

# **Chapter-III**

## **(Stamp Duty and Registration fee)**

## **CHAPTER-III: STAMPS AND REGISTRATION FEE**

### **3.1 Tax administration**

The levy and collection of Stamp duty and Registration fee 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 fee.

### **3.2 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 organisation 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 (August 2016), the internal audit of one unit of the Registration, Excise and Prohibition (Registration) Department was conducted during 2015-16 and Inspection Reports containing nine paragraphs were issued.

### **3.3 Results of audit**

There are 140 auditable units under the Registration, Excise and Prohibition (Registration) Department, of which 39 units were planned for audit during the year 2015-16. We have conducted the audit of 34 units during the course of the year and found short realisation of revenue and other irregularities involving ₹ 61.42 crore in 98 cases which fall under the following categories as mentioned in **Table-3.1**.

**Table-3.1**

**Results of audit**

(₹ in crore)

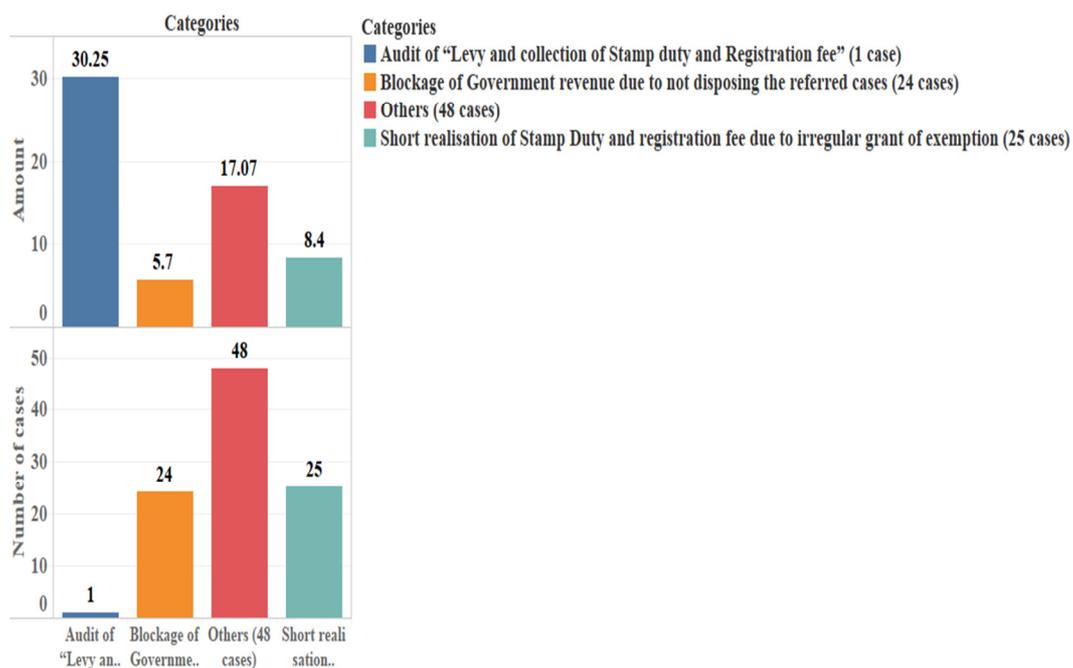
Sl. No.	Categories	Number of cases	Amount
1.	Audit of “Levy and collection of Stamp duty and Registration fee”	1	30.25
2.	Short realisation of Stamp Duty and registration fee due to irregular grant of exemption	25	8.40
3.	Blockage of Government revenue due to not disposing the referred cases	24	5.70
4.	Others	48	17.07
<b>Total</b>		<b>97</b>	<b>31.17</b>
<b>Grand total</b>		<b>98</b>	<b>61.42</b>

The results of Audit in respect of our audit findings on Stamp duty and Registration fee during 2015-16 are depicted in the following **Chart-3.1**:

**Chart-3.1**

**Stamps and Registration fee**

(₹ in crore)



During 2015-16, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 38.18 crore in 56 cases, out of which nine cases involving ₹ 26.89 crore were pointed out during the course of the year and the rest during the earlier years.

A few illustrative cases involving tax effect of ₹ 30.25 crore are mentioned in the following paragraphs.

### **3.4 Audit of ‘Levy and collection of Stamp duty and Registration fee’**

#### **3.4.1 Introduction**

Receipts from stamp duty and registration fee in the State is regulated under the Indian Stamp (IS) Act, 1899 and the Indian Registration Act, 1908 and rules made there under. The stamp duty is leviable on execution of instruments and registration fee is payable on registration of instruments. The proceeds of stamp duty and registration fee is remitted into Government account under the head “0030-Stamps and Registration fee”.

