

CHAPTER–V

OTHER TAX RECIEPTS

CHAPTER V: OTHER TAX RECEIPTS

5.1 Tax administration

The levy and collection of Land Revenue is governed under the Acts and Rules¹ and administered by the Revenue and Land Reforms Department in the State. At the apex level the Principal Secretary-cum-Commissioner is the administrative head and assisted by Divisional Commissioners, Collectors, Additional Collectors, Deputy Collectors and Circle Officers in the field. The circle offices are the primary units which are responsible for levy and collection of land revenue.

The levy and collection of Stamps and Registration Fees in the State is governed by the provisions of the Indian Stamp Act, 1899; the Registration Act, 1908; the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Under-valuation of Instruments) Rules, 1995. It is administered by the Registration, Excise and Prohibition (Registration) Department headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department who is the chief revenue controlling authority. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub Registrars (DSRs), 83 Sub Registrars (SRs) and 26 Joint Sub Registrars (JSRs) at the districts/primary units are responsible for levy and collection of stamp duty and registration fees.

5.2 Results of audit

During the year 2014-15, audit of records of 97 units, out of 839 auditable units, relating to Land Revenue and 40 units, out of 140 auditable units, relating to Stamps and Registration Fees revealed non/short realisation of revenue and other irregularities involving ₹ 568.13 crore in 690 cases which fall under the following categories as mentioned in **Table 5.1**.

Table- 5.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
A: Land Revenue			
1.	Non-eviction/settlement of encroached public land	18	11.06
2.	Loss of revenue due to non-realisation of stamp duty and registration fee from settled <i>Sairat</i>	23	54.30
3.	Non-realisation of revenue due to non-settlement and non-execution of leases	9	296.26
4.	Non-accountal and non/short collection/remittance of establishment charges	1	97.00

¹ The Bihar Tenancy Act, 1908; Bihar Public Land Encroachment Act, 1956; Bihar Government Estate (*Khas Mahal*) Manual, 1953.

5.	Non-realisation/remittance of revenue on alienation/transfer of Government land	1	15.66
6.	Extra payment of interest due to delayed announcement of award	1	7.73
7.	Other cases	435	56.20
Total		488	538.21
B: Stamps and Registration Fees			
1.	Blockage of Government revenue due to non-disposal of referred cases	36	4.59
2.	Blockage of Government revenue due to non-realisation of revenue in finalised referred cases	23	2.68
3.	Non/short levy of stamp duty and registration fee on lease documents	37	6.79
4.	Loss of revenue due to under-valuation of property	7	1.38
5.	Other cases	99	14.48
Total		202	29.92
Grand total		690	568.13

(A) During the period April 2014 to October 2015, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 384.42 crore in 26 cases, out of which four cases involving ₹ 376.09 crore were pointed out during the course of the year and the rest during the earlier years. The Department also reported recovery of ₹ 10.79 crore in five cases which were pointed out in the years 2012-13 and 2013-14.

(B) During the period April 2014 to October 2015, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 11.47 crore in 47 cases, out of which 18 cases involving ₹ 4.04 crore were pointed out during the course of the year and the rest during the earlier years. The Department also reported recovery of ₹ 27.15 lakh in seven cases which were pointed out during the period between 2007-08 and 2014-15.

A few illustrative cases involving tax effect of ₹ 339.30 crore are mentioned in the following paragraphs.

5.3 Non-compliance of the provisions of the Acts/Rules

Our scrutiny of the records of the offices of the Additional/Deputy collectors, Land Revenue and District Registrars/Sub Registrars revealed several cases of non-compliance of the provisions of the Acts/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and internal audit.

A: Land Revenue

5.4 Long Paragraph on "Leases of Government land in Bihar"

5.4.1 Introduction

Land Revenue is one of the oldest sources of revenue of the Government. It comprises land rent and cesses, lease rent, *Salami*² from long term leases and transfer value of land transferred to Public Bodies/Associations or individuals. Leases of Government land is one of the prime sources of the Government for earning revenue from the land. According to Section 105 of the Transfer of Property Act, 1882, a lease of an immovable property is the transfer of right to enjoy such property, made for a certain time, express or implied, or for perpetuity in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically on specified occasions to the transferor by the transferee who accepts the transfer on such terms. The State Government may let out Government land on lease in lieu of *salami* and annual rent in accordance with the provisions laid down in the Bihar Government Estate (*Khas Mahal*) Manual 1953 and the New *Khas Mahal* Policy, 2011.

