CHAPTER-IV
Stamp Duty

4.1 Tax administration

The State Government exercises control over the registration of instruments through the Inspector General of Registration, who is assisted by the Deputy Commissioners (Collectors), Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars (SRs) and Joint Sub-Registrars (JSRs) respectively. The Registrar exercises Superintendence and Control over the SRs and JSRs of the district. For the purpose of levy and collection of Stamp Duty and Registration Fee, the State has been divided into five divisions and 22 districts having 22 Registrars, 92 SRs and 80 JSRs.

The value of property mentioned in the sale deed or the minimum market rate prescribed by the Collector, whichever is higher, is considered for levy of duty and fee on transfer of properties. Stamp Duty (SD) is leviable at the rate of five *per cent*. In addition, Social Security Fund (SSF) at the rate of three *per cent* is leviable for transfer of properties situated within the jurisdiction of a Municipality/Corporation or within an area of five kilometers from the outer limit of Municipality/Corporation. Further, Social Infrastructure Cess (SIC) at the rate of one *per cent* is leviable on all instruments for transfer of properties. Stamp Duty is leviable at a fixed amount of ` 2,000 for ‘Agreements to sell’ and ` 1,000 for ‘Power of Attorney’.

Registration Fee (RF) is leviable at a rate of one *per cent* subject to maximum of ` 2 lakh.

4.2 Results of audit

Test check of the records of 116 out of 175 units relating to Stamp Duty and Registration Fee during 2017-18 showed irregularities involving ` 37.02 crore in 1,115 cases, which broadly fall under the following categories**:**

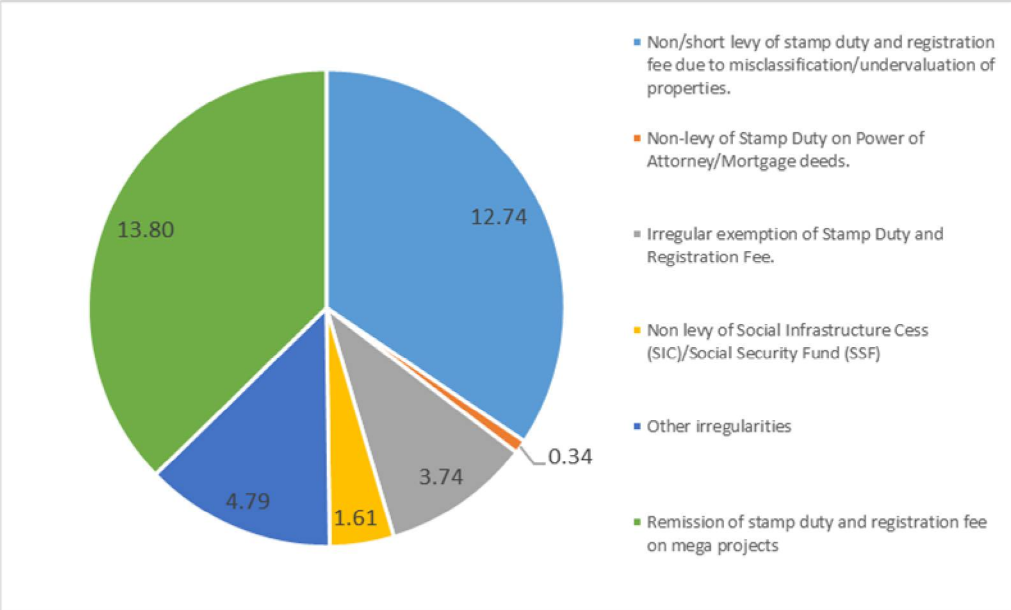
Table 4.1

Sl. No.	Categories	Number of cases	Amount (*` in crore*)
1.	Non/short levy of stamp duty and registration fee due to misclassification/undervaluation of properties.	589	12.74
2.	Non-levy of Stamp Duty on Power of Attorney/Mortgage deeds.	35	0.34
3.	Irregular exemption of Stamp Duty and Registration Fee.	99	3.74
4.	Non levy of Social Infrastructure Cess (SIC)/Social Security Fund (SSF)	138	1.61
5.	Other irregularities	253	4.79
6.	*Remission of stamp duty and registration fee on mega projects*	1	13.80
Total		**1,115**	**37.02**

Head wise audit findings noticed under Stamp Duty is depicted in Chart 4.1:

Chart-4.1

(`in crore)



In 2017-18, the Department recovered ` 4.25 crore in 2,559 cases which were pointed out in earlier years.