The levy and collection of stamp duty, registration fee, penalties and other dues under the Acts and Rules is administered by the Registration, Excise and Prohibition (Registration) Department, Government of Bihar.

#### **3.4.2 Organisational set up**

The levy and collection of stamp duty, registration fee, penalties and other dues under the Acts and Rules is administered by the Registration Department headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Principal Secretary of 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 (AIGs) at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub Registrars (DSRs), 83 Sub Registrars and 26 Joint Sub Registrars at the district/primary units are responsible for levy and collection of stamp duty and registration fee.

#### **3.4.3 Audit Objectives**

The audit objectives of this Audit were to ascertain whether:

- the provisions of the Indian Stamp Act, 1899, Indian Registration Act, 1908 and Rules made there under were followed scrupulously; and
- the Department had a robust monitoring mechanism to safeguard the leakage of revenue from stamp duty and registration fee.

#### **3.4.4 Audit Criteria**

The Audit was conducted on the basis of criteria drawn from the following sources:

- The Indian Stamp Act, 1899;
- The Indian Registration Act, 1908;
- The Bihar Stamp Rules, 1991;

- The Bihar Stamp (Prevention of Under-Valuation of Instruments) Rules, 1995;
- Bihar Budget Procedures;
- The Bihar Registration Manual; and
- Departmental instruction, circulars and executive orders, made from time to time.

### **3.4.5 Scope of audit and methodology**

This Audit was conducted during February to July 2016 covering the period from 2013-14 to 2015-16. Ten<sup>1</sup> out of 38 districts were selected for this audit by random sampling method using IDEA software on the basis of revenue collection.

Audit methodology included field visits for examination of records in the offices of the District Sub Registrars (DSRs) of the selected districts. On the basis of test-check of deeds of different nature related to sale, lease of property including *Khas Mahal* land, mortgage, power of attorney etc., audit memoranda and questionnaires were issued to respective DSRs and the IGR and replies had been obtained to arrive at the audit findings and conclusions.

An Entry Conference was held on 4<sup>th</sup> April 2016 with the Assistant Inspector General (HQ), Registration Department wherein scope of audit, methodology and audit objectives including sampling technique adopted were explained to the Department. An Exit conference was held on 26 October 2016 with the Inspector General of Registration, in which the findings were discussed. Their comments have suitably been incorporated in the relevant paragraphs.

### **3.4.6 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the Registration Department in providing necessary information and records for audit.

### ***Audit findings***

The Audit of the 'Levy and collection of Stamp duty and Registration fee' revealed a number of deficiencies as mentioned in the succeeding paragraphs.

### **3.4.7 Trend of Revenue**

#### **Formulation of Budget**

Under the provisions of Rule 54 of the Bihar Budget Procedures, the estimates of revenue and receipts should show the amounts expected to be realised within the year. The arrear and current demands should be shown separately and reasons given, if full realisation cannot be expected and should be based on the estimates furnished by the Department.

Further, the Bihar Budget Procedures provide that accuracy in the budgeting must start upward from the lowest stage of estimation. The rule for all

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<sup>1</sup> Bhagalpur, Buxar, Gaya, Kishanganj, Muzaffarpur, Nalanda (Biharsharif), Patna, Purnea, Siwan and Vaishali (Hajipur).

estimating officers should be to provide in the budget for everything that can be foreseen and to provide only as much as necessary.

A comparison of the Budget Estimates (BEs)/Revised BEs and actual realisation of revenue as per the Finance Accounts in respect of Stamp duty and registration fee for the year 2011-12 to 2015-16 are given in **Table-3.2**:

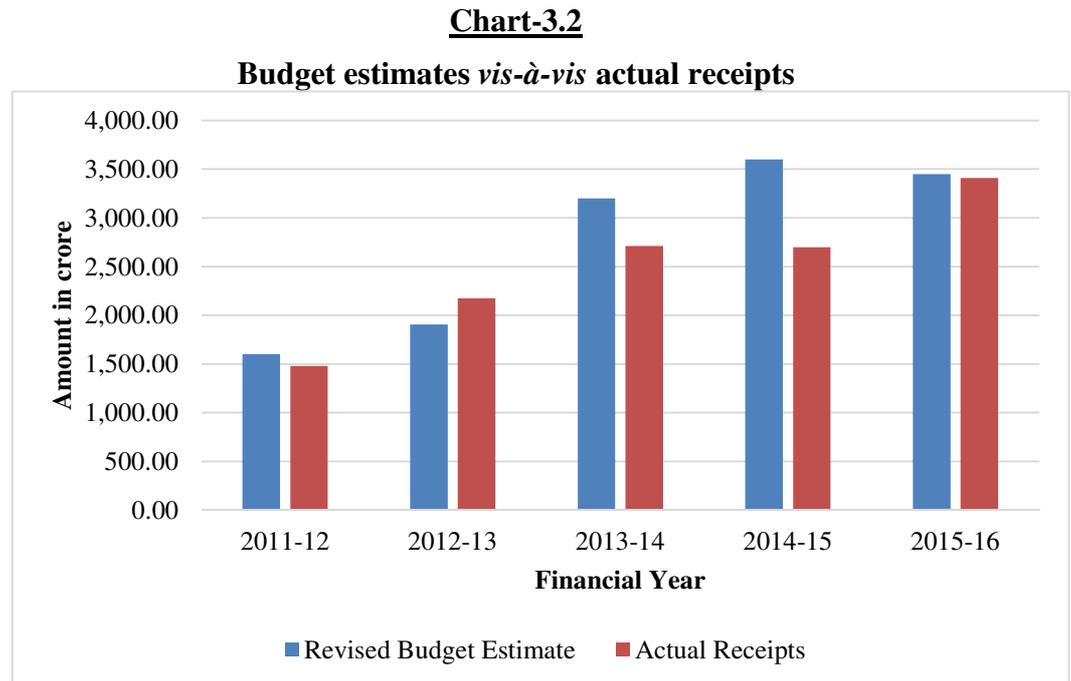
**Table-3.2**  
**Trend of revenue**

(₹ in crore)

Year	Revised Budget Estimate	Actual Receipts	Variation Excess(+)/ Shortfall(-)	Percentage of variation	Total Tax Receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2011-12	1,600.00	1,480.07	(-) 119.93	(-) 7.50	12,612.10	11.73
2012-13	1,906.00	2,173.02	(+) 267.02	(+) 14.01	16,253.08	13.36
2013-14	3,200.00	2,712.41	(-) 487.59	(-) 15.24	19,960.68	13.58
2014-15	3,600.00	2,699.49	(-) 900.51	(-) 25.01	20,750.23	13.00
2015-16	3,450.00	3,408.57	(-) 41.43	(-) 1.20	25,449.11	13.39

{Source: Finance Accounts, Government of Bihar and Revenue and Capital Receipts (Detail)}

The position of Revised Budget Estimates *vis-a-vis* actual receipts of the State is depicted in the following **Chart-3.2**:



It may be seen from the above table that actual receipts fell short by 7.50 and 25.01 *per cent* of the Revised Budget Estimate (BE) during the year 2011-12 and 2014-15 respectively. The actual receipts increased to 14.01 *per cent* over the BE during the year 2012-13.

On this being pointed out, the Department stated (October 2016) that due to delay in approval of maps of apartments and subsequent delay in construction

and sale/purchase of apartments, the collection of receipts was affected during 2014-15.

Further, the buoyancy ratio of revenue from stamp duty and registration fee with respect to GSDP is given in **Table-3.3**:

**Table-3.3**  
**Trends in Stamp duty and registration fee relative to GSDP**

Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
GSDP (₹ in crore)	2,43,269	2,93,616	3,43,663	4,02,283	4,86,430
Rate of growth of GSDP	19.51	20.70	17.05	17.06	20.92
Revenue from Stamp duty and registration fee (₹ in crore)	1,480.07	2,173.02	2,712.41	2,699.49	3,408.57
Rate of growth of revenue from Stamp duty and registration fee	34.71	46.82	24.82	(-)0.48	26.27
Buoyancy ratio of revenue from Stamp duty and registration fee with respect to GSDP	1.78	2.26	1.46	(-)0.03	1.26

(Source: Finance Accounts of the State for the respective years)

It is evident from the above table that buoyancy ratio of revenue from stamp duty and registration fee with respect to GSDP ranged between 1.26 and 2.26 during 2011-12 to 2015-16 except during 2014-15 where the buoyancy ratio was negative.

### **3.4.8 Blocking of Government revenue due to not disposing the referred cases**

**Ninety three referred cases were not finalised by the AIG, which resulted in blocking of stamp duty revenue of ₹ 1.65 crore to Government.**

Under the provision of Section 47 (A) of the IS Act, 1899, where the registering authority has reason to believe that the market value of property has not been rightly set forth in the instrument he may refer the same to the Collector for determination of market value of such property. Further, the Commissioner and Secretary-cum-Inspector General of Registration, Government of Bihar, Patna instructed (May 2006) all the Registering Officers to refer cases to the Assistant Inspector General (AIG) concerned for speedy disposal of cases within 90 days.