5.4.2 Objective, Scope and Methodology

With a view to examine whether execution of fresh lease and renewal of leases were made as per provisions laid down in aforesaid manuals and guidelines, we examined records of office of the Additional Collectors in eight selected districts³ between April and June 2015 covering the period 2010-11 to 2014-15. These districts were selected using statistical sampling through probability proportion to size with replacement.

Audit methodology included preparing guidelines, conducting entry conference, field visit for examination of records, collection of data from the Department, issue of audit memos, questionnaire and obtaining replies from audited entities to arrive at the audit conclusions.

An entry conference was held with the Director-cum-Special Secretary of the Revenue and Land Reforms Department in April 2015 wherein the objectives, scope and methodology of audit were discussed. The exit conference was held in September 2015 with the Joint Director, Revenue and Land Reforms Department to discuss the audit observations and to elicit the view of the Government. The replies of the Government have been suitably incorporated in the respective paragraphs.

Indian Audit and Accounts Department acknowledges the co-operation of the Revenue and Land Reforms Department in providing the necessary information and records to Audit.

² *Salami* denotes current market value of land

³ Bhojpur, Darbhanga, East Champaran, Gaya, Muzaffarpur, Patna, Vaishali and West Champaran

Audit findings:

5.4.3 Leases of Government land

In pursuance of Clause 18 of New *Khas Mahal* Policy, 2011, a fresh lease may be awarded to a lessee on his written consent to the Collector. The Collector within 30 days from the receipt of such proposal will send the same for approval of the Government through the Divisional Commissioner. Such fresh lease shall be awarded to the lessee on the receipt of *Salami* equivalent to current market value of the land besides an annual rent of two *per cent* or five *per cent* of the *salami* for residential or commercial purposes respectively. Clause 1(a), (b) & (c) of the Policy *ibid* stipulates that if a residential, non-residential and commercial lessee has not violated any term and condition of lease, the lease shall be renewed for thirty years and the lessee shall be liable to pay *salami* equivalent to five *per cent* of the current market value of the land and the annual rent shall be enhanced to 0.5 *per cent* of the current market value of land for residential and 10 *per cent* of the current market value for *salami* and annual rent shall be enhanced to five *per cent* of the current market value of land for commercial use at the time of renewal. Further, Clause 2(a) and 4(a) of New *Khas Mahal* Policy, 2011 provide that if a lessee violates the terms and conditions of the leases or discontinues the payment of annual lease rent, he shall be presumed as trespasser and the Government shall offer him to take a fresh lease on new terms and conditions within a stipulated period of 90 days on payment of *salami* equivalent to the current market value of land and annual rent of two or five *per cent* of *salami* for residential or commercial purposes respectively.

5.4.3.1 Non-execution of fresh lease in case of violation of terms and conditions of leases

The Department did not execute the fresh lease in cases where terms and conditions of leases were violated by the lessee which resulted in non-realisation of *Salami* and rent of ₹ 72.19 crore.

We observed between April and June 2015 from the case records of leases relating to *Khas Mahal/Government* lands in two districts (Patna and Gaya) that four lessees whose leases were expired between the years 1994 and 2002 had either violated the terms and conditions or discontinued payment of annual rent for more than five years. In three cases of Patna, the Department did not initiate any action for fresh lease and in one case of Gaya, the Department issued notices for fresh lease (January 2012 and January 2013) for violation of lease condition i.e. non-payment of annual rent. The lessee had accepted the proposal (January 2013) but the fresh lease could not be executed till date. This resulted in non-realisation of *Salami* and rent of ₹ 72.19 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.2 Non-renewal of *Khas Mahal* leases

The Department did not conduct physical verification of the land and the identification of the applicants which resulted in non-realisation of *Salami* and rent of ₹ 2.07 crore.