A few illustrative cases involving ` 16.95 crore are discussed in the succeeding paragraphs.

4.3 Inadmissible remission of SSF and SIC

Seven SRs/JSRs allowed inadmissible remission of SSF of ` 64.42 lakh and SIC of ` 25.47 lakh to eight charitable institutions in violation of Government clarification in this regard.

The Government of Punjab levied additional stamp duty for Social Security Fund (SSF) (February 2005) at the rate of three *per cent* and Social Infrastructure Cess (SIC) (February 2013) at the rate of one *per cent* on every instrument mentioned in entry 23 of Schedule 1-A. SSF is leviable if the instrument is for transfer of properties situated within the jurisdiction of a Municipality/Corporation or within an area of five kilometers from the outer limit of Municipality/Corporation, as may be specified by the Collector. Further, the Government, while issuing clarification regarding levy of SSF, stated (May 2005) that where remission from payment of stamp duty has been given from time to time under provision of Indian Stamp Act, such remission is for stamp duty only and such remissions do not extend to SSF or SIC. Remission of Stamp Duty and Registration Fee for charitable institutions was granted vide notification dated 20 February 1981.

Scrutiny of the records of seven[1] SRs/JSRs for the year 2016-17 revealed that the Sub Registrars (SR)/Joint Sub Registrar (JSR) registered 16 instruments for transfer of property valued at ` 25.47 crore in favour of charitable institutions. The concerned Sub Registrars and Joint Sub Registrars remitted Stamp Duty, Registration Fee, SSF and SIC for all the 16 instruments. Since the transactions were in favour of charitable institutions, remission of Stamp Duty and Registration Fee was in order, but SSF and SIC was leviable. This resulted in non-levy of SSF and SIC as detailed below:

Type of levy	**Number of instruments**	**Value of property**	**Rate**	**Leviable amount**
SSF within municipal limits	14	` 21.47 crore	Three *per cent*	` 64.42 lakh
SIC leviable on all instruments	16	` 25.47 crore	One *per cent*	` 25.47 lakh
Total				**` 89.89 lakh**

Thus, inadmissible remission resulted in non-realisation of SSF and SIC of ` 89.89 lakh.

The matter was brought to the notice of the Government/Department in April 2018; their replies were awaited (May 2019).

The Government may issue instructions clarifying that instruments for transfer of properties executed in favour of charitable institutions are not exempt from SSF and SIC and further direct the Department to recover SSF and SIC of ` 89.89 lakh in respect of the 16 instruments referred to in this para.

4.4 Short levy of SD and RF due to misclassification of property

Five SRs short levied Stamp Duty and Registration Fee of `1.51 crore in 14 cases due to application of lower rates than applicable as per Collector rate/status of properties at the time of registration.

Punjab Government empowered[2] (August 2002) the Collector of a district in consultation with Committee of Experts as defined there under to fix the minimum market rates of land and properties situated in the urban and rural areas locality-wise and category-wise in the district for the purpose of levy of SD and RF on the instruments of transfer of properties.