During scrutiny of the register of the referred cases in offices of four DSR<sup>2</sup> for the period 2013-14 to 2015-16, we observed (between February and June 2016) that 293 cases pertaining to the year 2013 to 2016 were referred to the AIG during the period January 2013 to December 2015 for determining the market value of property under Section 47A of the IS Act, 1899. Out of these, while 200 cases were disposed off, remaining 93 cases involving stamp duty

<sup>2</sup> Buxar, Muzaffarpur, Patna and Siwan.

of ₹ 1.65 crore were still pending for disposal till date of audit, though they were required to be disposed off within 90 days. The reasons for not disposing off referred cases were no/delayed response of the concerned party, failure to conduct site inspections by the concerned DSR, delayed receipts of required reports from the concerned circle officer etc.

On this being pointed out, the Department stated (October 2016) that necessary action had been initiated for speedy disposal of referred cases. The concerned AIG stated (December 2016) that out of above mentioned 93 cases, 69 cases had since been disposed off after being pointed out by audit.

### **3.4.9 Government revenue not realised from the referred cases finalised**

**DSR did not initiate revenue recovery certificates in cases where short levied stamp duty was not paid and thus Government dues amounting to ₹ 1.23 crore was not realised.**

Section 48 of the IS Act, 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.

Further, as per instruction issued (January 2007) by the Secretary-cum-Inspector General of Registration to the Collector-cum-District Registrar/DSR, if the parties do not pay the stamp duty in finalised referred cases, a notice may be served and after 30 days revenue recovery certificate cases would be instituted under the Public Demand Recovery Act, 1914 (PDR Act) after publishing their names in local newspaper for realisation of stamp duty and registration fee.

During scrutiny of register of referred cases and information made available by six DSRs<sup>3</sup> for the period January 2013 to December 2015, we observed that 229 referred cases were finalised under Section 47(A) of the IS Act. Further, on examination of all these cases, we found that the AIG determined a sum of ₹ 1.23 crore as stamp duty that was short levied in all these finalised cases and notices of demand were issued between January 2013 and December 2015. However, the DSRs neither realised the short levied stamp duty nor filed the revenue recovery certificate, even after elapse of 60 days stipulated for taking further action for realisation of Government dues of ₹ 1.23 crore against the concerned parties as instructed by the Government (January 2007).

On this being pointed out, the Department stated (October 2016) that in 114 cases an amount of ₹ 1.58 crore in respect of DSR Bhagalpur, Gaya and Muzaffarpur had been realised and necessary action under the PDR Act had been initiated for realisation of revenue in the remaining cases. However, the amount of ₹ 1.58 crore realised in 110 cases of DSR Gaya pertain to the period not covered under audit and hence the revenue pointed out during audit remains unrealised.

<sup>3</sup> Bhagalpur, Buxar, Gaya, Muzaffarpur, Nalanda and Patna.

### 3.4.10 Irregular exemption of stamp duty and registration fee

#### Irregular exemption of stamp duty and registration fee of ₹ 7.57 crore in 99 cases without ensuring fulfilment of conditions for claiming exemption.

The State Government vide various notifications and the District Registrar vide its guideline register stipulated the conditions for claiming exemptions on stamp duty and registration fee payable.

We observed (between February and June 2016) from the records of the offices of nine Registering Authorities<sup>4</sup> that exemption of stamp duty of ₹ 7.57 crore was granted in 99 cases out of 3,750 test-checked deeds (total number of registered deeds: 11,00,557) without ensuring fulfilment of conditions for claiming exemption as detailed in **Table-3.4** below:

**Table-3.4**  
**Irregular exemption of stamp duty and registration fee**

(Amount in ₹)

Sl. No.	Type of Deed	Name of DSR/SR	No of cases	Irregular Exemption of SD and RF	Condition for exemption of SD and RF	Remarks
1	<b>Lease</b> Prathmik Krishi Shakh Sahyog Samiti (PACS)	Siwan	22	10,01,707	Article 33 of Schedule 1A of IS Act read with Notification no.1/M/117/2010-75 stipulates that documents registered in favour of the Governor of the State is exempted from stamp duty and registration fee.	Exemption of stamp duty and registration fee were granted in cases where documents were not registered in favour of the Governor, which resulted in short levy of ₹ 15.90 lakh ( <b>Annexure-VII</b> ). In reply, the Department accepted (October 2016) the audit observation and stated that necessary action for realisation of deficit stamp duty and registration fee had been initiated in cases of DSR Siwan and Patna City.
		Danapur	8	3,80,000		
		Patna City	3	2,07,813		
				<b>15,89,520</b>		
2	<b>Lease</b> Bihar Industrial Area Develop- ment Authority (BIADA)	Muzaffarpur	36	4,39,38,949	Industrial Incentive Policy (Notification no.-S.O.No.-1/M-190/3216, 3217 Dated 24 October 2011) stipulates that exemption of stamp duty and	Exemption of stamp duty and registration fee were granted without obtaining authority issued in this regard from the Industries Department, which resulted in short levy of ₹ 5.42 crore ( <b>Annexure-VIII</b> ).
		Bhagalpur	8	40,66,400		
		Patna City	14	49,35,874		
		Bihar Sharif	5	9,41,743		
		Gaya	1	87,209		
		Bikram	1	1,87,200		

<sup>4</sup> DSR-Bhagalpur, Biharsharif, Gaya, Muzaffarpur, Patna and Siwan;  
SR- Bikram, Danapur and Patna City.