During scrutiny of records relating to leases of *Khas Mahal* land maintained in the office of the Additional Collector, Patna, we observed that three lessees (Uday Gupta and Renu Gupta, Vijay Gupta & Gomati Gupta and Lady Stephenson Hall), whose leases for total area of 128.44 decimals of land expired between December 2012 and August 2013 applied for renewal of leases. However renewal of these leases could not be done due to inordinate time taken in physical verification of the land and the identification of the applicants. This resulted in non-realisation of *salami* and rent amounting to ₹ 2.07 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.3 Non-settlement of encroached land in excess of leased out area

The Department did not settle the encroached area of Government land with Bihar Industries Associations and Bihar State Electricity Board which resulted in non-realisation of *Salami* and rent of ₹ 97.73 crore.

During scrutiny of records relating to leases maintained in the office of the Additional Collector, Patna, we observed that Bihar Industries Associations (BIA), Patna was leased out an area of 14.06 decimal (4.5 *katha*) for a period of 30 years in November 1984. The lessee had encroached an additional area of 2.2 decimal. Similarly, the Bihar State Electricity Board (BSEB), Patna to whom a lease of 2.0 acres of Government land was given in September 1967 had also encroached an additional area of 3.67 acres of Government land. Both BIA and BSEB applied for regularisation in the years 1995 and 2006 respectively. In these cases regularisation of lease of encroached land was still pending.

Thus, due to non-settlement of encroached area of Government land in excess of leased out area, the Government could not realise a sum of ₹ 97.73 crore in shape of *salami* and rent.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.4 Non-regularisation of unauthorised construction

Non-observance of Government instruction to regularise the unauthorised construction resulted in non-realisation of *Salami* and rent of ₹ 44.97 crore.

During scrutiny of records relating to unauthorised construction on Government land of Gandhi Maidan, Gaya in the office of Additional Collector, Gaya, we observed that three unauthorised constructions were made on 437.91 decimal of Government land by Red Cross Society, Seva Sanwas

Sadan Samittee and Girija Ghar. Despite the clear instruction (April 2013) given by the Chief Secretary for taking the ex-post facto sanction of leases to regularise the unauthorised construction over the Government land at Gandhi Maidan, Gaya, no approval for regularisation of these unauthorised constructions could be obtained (November 2014) even after elapse of 19 months. This resulted in non-realisation of revenue in the shape of *salami* and rent amounting to ₹ 44.97 crore.

After this was pointed out, the Additional Collector, Gaya replied (June 2015) that an offer letter had been issued (May 2015) to the Secretary, Seva Sanwas Sadan Samittee to get the lease executed. However, the Department stated during exit conference held in September 2015 that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.5 Non-realisation of revenue due to inordinate delay in execution of lease deed

The Department did not execute the fresh lease with Singapore Buddhist lodge, which resulted in non-realisation of *Salami* and rent of ₹ 3.24 crore.

During scrutiny of files related to leases of Government land maintained in the office of the Additional Collector, Gaya, we observed that a piece of Government land measuring 3 acres acquired as surplus land under Ceiling Act situated in Bodh Gaya Anchal was proposed (August 2010) to be leased out by the Government to the President, Singapore Buddhist lodge for construction of Buddhist lodge/Pilgrim centre on a *salami* of ₹ 4.80 crore (at the rate of ₹ 1.60 lakh per decimal) with a commercial annual rent of ₹ 24 lakh (at the rate of five *per cent* of *salami*). On the request made (October 2010) by the lessee, the Government of Bihar again re-fixed the amount of *salami* of the said land at ₹ 3.09 crore (at the rate of ₹ 1.03 lakh per decimal) at residential annual rent of ₹ 6.18 lakh at the rate of two *per cent* of *salami* and the amended lease agreement was finally sent to the Collector in April 2013.

In the meantime, the current market value of the said land got enhanced substantially. In view of this, the Collector had referred (October 2013) the matter to the Department in order to save the Government revenue by making lease at the current market value instead of price fixed three years earlier. However, even after elapse of more than 13 months, the Department could not take any action for execution of lease (November 2014). This resulted in non-realisation of ₹ 3.24 crore⁴. The present value of the land was worked out to ₹ 16.50 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

⁴ Calculated on the basis of the market value of land at the rate of ₹ 1,03,000 per decimal (for residential)- Salami: ₹ 3,09,00,000 + Annual rent at the rate of 2 *per cent* of Salami: ₹ 6,18,000 + Cess at the rate of 145 *per cent* of rent per annum: ₹ 8,96,100 (**Total : ₹ 3,24,14,100**).

