Total		1,168	24.10	

Source: Information available in the Audit office.

During the course of the year, the Department had accepted underassessment and other deficiencies of ₹ 30.00 lakh in 93 cases of which an amount of ₹ 3.76 lakh was realised in 26 cases. In remaining cases no reply has been furnished by the Department.

A few illustrative cases of compliance deficiency involving ₹ 8.70 crore are discussed in following paragraphs.

5.4 Audit observations

Our scrutiny of records in the offices of the Sub Registrars showed cases of incorrect determination of value of property, undervaluation of lease deed, short levy of stamp duty and registration fees due to misclassification of documents and delay in implementation of Government orders as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

5.5 Residential land valued at agriculture rate

Non-agricultural land measuring 4.45 lakh square meter were registered for ₹ 40.71 crore at agricultural rate. Correct valuation at residential rate worked out to ₹ 169.72 crore which resulted in short levy of stamp duty and registration fees of ₹ 7.78 crore.

Under Article 23 of Schedule 1-B of the IS Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of the consideration set forth therein, whichever is higher. Further, Inspector General of Registration (IGR) vide guidelines issued in June 2003 clarified that a property in the same *arazi* number should not be split in more than one part

for different purposes i.e. one for agriculture and the other for non-agriculture for the purpose of levy of stamp duty.

We examined (between April 2014 and March 2015) the Book 1, *Khand* and Registered documents of 98 Sub Registrar Offices (SROs) out of 331 SROs and observed that 194 deeds of conveyance relating to non-agriculture land measuring 4.45 lakh square meter were registered between April 2013 and January 2015 for ₹ 40.71 crore at agriculture rates and stamp duty and registration fees of ₹ 2.52 crore was levied. We observed that part of the same *arazi* was sold earlier or on same day at residential rates and thus the land in question should also have been valued at residential rates. The correct valuation at residential rate worked out to ₹ 169.72 crore. On this, stamp duty and registration fees of ₹ 10.31 crore was leviable whereas stamp duty and registration fees of ₹ 2.52 crore only was levied. Thus, incorrect valuation of property resulted in short levy of stamp duty and registration fees of ₹ 7.78 crore as detailed in **Appendix-XVII**.

We reported the matter to the Government and the Department (between January 2014 and May 2015). In reply the Government accepted (November 2015) our observation and referred the cases to Collector Stamps for correct valuation of property. The Collector Stamps confirmed and imposed short levy of stamp duty of ₹ 71.00 lakh in 15 cases out of which in nine cases Department recovered ₹ 15.39 lakh and in remaining six cases Recovery certificate have been issued by the Department.

5.6 Undervaluation of land

46,615 square meter declared non-agricultural land, were registered for ₹ 2.63 crore at the agricultural rate instead of ₹ 12.37 crore at residential rate. This resulted in short levy of stamp duty and registration fees of ₹ 58.93 lakh.

Section 143 of the Uttar Pradesh *Zamindari* Abolition and Land Reforms Act, 1950 provides that where a *bhumidhar* with transferable rights used his holding or part thereof for a purpose not connected with agriculture, horticulture or animal husbandry, the Assistant Collector in charge of the subdivision may, *suo moto* or on an application after making such enquiry as may be prescribed, make a declaration to that effect. Further, the Chief Secretary vide his letter dated 11 June 2010 addressed to all the Commissioners and District Magistrates emphasised that if the land is used fully or partially for residential purposes, the concerned SDM should *suo moto* declare the whole land as *abadi* under Section 143 of UPZA&LR Act. If the land was declared non-agriculture under Section 143 of the above Act, the same should be valued at residential rate for the purpose of levy of stamp duty.

We examined (between April 2014 and February 2015) the Book 1 *Khand*, Sale Deeds and Circle rates list of five SROs and observed that out of 2,490 cases test checked, 11 deeds of conveyance having 46,615 square meter of land were registered during March 2013 to August 2014 for a consideration of ₹ 2.63 crore at agricultural rates on which stamp duty of ₹ 17.22 lakh and registration fees of ₹ 1.07 lakh was paid. It was noticed that these *Arazi* numbers were declared as non-agricultural by order under Section 143 of

UPZA&LR Act, prior to the date of registration of these deeds. Hence the properties were required to be valued at ₹ 12.37 crore at residential rates and stamp duty of ₹ 76.12 lakh and registration fees of ₹ 1.10 lakh was leviable at residential rate whereas stamp duty and registration fees of ₹ 18.29 lakh only was levied. The concerned SR did not consider these aspects while registering the documents. This resulted in short levy of stamp duty and registration fees of ₹ 58.93 lakh. The details are indicated in the **Appendix-XVIII**.

We reported the matter to the Government and the Department (between April 2014 and May 2015). In reply the Government accepted (November 2015) our observation and referred the cases to Collector Stamps for correct valuation of property.

5.7 Undervaluation of lease deed

Lease deeds of more than 30 years, were valued at ₹ 18.15 lakh instead of valuing at ₹ 2.92 crore treating these as sale deeds. This resulted in short levy of stamp duty and registration fees of ₹ 13.09 lakh.

Under the provisions of Article 35 of schedule 1-B of IS Act, stamp duty on lease where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property.