				5,41,57,375	registration fee is granted on production of authority issued by Industries Department.	In reply, the Department accepted (October 2016) the audit observation relating to Muzaffarpur, Bhagalpur, Patna city, Biharsharif and Bikram and stated that necessary action had been initiated for realisation of deficit stamp duty and registration fee.
3	<b>Sale</b> Dhanraj Tower	Patna	1	1,99,61,000	Valuation of Multi-storied building developed through development agreement attracts the rate prescribed for flats in MVR. Further, the recommendation of the Valuation Committee (15 May 2013) refers that structure without roof is treated as incomplete structure and valuation would be calculated on half rate of MVR.	Valuation of property was not done on the rate prescribed for flats. As property was developed through development agreement, rate prescribed for flats was applicable for valuation of property. Further Exemption (half rate of MVR) for incomplete structure was allowed whereas the roof casting was complete.  In reply, the Department stated (September 2016) that valuation of the property was done on market value and accordingly stamp duty and registration fee was realised. Reply is not acceptable for the following reasons:  1. as property was developed through development agreement, the rate prescribed for flats was applicable for valuation of property 2. Rebate is allowed on structure without roof only and in the instant case frame structure was complete.
<b>Total</b>			<b>99</b>	<b>7,57,07,895</b>		

**Recommendation-1: Government/Department should consider to take rectification action on errors/deviations pointed out by audit. A mechanism should also be installed to review the cases of exemption from stamp duty and registration fee by the higher authorities to ensure compliances with the provisions of the Indian Stamp Act and notifications issued thereunder.**

### 3.4.11 Short realisation of stamp duty and registration fee

#### 3.4.11.1 Short realisation of stamp duty and registration fee in Mining leases

**DSR Gaya applied incorrect rate of stamp duty and registration fee on security money of mining lease which resulted in short levy of stamp duty and registration fee of ₹ 15.99 crore.**

Article 35(b) of the IS Act, 1899 provides that where the lease is granted for a fine or premium or for money advanced and no rent is reserved, the stamp duty at the rate of six *per cent* and registration fee at the rate of two *per cent* on premium value would be payable treating them as conveyance.

Further, as per description of instrument No. 57 of Schedule-1A of the IS Act, 1899, three *per cent* stamp duty is required to be paid in Security Bond or Mortgage deed, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract.

During test-check of lease deeds in the office of DSR Gaya for the period 2013-14 to 2015-16, we observed (May 2016) that six lease deeds were executed by the District Collector, Gaya on behalf of the Governor of Bihar for lease of mining. Each lessee were provided 12.5 acres of land for five years. Stamp duty at the rate of six *per cent* and registration fee at the rate of two *per cent* of the auctioned amount was paid in only one case out of these six lease deeds. However, in this deed no stamp duty was paid on security deposit. In remaining five lease deeds, stamp duty was levied on security deposit at the rate of three *per cent* and registration fee at the rate of one *per cent* instead of six *per cent* and two *per cent* respectively on the premium amount. Thus, there was incorrect application of base value and rate of stamp duty and registration fee in five cases and also in one case, stamp duty and registration fee on security deposit was not levied. This resulted in short realisation of revenue of ₹ 15.99 crore as detailed in **Annexure-IX**.

On this being pointed out, the Department accepted (October 2016) the audit observation and stated that the cases had since been impounded and sent to Collector in June 2016 for realisation of the amount short levied.

#### 3.4.11.2 Short levy of stamp duty and registration fee due to undervaluation of properties

**Undervaluation of properties by ₹ 58.16 crore by three DSRs resulted in short levy of stamp duty and registration fee of ₹ 1.99 crore.**

As per notification issued (February and July 2013) by Registration, Excise and Prohibition (Registration) Department, Government of Bihar, stamp duty and registration fee shall be leviable on the market value of the property based on Minimum Value Register (MVR).

During scrutiny of registered lease documents in the offices of three DSRs<sup>5</sup>, we observed (between February 2016 and May 2016) that in five cases, the

<sup>5</sup> Gaya, Patna and Vaishali.