5.4.3.6 Short realisation of Salami and rent in settlement of Khas Mahal lease

The Collector, East Champaran, Motihari applied the residential rate instead of commercial rate in settlement of land for commercial use, which resulted in short realisation of revenue of ₹ 19.69 lakh.

During scrutiny of records of leases maintained in the office of the Additional Collector Land Revenue, East Champaran, Motihari, we observed that a piece of Government land measuring 50 decimal in the Collectorate campus was settled with the State Bank of India at the rate of ₹ 1,59,000 per decimal considering the land as residential on branch road by the Collector. But we observed that the land was situated in the Collectorate campus having commercial uses for which the rate of ₹ 1,96,500 per decimal should have been recovered as per MVR. Thus, due to injudicious decision of the collector, there was short realisation of ₹ 19.69 lakh⁵.

After this was pointed out, the Additional Collector, Motihari stated (July 2015) that the balance amount would be realised from State Bank of India. Further development in this regard is awaited (October 2015).

5.4.4 Leases of Petrol pumps

In accordance with the instruction issued (May 1956) by Chief Engineer, Public Works Department (PWD) to all Superintending/Executive Engineers of PWD, the road side land should be leased out temporarily for providing passage/approach road to Petrol pumps for a period of five years and the amount of *salami* should be charged at the rate of 25 *per cent* of total market value of the land for each settlement or renewal of the settlement for five years. Besides, ground rent will also be charged annually at the rate of 10 *per cent* of the market value which may be fixed in consultation with the Collector.

5.4.4.1 Non-realisation of revenue due to non-renewal of road side leases of Government land for Petrol pumps

Executive Engineer could not renew the leases of 15 (10+5) petrol pumps which resulted in non-realisation of Salami and rent of ₹ 2.23 (1.75 + 0.48) crore.

- During scrutiny of records relating to leases of Petrol pumps maintained in two divisions of Road Construction Department (Muzaffarpur-1 and Muzaffarpur-2), we observed that 10 leases of Petrol pumps involving 61.99 decimal of land were due for renewal between 2010-11 and 2014-15, but the renewal of the same could not be done by the concerned Executive Engineer of the divisions while such leases were due for renewal at every five years. This resulted in non-realisation of *salami* and rent of ₹ 1.75 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

⁵ Calculation: Difference in rate - ₹1,96,500-₹1,59,000 = ₹37,500x50 dec. = ₹18,75,000
Rent- 5 *per cent* of ₹ 18,75,000 = ₹ 93,750. Total- ₹ 19,68,750.

- During scrutiny of case files of Petrol pumps maintained in the office of the Executive Engineer, Road Construction Division, Patna West, we observed that five leases of petrol pumps measuring an area 42.17 decimal were made between 2007 and 2010 for a period of fifteen years instead of five years in contravention to the above mentioned instructions of the Chief Engineer. The renewal of leases of these Petrol pumps was due between the period July 2012 and March 2015. This resulted in non-realization of revenue of ₹ 47.66 lakh.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

5.4.4.2 Short levy of *salami* and rent due to misclassification of land

Executive Engineer did not calculate the value of land based on commercial nature of land in execution of 35 leases of petrol pumps which resulted in short realisation of *Salami* and rent of ₹ 2.17 crore.

During test-check of records relating to leases of Petrol pumps maintained in three divisions (Patna West, Motihari and Muzaffarpur-2) of Road Construction Department, we observed that in execution of 35 leases of Petrol pumps covering area of 369.826 decimal, the *salami* and rent on land were levied on market value of land as non-commercial category in place of commercial one. This resulted in short realisation of *salami* and rent amounting to ₹ 2.17 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

5.4.4.3 Non/improper maintenance of records of leases of Petrol pumps

Executive Engineers of four divisions of RCD did not maintain the records of leases of 115 petrol pumps which resulted in non-ascertainment of revenue from these running petrol pumps.

