

## CHAPTER IV

### STAMP DUTY AND REGISTRATION FEE

#### 4.1 Tax Administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) were regulated under the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the Rules framed thereunder. It was administered at the Government level by the Principal Secretary, Revenue & Disaster Management (R&DM) Department. The Inspector General of Registration (IGR) was the head of the Revenue Department who was empowered with the task of superintendence and administration of registration work. He was assisted by one Joint Inspector General (JIG), three Deputy Inspectors General (DIG), 30 District Registrars and 30 District Sub-Registrars (DSR) at the district level and 151 Sub-Registrars (SR) at the unit level.

#### 4.2 Internal Audit

The Internal Audit Wing (IAW) of R&DM Department was created in the year 1969. During 2016-17, the IAW planned 71 units for audit, and covered 58 units. The shortfall was attributed by the Department to shortage of manpower and requisition of special audit. Audit observed that 9,992 paragraphs of Internal Audit Reports having money value of ₹ 3,687.67 crore issued up to March 2017 were pending for disposal as on 31 March 2017.

#### 4.3 Results of Audit

In 2016-17, test check of the records of 40 units of the Revenue and Disaster Management Department showed non-levy / short levy of stamp duty and registration fee, etc. and other irregularities amounting to ₹ 9.23 crore in 18,900 cases which fall under the categories given in the **Table 4.1** below.

**Table 4.1**

#### Category of Audit observations on revenue receipts

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	269	1.73
2.	Non-levy /short levy of stamp duty and registration fee	116	7.50
3.	Other irregularities	18,515	0
<b>Total</b>		<b>18,900</b>	<b>9.23</b>

During the year, the Department accepted under assessments and other deficiencies of ₹ 8.40 crore in 18,666 cases and an amount of ₹ 1.61 lakh was realised in one case. Further, ₹ 52.59 lakh was also realised in 138 cases relating to the years 2000-01 to 2015-16.

#### **4.4 Audit observations**

Audit scrutinised records relating to assessment and collection of Stamp Duty and Registration Fee. Audit found short realisation of revenue on certificate of sale and under valuation of land and building as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test check carried out by Audit.

#### **4.5 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 certificate of sale are to be charged to duty as conveyance on the legal process of transferring property from one owner to another. Conveyance deeds are to be registered on realisation of Stamp Duty (SD) and Registration Fee (RF) at the prescribed rates on the consideration truthfully and correctly mentioned therein keeping in view the benchmark value<sup>1</sup> (BMV) of the Government of Odisha. The documents where properties were shown to be undervalued were to be impounded for correct valuation for realisation of differential SD and RF.*

*Non-observance of the provisions of the above Acts by the Registering Authorities (RA) in the cases as mentioned in the following paragraphs resulted in short realisation of SD and RF.*

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<sup>1</sup> Benchmark Valuation: Under Benchmark Valuation principle, Revenue and Disaster Management Department of Government of Odisha approves the 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.

#### 4.5.1 Short levy of Stamp Duty and Registration Fee on Certificate of Sale

Stamp Duty of ₹ 32.48 lakh and Registration Fee of ₹ 10.13 lakh were short realised on registration of Sale Certificates.

As per Article 18 (b) of Schedule I-A of Indian Stamp (Orissa Amendment) Act, 2001, as amended in 2003, Stamp Duty (SD) on Certificate of Sale, granted to a purchaser of any property sold by public auction shall be treated as a conveyance and SD shall be chargeable at the rate of five *per cent* of the consideration equal to the amount of purchase money. Under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and in exercise of the powers conferred under Section 13 read with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002, the immovable property secured from borrowers in favour of secured creditor/institution towards financial facility shall be put to auction to recover the secured debt. Further, under Section 17 of Registration Act, 1908, Registration of Certificate of sale is compulsory. Thus, the certificate of sale was an instrument of registration on receipt of consideration. Stamp Duty and Registration Fee chargeable to Conveyance deed were five and two *per cent* respectively.

Audit analysed e-registration database in three Registration Offices<sup>2</sup> during August 2016 to January 2017. Audit observed that seven numbers of Certificates of sale were registered during 2015-16 in which the purchase money recorded was ₹ 671.60 lakh. Accordingly, SD and RF of ₹ 33.58 lakh and ₹ 13.43 lakh respectively were leviable as conveyance deeds on registration of seven numbers of certificates of sale. However, SD of ₹ 1.10 lakh and RF of ₹ 3.30 lakh was realised by the Registering Officers. This resulted in short realisation of SD of ₹ 32.48 lakh and RF of ₹ 10.13 lakh.

Thus, due to application of inappropriate rate of duty on realisation of SD and RF on Certificates of Sale resulted in short-realisation of ₹ 42.61 lakh of Government revenue. In reply, all the Registering Officers, stated that action deemed fit would be taken after verification of documents.

The matter was brought to the notice of Inspector General of Registration Odisha (IGR), Cuttack in May 2017 and the Government in July 2017. The reply was awaited.

#### 4.5.2 Short realisation of Stamp Duty and Registration Fee due to under valuation of land and building

Stamp Duty of ₹ 18 lakh and Registration Fee of ₹ 8.06 lakh were short realised on registration of conveyance deeds.

Section 27 of the Indian Stamp (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. Revenue and Disaster Management Department, Government of Odisha issued guidelines in March 2011 and December 2013 for valuation of buildings and superstructures for the purpose of levy of SD and RF. Similarly, SD and RF was to be charged as per Bench Mark Value (BMV) prescribed by the Chairman of District Level Valuation Committee and revised from time to time relating to landed

<sup>2</sup> DSR Kalahandi and Khurda and SR, Panposh.

property. Further, as per Section 47A of the Act, in case of under valuation of a property during registration, the case shall be referred to the Collector who would determine the value and the deficient amount shall be paid by the person liable to pay the duty.

Audit test checked 22 conveyance deeds in four Registration Offices<sup>3</sup> during June 2016 and December 2016. Audit observed that landed property with an area of 8.08 acres and having buildings thereon were sold by the vendors to the vendees for a consideration of ₹ 12.70 crore. These deeds were registered between September 2014 to October 2015 and SD of ₹ 45.51 lakh and RF of ₹ 18.76 lakh were realised. However, SD and RF payable worked out to ₹ 63.51 lakh and ₹ 26.82 lakh as per above guidelines on buildings and BMV. This resulted in short realisation of SD of ₹ 18 lakh and RF of ₹ 8.06 lakh.

Thus, due to non-adherence of prescribed guidelines correctly, there was short realisation of revenue of ₹ 26.06 lakh.

In reply, all the Registering Officers stated that the documents will be booked under Section 47 A for realisation of the deficit amount of SD and RF.

The matter was brought to the notice of IGR, Odisha, Cuttack in April 2017 and the Government in July 2017. The reply was awaited.

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<sup>3</sup> DSR Bargarh, Kalahandi and Puri and Sub-Registrar, Panposh.