DSR concerned while calculating the market value of properties did not consider the value of structure erected on the land. This resulted in undervaluation of properties by ₹ 58.16 crore and consequential short levy of stamp duty and registration fee of ₹ 1.99 crore. Details of these cases are given in the **Table-3.5** below:

**Table-3.5**  
**Undervaluation of properties**

(Amount in ₹)

Sl. No.	Name of DSR/SR	Token number of deed/ Year	Actual valuation of structure on land Valuation as per DSR	Short valuation	Short levy of stamp duty and registration fee	Remarks
1	Patna	11973/2013	<u>34,82,27,250</u> Nil	34,82,27,250	1,39,29,090	In reply, the Department stated (October 2016) that necessary action would be taken to examine the legal aspects.
		5562/2015	<u>25,01,975</u> Nil	25,01,975	1,00,080	
		12053/2015	<u>2,32,18,000</u> Nil	2,32,18,000	2,78,616	
2	Gaya	17146/2013	<u>12,60,00,000</u> Nil	12,60,00,000	50,40,000	In reply, the Department accepted (October 2016) the audit observation and stated that necessary action for realisation of revenue had been initiated.
3	Vaishali	1011/2014	<u>14,96,86,200</u> 6,80,00,000	8,16,86,200	5,13,686	
<b>Total</b>			<b><u>64,96,33,425</u> 6,80,00,000</b>	<b>58,16,33,425</b>	<b>1,98,61,472</b>	

#### 3.4.11.3 Short levy of stamp duty and registration fee due to incorrect application of rates in valuation of properties

**Incorrect application of rates in valuation of property by DSR, Patna resulted in short levy of stamp duty and registration fee of ₹ 54.75 lakh.**

As per recommendation of District valuation committee, Patna, in multi-storied/commercial building, office space will be treated only above second floor and accordingly rates should be applied in valuation of property.

During scrutiny of records of DSR, Patna we observed (February 2016) that in two cases of multi-storied buildings (Surya Prabha Mansion and Nutan Tower) ground floor was valued at office space rate instead of shop rate. This resulted

in undervaluation of property by ₹ 5.48 crore and consequential short levy of stamp duty and registration fee of ₹ 54.75<sup>6</sup> lakh.

On this being pointed out, the Department stated (October 2016) that in case of Surya Prabha Mansion, it was not possible to comply with the guidelines approved by the District Valuation Committee. The reply of the Department is not acceptable as the guidelines approved by district valuation committee is to be complied in all cases. The Department further stated that the case of Nutan Tower (Krrish Hyundai) had been referred to Assistant Inspector General, Patna in August 2016 for revaluation.

#### 3.4.11.4 Short levy of stamp duty and registration fee due to incorrect application of rate in cases of lease deeds

**Incorrect application of rates in valuation of lease deeds resulted in short levy of stamp duty and registration fees of ₹ 4.98 lakh.**

As per notification no. 1026 dated 15 February 2013, the stamp duty on lease deeds was required to be paid at the rate of six *per cent* of the valuation of the property as per periodicity of lease. Further, as per notification no.1810 dated 26 July 2013, registration fee was required to be paid at the rate of two *per cent* of the valuation of lease property.

- During scrutiny of registered instruments in the office of SR, Bikram, we observed (December 2015) that two lease deeds for 231.25 decimal was leased out for 30 years for installation of a rice mill and for opening of a school but the SR incorrectly calculated the valuation of the properties considering these leases for less than 30 years which resulted in short realisation of stamp duty and registration fee of ₹ 1.95 lakh.

On this being pointed out, SR, Bikram stated (December 2015) that notices of demand would be issued.

- During scrutiny of registered instruments in the office of DSR Patna, we observed (February 2016) that a lease deed for a Commercial Shop was executed for a period of 12 years. However, the commercial rate was not applied for determination of market value of the property. This resulted in under valuation of property and consequential short levy of stamp duty and registration fee of ₹ 3.03 lakh.

On this being pointed out, DSR, Patna stated (August 2016) that notice of demand had been issued (July 2016) for realisation of stamp duty and registration fee.

<sup>6</sup> Calculation:

(Amount in ₹)					
Name of the property	Area of the property (in sqft)	Rate applicable/Rate applied (per sqft)	Undervaluation of property	SD and RF leviable/SD and RF levied	Short SD and RF
Surya Prabha Mansion	2400	10,000/7,500	60,00,000	24,00,000/18,00,000	6,00,000
Nutan tower	7500	14,000/7,500	4,87,50,000	1,05,00,000/56,25,000	48,75,000
<b>Total</b>			<b>5,47,50,000</b>	<b>1,29,00,000/74,25,000</b>	<b>54,75,000</b>

### 3.4.12 Additional differential stamp duty not realised

**Additional differential stamp duty of ₹ 21.67 lakh was not realised in the power of attorney executed outside the State of Bihar.**

The Government vide Notification (March and October 2012) instructed to realise the differential stamp duty (difference between stamp duty leviable in the State of Bihar and stamp duty paid outside the State of Bihar) in case of Power of Attorney executed outside the State.