During scrutiny of records relating to leases of road side land for Petrol pumps in four districts⁶ we observed that 115 Petrol pumps across the road side under the jurisdiction of four divisions⁷ of Road Construction Department were in operation without maintaining proper lease files and the composite registers for leases of Petrol pumps in the concerned divisions. However, the concerned divisions could provide only a list of existing petrol pumps under their jurisdiction for which the survey reports were prepared in course of audit. For want of proper maintenance of records, the audit could not ascertain whether the leases of these Petrol pumps were made or they were running without paying any revenue to the Government.

Further, we observed that in two districts (Darbhanga and Gaya) no records of operationalisation of any Petrol pump were found maintained in the concerned Road Construction Divisions, though 511.14 Kms. of road were under the jurisdiction of both the divisions.

⁶ East Champaran, Muzaffarpur, Vaishali and West Champaran.

⁷ Road Construction Divisions – Bettiah, Hajipur, Motihari and Muzaffarpur No. 1.

Thus, no monitoring mechanism existed in the Road Construction Department for timely execution of leases of Petrol pumps and their renewal.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

5.4.5 Conclusion

- Due to non-execution of fresh lease in cases where terms and conditions of existing lease were violated, there was non-realisation of Government revenue in shape of *salami* and rent.
- Due to lack of monitoring mechanism, the renewal of leases of Government land with Petrol pumps owners were delayed which resulted in non-realisation of Government revenue in shape of *salami* and rent.

5.5 Non/short collection of establishment charges

District Land Acquisition officer did not ensure realisation of the establishment charges of ₹ 97.15 crore for lands acquired on behalf of requisitioning body/departments.

We scrutinised (between May and June 2014) the project files/records in the office of the District Land Acquisition officer (DLAO), Patna for the period from 2009-10 to 2012-13 relating to six projects (one project of National Thermal Power Corporation, Barh; three projects of National Highway Authority of India; one project of Barauni Thermal Power Station and one project of Industries Department, Government of Bihar) out of total 31 projects for which lands (Raiyati/Government) were acquired and found that a sum of ₹ 102.83 crore was to be levied and collected as establishment charges for the period 2001-02 to 2012-13 in accordance with the provisions of Rule 139 of the Bihar Land Acquisition Manual and departmental orders which provides that establishment charges⁸ are to be levied and collected from the requisitioning Body/Department on the prescribed limit of compensation for the lands acquired by the DLAOs on behalf of that Body/Government before the commencement of acquisition proceedings. But we observed that an amount of ₹ 5.68 crore only was remitted into treasury. In five, out of the six projects, establishment charges could not be recovered at all and in one case there was short collection of establishment charges. Further, project-wise establishment charges were neither accounted for nor could their realisation be ensured by the DLAO. This omission resulted in non/short collection of establishment charges of ₹ 97.15 crore.

After this was pointed out, DLAO, Patna stated in July 2014 that the project-wise accounts of realisable amount of establishment charges were being accounted for and thereafter the proper action for their remittances into treasury would be taken. DLAO, Patna further intimated in June 2015 that an

⁸ At the rate of 5 per cent, 10 per cent, 15 per cent and 20 per cent prior to 15 May 2006 and thereafter at the rate of 20 per cent, 25 per cent, 30 per cent and 35 per cent.

amount of ₹ 10.76 crore was recovered and remitted into treasury. Further realisation of amount is awaited (October 2015).

The matter was reported to the Government/Department in September 2014, we are yet to receive their reply (October 2015).

5.6 Avoidable payment of interest due to delayed announcement of award

The Department of Industry had to pay an avoidable payment of interest of ₹ 14.61 crore to the awardees of Raiyati lands due to delayed announcement of award.

We scrutinized (June 2014) the project files/records of land acquisition of the office of the District Land Acquisition Officer (DLAO), Patna for the period 2009-10 to 2013-14 and found that in three cases, proceedings of land acquisition for Department of Industry, Government of Bihar, Patna were started between 2007-08 and 2008-09 for establishing a mega industrial park, but the final compensation was paid with a delay ranging between three and five years after possession. Consequently the Department of Industry had to pay interest of ₹ 14.61 crore in accordance with provision of Rule 122 of Statutory Rules issued under Section 55 of Land Acquisition Act, 1894 read with Section 34 of the Act *ibid* which provides that when the amount of compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of 9 percentum per annum from the time of so taking possession until it shall have been so paid or deposited provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of 15 percentum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of expiry.