Scrutiny of 14 sale deeds, registered during the period 2016-17 under five[3] Sub-Registrars/Joint Sub-Registrars, vis-à-vis the Collector rate lists and status of properties as per jamabandi/khasra girdawari revealed that these deeds were registered at the value of ` 5.15 crore set forth in these instruments whereas the properties were required to be valued at ` 20.83 crore as these were either situated in particular locality or were already being used for

1 Bathinda, Barnala, Jalandhar-I, Ludhiana (East), Mullanpur Dakhan, Nathana and Sangrur.
2 GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.
3 Ferozepur, Ghanaur, Ludhiana (South Central), Sangrur and Zira.

residential/commercial purpose at the time of registration of document, for which higher rates as fixed by the respective Collectors were applicable. The difference in valuation of the property on account of misclassification was ` 15.68 crore which resulted in short levy of SD and RF of ` 1.51 crore[4].

The matter was reported to the Government/Department in April 2018; their replies were awaited (May 2019).

The Government may direct the Department to levy SD and RF according to locality and status of property and to recover SD and RF of ` 1.51 crores in the 14 cases referred to in this para.

4.5 Non-application of Collector rates

SR Amritsar-I and SR Zira short levied SD and RF of ` 41.78 lakh in three cases due to non-application of minimum market rates fixed by the Collectors for respective periods in which the instruments were executed.

The value of property mentioned in the sale deed or the minimum market rate prescribed by the Collector, whichever is higher, is considered for levy of duty and fee on transfer of properties.

Scrutiny of three sale deeds, registered during 2016-17 under two[5] SRs, revealed that these deeds were executed in compliance of the decree of Civil Courts given in respect of suits for specific performance of the agreements to sell. The agreements to sell were entered into during the period from 2002 to 2006 whereas the sale deeds were executed during 2015-16 and 2016-17. These deeds were registered by levying SD of ` 5.63 lakh at the rate of nine *per cent* and RF of ` 0.62 lakh at the rate of one *per cent* on the value of ` 62.51 lakh as set forth in these documents which were the value as per agreement to sell. However, SD of ` 43.37 lakh and RF of ` 4.66 lakh was required to be levied on ` 4.82 crore, worked out on the basis of minimum market rates fixed by the Collectors for respective periods in which the instruments were executed. The omission resulted in short levy of SD and RF of ` 41.78 lakh[6].

The matter was reported to the Government/Department in April 2018; their replies were awaited (May 2019).

The Government may direct the Department to recover SD and RF of ` 41.78 lakh which was short levied in the three cases referred to in this para.

4 SD of ` 1.41 crore (nine *per cent* of ` 15.68 crore) and RF of ` 10.13 lakh.
5 Amritsar-I and Zira.
6 SD ` 37.74 lakh (`43.37 lakh – ` 5.63 lakh) + RF ` 4.04 lakh (` 4.66 lakh – ` 0.62 lakh).

4.6 Inadmissible remission of Stamp Duty and Registration Fee

SR Amritsar-I and JSR Ghanaur did not realise SD, SIC and RF of ` 14.68 lakh on (a) Power of Attorney giving right to a person other than family member to sell immovable property and (b) on transfer of property by owner to other than specified family member.

a) Punjab Government amended (30 July 2013) entry 48 of Schedule I-A of the Indian Stamp Act, 1899 as applicable to Punjab and levied stamp duty at the rate of two *per cent* on Power of Attorney when given to a person other than family member, authorizing the attorney to sell any immovable property.

Scrutiny of a sale deed, registered during 2016-17 under SR Amritsar-I, revealed that a Power of Attorney was executed, by levying SD of ` 1,000 only, to give right to a person other than family member to sell immovable property whereas SD of ` 6.98 lakh was required to be levied at the rate of two *per cent* on the value of the property (` 3.49 crore). The omission resulted in short levy of SD of ` 6.97 lakh.

The matter was reported to the Government/Department in April 2018; their replies were awaited (May 2019).

b) Punjab Government remitted (November 2015) Stamp Duty, Registration Fee, Social Security Fund and Social Infrastructure Cess on the transfer of immovable property by an owner during his life time to his/her spouse and to any blood relation, namely son, daughter, father, mother, brother, sister, grandson and granddaughter.