During scrutiny of sale deeds in the office of the DSR, Buxur for the period from 2013 to 2016, we observed (June 2016) that four documents of Power of Attorney were executed in West Bengal during October 2013 to March 2014 but the differential amount were not realised from the parties concerned which resulted in short realisation of stamp duty of ₹ 21.67 lakh<sup>7</sup>.

On this being pointed out, the Department stated (October 2016) that stamp duty of ₹ 4.87 lakh had been realised in one case. The reply in the remaining cases was awaited (October 2016).

### 3.4.13 Undervaluation of property due to misclassification of land

**Misclassification of land by five DSRs resulted in undervaluation of properties by ₹ 19.76 crore and consequential short levy of stamp duty and registration fee of ₹ 1.02 crore.**

As per provision of Minimum Value Register (MVR), land situated on both sides of principal main roads shall be treated as commercial land and accordingly valuation of property shall be made. The National Highway and the State Highway shall be treated as principal road.

In course of scrutiny (between February and June 2016) of sale and lease deeds in the offices of five DSRs<sup>8</sup>, we observed that market value of properties in 10 cases was calculated on lower rate despite the fact that such properties were located at the site where higher rate were applicable. This resulted in undervaluation of properties by ₹ 19.76 crore and consequential short levy of stamp duty and registration fee of ₹ 1.02 crore as detailed in **Table-3.6** below:

<sup>7</sup> Calculation:

(Amount in ₹)					
Sl. No.	Token no.	Deed no.	Date	Valuation	Required Stamp duty at the rate of 6 per cent
1.	12,322	11,922	23.10.2013	95,00,000	5,70,000
2.	12,729	12,311	04.11.2013	95,00,000	5,70,000
3.	13,023	12,605	14.11.2013	90,00,000	5,40,000
4.	2,871	2,779	20.03.2014	81,15,000	4,86,900
<b>Total</b>				<b>3,61,15,000</b>	<b>21,66,900</b>

<sup>8</sup> Bikram, Buxur, Patna, Siwan and Vaishali.

**Table-3.6**  
**Under-valuation of property due to misclassification of land**

(Amount in ₹)

Sl No.	Name of DSR/SR	Token no of deed/	Actual valuation of land/Valuation as per DSR	Short valuation	Short SD and RF	Remarks
1.	Bikram	5985/2014	<u>4,84,50,000</u> 64,60,000	4,19,90,000	31,00,800	Plot was situated on National Highway and hence commercial rate was applicable but DSR applied lower rate. In reply, the Department accepted (October 2016) the audit observation in one case of Bikram and referred the matter under Section 47 (A) of the Act <i>ibid</i> to AIG for revaluation while in another case the Department stated that the case would be re-examined.
		3278/2015	<u>2,78,43,750</u> 50,62,500	2,27,81,250	18,19,500	
2.	Buxar	10015/2013	<u>1,54,25,760</u> 34,43,000	1,19,82,760	4,78,029	Plot was situated in the Industrial area but DSR applied the rate of developing instead of commercial/industrial area. In reply, the Department accepted (October 2016) the audit observation and stated that notice of demand had been issued.
		9840/2013	<u>2,80,00,000</u> 68,25,000	2,11,75,000	16,94,000	Plot was situated on National Highway and hence commercial rate was applicable but DSR applied the lower rate. In reply, the Department stated (October 2016) that the case would be re-examined.
3.	Patna	3789/2014	<u>4,07,23,150</u> 2,60,36,000	1,46,87,150	14,68,715	Plot was situated on principal road and hence commercial rate was applicable but DSR applied lower rate. In reply, the Department stated (October 2016) that the case would be referred to the District Valuation Committee.