Thus, the Department of Industry had to pay an avoidable payment of interest of ₹ 14.61 crore to the awardees of Raiyati lands due to delayed announcement of award.

After this was pointed out, the DLAO, Patna stated in June 2015 that due to delay receipt of valuation reports of land and constructions thereon and delay in other process, there was delay in sanction of estimate.

The matter was reported to the Government/Department in October 2014, we are yet to receive their reply (October 2015).

5.7 Excess realisation of contingency charges

Excess collection of contingency charges of ₹ 82.56 lakh in contravention of the provision of the Government resolution.

We scrutinised (June 2014) the relevant files and estimates of the cost of lands of four projects out of total 31 projects in the office of District Land Acquisition Officer (DLAO), Patna and found that the DLAO had collected the contingency charges of ₹ 90.55 lakh from the requisitioning authority for acquisition of land for these projects for the period between 2001-02 and

2012-13. The estimate of land of the projects was prepared Mauja-wise and accordingly contingency charges were levied. However, these four projects attracted contingency charges of ₹ 8 lakh only at the rate of ₹ 2 lakh for each project. Thus, the DLAO had collected excess contingency charges of ₹ 82.56 lakh in violation of the provision of the Government resolution which stipulates that the requisitioning authority shall pay the contingency charges at the rate of *0.5 per cent* on the estimated value of the land to be acquired for the project subject to maximum of ₹ 2.00 lakh.

After this was pointed out, DLAO, Patna stated in June 2015 that in view of resolution No. 747 dated 13 May 2008, contingency charges is collected mauza-wise. Reply is not correct as there is no mention about collection of contingency charges mauza-wise.

The matter was reported to the Government/Department in September 2014, we are yet to receive their reply (October 2015).

B: Stamps and Registration fees

5.8 Blocking of Government revenue due to non-disposal of referred cases

Non-disposal of referred cases by the AIG resulted in blocking of Government revenue of ₹ 1.47 crore in shape of stamp duty.

During scrutiny of the register of referred cases and information made available by six registering authorities⁹ (District Sub Registrars/Sub Registrars) between March and November 2014, we observed that 428 cases pertaining to the years 2008 to 2015 were referred between April 2008 and July 2014 to the Assistant Inspector General (AIG), for determination of market value of property under Section 47(A) of the Indian Stamp (IS) Act, 1899. Out of which, 250 cases were disposed off and remaining 178 cases valued at ₹ 1.47 crore were still pending for disposal though required to be disposed of within 90 days as per the instruction of the Commissioner-cum-Secretary and Inspector General of Registration Department, Government of Bihar (May 2006). Thus, there was blocking of Government revenue of ₹ 1.47 crore in shape of stamp duty.

After this was pointed out, the Department stated in September 2015 that out of 178 cases, 90 cases were disposed in cases of five registering authorities (Begusarai, Darbhanga, Madhubani, Lalganj and Munger) and ₹ 6.70 lakh was recovered in 29 cases in three registering authorities (Darbhanga, Madhubani and Lalganj) and in remaining cases concerned AIG had been requested to dispose the pending cases at the earliest.

5.9 Non-realisation of Government revenue from finalised referred cases

Non-initiation of Revenue Recovery Certificates in cases of non-payment of deficit stamp duty resulted in non-realisation of Government dues of ₹ 73.97 lakh.

⁹ DSR Begusarai, SR Belsand (Sitamarhi), DSR Darbhanga, DSR Madhubani, SR Lalganj (Vaishali) and DSR Munger.

During scrutiny of the register of referred cases and information made available by the District Sub Registrar, Begusarai in May 2014, we observed that 688 cases were referred to the Assistant Inspector General (AIG) for determination of market value of property under Section 47(A) of the IS Act and the AIG determined a sum of ₹ 73.97 lakh as deficit stamp duty in these referred cases. However the DSR neither realised the deficit stamp duty nor filed the Revenue Recovery Certificate against the concerned parties as instructed by the Government (January 2007) for realisation of Government dues of ₹ 73.97 lakh in shape of stamp duty. This non-realisation was the violation of Section 48 of the Act ibid which provides that all stamp duties, penalties required to be paid may be recovered by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force, for the recovery of arrears of land revenue.