We examined (October 2014 and January 2015) the records of lease agreements of SROs, *Ghanghata and Karvi*, and observed that out of 740 test checked, two lease deeds of more than 30 years was executed for a land of 12,150 square meter. Stamp duty of ₹ 1.59 lakh and registration fees of ₹ 11,860 on the value of ₹ 18.15 lakh was paid by the lessees. Since the period of lease deeds were more than 30 years, hence the deeds were required to be valued at ₹ 2.92 crore on which stamp duty of ₹ 14.60 lakh and registration fees of ₹ 20,000 were leviable as sale deeds. Thus the Government was deprived of stamp duty of ₹ 13.01 lakh and registration fees of ₹ 8,140 as shown in **Table No. 5.3**.

Table No. 5.3

Undervaluation of lease deed

									(In ₹)
Sl. No.	Name of unit	Deed no and Date	Area in sq.M	Period of lease	Value of property applicable	Value of property applied	Stamp duty and Registration fees leviable	Stamp duty and Registration fees levied	Difference
1	SR Ghanghata Sant Kabir Nagar	3120/19.10.13	2,520	30 years 1 month	80,11,800	3,75,000	4,10,600	9,360	4,01,240
2	SR Karvi, Chitrakoot	451/27.01.14	9,630	30 years 1 day	2,11,86,000	14,40,000	10,69,300	1,61,620	9,07,680
TOTAL			12,150		2,91,97,800	18,15,000	14,79,900	1,70,980	13,08,920

Source: Information available on the basis of audit findings.

We reported the matter to the Government and the Department (between November 2014 and April 2015). In reply the Government accepted (November 2015) our observations and referred the cases to Collector Stamps for correct valuation of property.

5.8 Misclassification of documents

Sale deeds were misclassified as correction deeds and accordingly stamp duty and registration fees of ₹ 400 were levied instead of ₹ 12.56 lakh. This resulted in short levy of stamp duty and registration fees of ₹ 12.55 lakh.

Article 34 A of Schedule 1-B of IS Act, provides for correction of purely clerical error in an instrument, chargeable with duty and in respect of which the proper duty has been paid. Under the provision of IS Act, every instrument mentioned in the schedule shall be chargeable to stamp duty at the rates prescribed therein. An instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

We examined the correction deeds of offices of two SROs between May 2014 and December 2014, and observed that out of 312 instruments test checked two instruments were classified on the basis of their titles as correction deed and stamp duty was levied accordingly. Our scrutiny of the recitals of these documents revealed that these were misclassified, as corrections were made in name of seller/purchaser and area of land. Thus, these documents were required to be treated as sale deed instead of correction deed and were to be valued at ₹ 2.21 crore on which stamp duty and registration fees of ₹ 12.56 lakh was chargeable against which stamp duty and registration fees of ₹ 400 only was levied. This resulted in short levy of stamp duty and registration fees of ₹ 12.55 lakh. The details are given in **Table 5.4**.

Table 5.4

Misclassification of documents

Sl. No.	Nature of correction	Name of offices	No. of instruments	Area of property (In Sq.m.)	Execution period of correction deed	Total value of property	Stamp duty leviable	Registration fees leviable	Stamp duty levied	Registration fees levied	₹ in lakh)	
											Stamp duty short levied	Registration fees short levied
1.	Change in Name of Purchaser	SR Bah	1	5710	November 2013	154.17	7.71	0.10	0.001	0.001	7.71	0.10
2.	Change in Area	SR I Agra	1	414.7	September 2013	66.36	4.65	0.10	0.001	0.001	4.64	0.10
Total		2	2	6124.7		220.53	12.36	0.20	0.002	0.002	12.35	0.20

Source: Information available on the basis of audit findings.

We reported the matter to the Government and the Department (between June 2014 and May 2015). In reply the Government accepted (November 2015) our observation and referred the cases to Collector Stamps for correct valuation of property.

5.9 Non-levy of additional stamp duty

Delay in implementation of Government orders led to non-levy of additional stamp duty on the deeds of transfer of the immovable property situated in the areas notified as developed by the Government.

Under the provisions of UPUPD Act, if in the opinion of the State Government, any area within the State, requires to be developed according to plan, it may by notification in the gazette, declare the area to be a development

area and levy additional stamp duty on the deeds of transfer of immovable property situated in that area.

We examined the sale deeds of office of SR Shahabad Hardoi, and observed that in 15 cases out of 970 cases test checked additional stamp duty was not levied on the deeds of transfer of the immovable property situated in the areas which were declared as a development area by the Government vide a gazette notification dated 07 May 2004. The documents valued at ₹ 3.26 crore were registered between April 2013 and August 2014 i.e. after the issue of notification regarding declaration of the area as development area but the Department ignored the notification which is evident from the fact that the Commissioner stamp issued letter on 13 March 2014 in this regard after a lapse of ten years period. Thus the Department failed to levy additional stamp duty on the value of these instruments. This resulted in non-levy of additional stamp duty of ₹ 6.53 lakh.

We reported the matter to the Government and the Department (March 2015 and May 2015). In reply the Government accepted our observation and stated that after examination of gazette notification and determination the date of application, if it is found that stamp duty is chargeable, it will be charged as per rules. (November 2015).