		5024/ 2015	<u>9,59,98,500</u> 7,38,45,000	2,21,53,500	2,61,981	Plot was situated on principal road and hence commercial rate was applicable but DSR applied lower rate. In reply, the Department accepted (October 2016) the audit observation and stated that notice of demand had been issued.
4.	Siwan	11259 /2014	<u>7,79,67,015</u> 4,58,62,950	3,21,04,065	3,70,964	DSR applied residential rate instead of commercial rate. In reply, the Department accepted (October 2016) the audit observation and stated that this case had since been impounded and sent to collector for necessary action.
5.	Vaishali	2934/ 2014	<u>2,69,60,000</u> 67,40,000	2,02,20,000	8,08,800	Recital of the lease deed indicated that plot is under commercial category but DSR applied lower rate. In reply, the Department accepted (October 2016) the audit observation and notice of demand had been issued.
		5867/ 2014	<u>1,41,00,000</u> 54,05,000	86,95,000	1,04,320	Plot was situated on principal road and hence commercial rate was applicable but DSR applied lower rate.
		695/ 2014	<u>27,90,000</u> 10,23,000	17,67,000	69,640	In reply, the Department accepted (October 2016) the audit observation and stated that deficit stamp duty and registration fee of ₹ 1.14 lakh had since been recovered in one case and in other case notice of demand had been issued.
<b>Total</b>			<u>37,82,58,175</u> 18,07,02,450	19,75,55,725	1,01,76,749	

### 3.4.14 Internal Control mechanism

#### 3.4.14.1 Internal Audit

The Internal Audit (IA) of a Department is a vital arm of the Internal Control Mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

We noticed that there was no separate internal audit wing in the Registration Department. The Finance Department (Audit Cell) works as the internal audit department of the Registration Department.

On being requested to furnish the compliance of the paragraphs of internal audit report, the Department replied (May 2016) that the Finance Department (Audit Cell) had not conducted audit of Registration Department during 2013-14 and 2014-15 (while as reported by the Finance Department, Audit cell, the audit of three units during 2013-14 and two units during 2014-15 had been conducted by the Finance Department).

The contradictory reply of the Department with regard to audit by Finance Department indicates weak control mechanism.

On this being pointed out, the Department accepted (September 2016) the audit observation and assured to take necessary action.

#### **3.4.14.2 Inadequate Inspection**

**Only 548 offices (39 per cent) were inspected by the inspecting authorities against 1,395 offices required to be inspected during 2013-14 to 2015-16.**

Inspection is an important tool of internal control in the hands of the administration for ascertaining that rules and procedures prescribed for the Department are being followed and also to ensure that revenue is collected properly and no leakages happen. The Bihar Registration Manual provides for inspection of registration offices by the DSRs, DRs, AIGs and IG Registration. The DSR shall ordinarily inspect each SR office in the district twice a year and his own office once a year. The DR/AIG should inspect every office under his jurisdiction including the district office at least once in a year. The IGR is required to inspect 50 per cent of the offices of the DSRs and as many offices as he conveniently can.

As per the norms laid down by the Bihar Registration Manual, 1,395 offices were required to be inspected by the inspecting authorities during 2013-14 to 2015-16. However, as per data furnished by the Department pertaining to the period 2013-14 to 2015-16, we observed that only 548 offices (39 per cent) were inspected by the inspecting authorities against 1,395 offices required to be inspected as detailed in **Table-3.7**.

**Table-3.7**  
**Low number of inspection**

Year	No. of offices to be inspected	No. of offices inspected	Shortfall	Percentage of shortfall
2013-14	465	145	320	68.81
2014-15	465	182	283	60.86
2015-16	465	221	244	52.47
<b>Total</b>	<b>1,395</b>	<b>548</b>	<b>847</b>	

No information regarding number of offices inspected by the higher authorities other than DSR was available during the period 2013-14 to 2015-16. Further, details such as the number of registered documents in which the category of land, as well as valuation of property were cross examined, number of cases where undervaluation was detected and short levied, amount

realised on the instruction of inspecting authority were not made available to audit by the Department, despite being requested. So effectiveness of inspections carried out by the higher authorities and issues such as examination of valuation of registered documents by them could not be ascertained in audit.

However, it was stated by the Department (May 2016) that there was no provision of re-examination of valuation of the registered documents by the higher authorities except in the cases of any complaint.

The Department further stated (September 2016) that in future all subordinate offices would be inspected as per prescribed norm.

**Recommendation-2: Government/Department should take appropriate steps to ensure periodical supervision and review of subordinate offices to strengthen the internal control mechanism and its effectiveness.**

#### **3.4.15 Conclusion**

The audit indicated that the systems established by the Department for assessment, levy and collection of stamp duty and registration fee were not followed scrupulously. The Department failed to co-ordinate with other Departments/Public Offices to collect timely information on the number of documents to be registered leading to short levy of stamp duty and registration fee.

#### **3.4.16 Summary of recommendations**

The Government/Department should consider:

- **taking rectification action on errors/deviations pointed out by audit and ensure review of the cases of exemption from stamp duty and registration fee by the higher authorities to ensure compliance of the provisions of the Indian Stamp Act and notifications issued thereunder.**
- **ensuring periodical supervision and review of subordinate offices to strengthen the internal control mechanism and its effectiveness.**