After this was pointed out, the Department stated in September 2015 that an amount of ₹ 17.69 lakh had been recovered in 103 cases. We await replies in the remaining cases (October 2015).

5.10 Non-levy of Stamp duty on lease agreements entered into between the Mobile companies and land owners

Non-verification of payment of Stamp duty on lease agreements entered into between the mobile companies and land owners resulted in non-levy of stamp duty of ₹ 6.33 lakh.

During scrutiny of records of six Districts Sub Registrars¹⁰ and information made available by the Executive Officer of concerned Nagar Nigam/Parishad, we found between March and September 2014 that 49 agreements were entered into between mobile companies and land owners during the years between 2010 and 2013 for erection of mobile towers for the lease period of 15 to 21 years. These agreements came under the category of lease documents as the lease period was more than one year which attracts stamp duty. But we observed that the concerned DSR did not visit the public offices in any of the case in spite of the instruction (September 2012) of the Secretary of the Department and subsequent instruction of concerned Collector to verify the payment of stamp duty on the agreements for installing mobile towers to realise the Government revenue. This omission on part of the concerned DSR resulted in non-levy of stamp duty of ₹ 6.33 lakh¹¹.

After this was pointed out, the Department stated in September 2015 that in above mentioned Districts, Inspecting Officers had been nominated and inspection would be conducted shortly. However, the facts remains that due to non-verification of payment of stamp duty on lease agreements in public offices, the stamp duty could not be levied.

¹⁰ Aurangabad, Begusarai, Darbhanga, Kishanganj, Madhubani and Saharsa.

¹¹ At the rate of 15 *per cent* of the actual value of land in the cases where leases for the period more than 10 years and 5 *per cent* of the actual value of land in the cases where lease for the period up to 10 years.

5.11 Misclassification of category of land

Short levy of stamp duty and registration fees of ₹ 11.41 lakh due to misclassification of category of land.

During scrutiny of register of referred cases in the office of the District Sub Registrar (DSR), Patna and cases finalised by the AIG, Patna, we observed in November 2014 that the DSR Patna had referred (May 2007) three cases of undervaluation of land by levying stamp duty and registration fees of ₹ 27.35 lakh on the value of the land of ₹ 2.73 crore at the rate applicable to the ‘Residential-Branch Road’ to the AIG Patna for determination of the market value of the land. The AIG disposed (September 2012) the cases and decided to realise deficit stamp duty as recommended by the DSR without any spot verification and without ascertaining the actual classification of land.

Further, we observed that all these plots of land were located in the notified areas under Patna Municipal Corporation (PMC) and as per information made available by the PMC, seven plots measuring 305 decimal were situated on ‘Main Road with Commercial purpose’ while three plots measuring 183 decimal having ‘Residential nature on Main Road’. Had the case been finalised on the actual classification of land, the market value of the land would have come to ₹ 3.88 crore and leviable stamp duty and registration fees would have been ₹ 38.76 lakh. Thus, there was a short levy of stamp duty and registration fees of ₹ 11.41 lakh due to misclassification of category of land.

After this was pointed out, the Department stated in September 2015 that nature of the land was residential-branch road at the time of registration of the documents in the year 2007. However, as per the information furnished (October 2010) by the PMC, all the above mentioned plots were situated on residential-main road in the year 2007. Hence, the fact remains that due to misclassification of land there was a short levy of stamp duty and registration fees of ₹ 11.41 lakh.

5.12 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well.

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team.

As informed by the Finance Department (July 2015), 16 requisitions from the Revenue and Land Reforms Department and two requisitions from the Registration, Excise and Prohibition (Registration) Department for internal audit were received during 2014-15 and the internal audit was conducted in all cases. The Finance Department further stated that Inspection Reports containing 170 and 12 paragraphs respectively were issued and letters/reminders were issued for settlement of outstanding Inspection Reports/paragraphs and also meeting was being organised.