Scrutiny of a deed, registered in March 2016 under JSR Ghanaur, revealed that the instrument was executed by owner to transfer an immovable property valued at ` 1.10 crore in favour of the son of her husband's brother (nephew). The property did not attract SSF as it was situated beyond five kilometers from the outer limit of Municipality/Corporation. Since 'Nephew' is not included in the list of blood relations mentioned in the notification *ibid,* remission of stamp duty and registration fee was not available in this case. However, the JSR registered the instrument by allowing remission of SD, SIC and RF of ` 7.71 lakh[7] which was inadmissible.

The matter was reported to the Government/Department in May 2018; their replies were awaited (May 2019).

The Government may direct the Department to recover the short realised SD and RF of ` 14.68 lakh in the two cases referred to in this para.

7 Seven *per cent* of ` 1.10 crore (Five *per cent* SD + One *per cent* SIC + One *per cent* RF).

4.7 Short levy of SD and RF on agreements to sell

JSR Majri did not levy SD and RF under Entry 5(CC) of Schedule I-A of Indian Stamp Act, 1899 on two agreements to sell evidencing delivery of possession of the properties resulting in short levy of SD and RF of ` 18.20 lakh.

Entry 5(CC) of Schedule I-A of Indian Stamp Act, 1899, as applicable to Punjab, provides that in case of agreement to sell followed by or evidencing delivery of possession of the immovable property, same stamp duty is applicable as is leviable in case of sale of immovable property under Entry 23 of the Schedule. The value of property mentioned in the agreement or the minimum market rate prescribed by the Collector, whichever is higher, is considered for levy of duty and fee on transfer of properties.

Scrutiny of two agreements to sell, at a value of ` 13.12 lakh, registered during 2016-17 (27 October 2016) under JSR Majri, revealed that the selling party gave all its rights and title on the properties to the purchasing party and relinquished its own rights and title. Thus, the agreements evidenced delivery of possession of the properties and are to be treated as conveyance deeds. SD, SSF and SIC at the rate of nine *per cent* and RF of one[8] *per cent* amounting to ` 18.37 lakh (SD ` 16.54 lakh + RF ` 1.83 lakh) as applicable to sale of immovable property was required to be levied on the value of ` 1.84 crore as per minimum market value fixed by the Collector. However, SD and RF of only ` 0.17 lakh[9] was levied. This resulted in short levy of ` 18.20 lakh.

The matter was reported to the Government/Department in May 2018; their replies were awaited (May 2019).

The Government may direct the Department to recover the short realised amount of ` 18.20 lakh in the two cases referred to in this para.

4.8 Remission of Stamp Duty and Registration Fee on Mega Projects

Department remitted registration fee (RF) of ` 1.85 crore whereas remission of RF was not available to Mega Housing Projects. Remission of SD and RF of ` 20.33 lakh was allowed on exchange of land and SD of ` 1.30 lakh on power of attorney whereas remission was only available on purchase of land. SD and RF of ` 4.04 crore was remitted in cases where either the project was not approved by Empowered Committee or villages in which land was purchased was not a part of approved Mega Projects. Developers evaded SD and RF of ` 6.99 crore by not registering collaboration agreements. There was short levy of SSF, SIC and RF of ` 39.94 lakh due to non-consideration of grant of change of land use in Collector's rate list.

8 One *per cent* subject to maximum of ` 2 lakh.
9 Stamp Duty of ` 4,000 and Registration Fee of ` 13,310.

4.8.1 Introduction

Punjab Government Industrial Policy 2003 provides that a Mega Project is a project, with fixed capital investment[10] of ` 100 crore and above (` 25 crore and above for the border districts), duly approved by the Empowered Committee[11]. Mega Project could be Housing Project, Industrial Project, Agro Based Project, IT Project and manufacturing project etc. Remission of stamp duty is allowed on purchase/lease of land for setting up mega project. Initially, remission of stamp duty and registration fee was allowed on case to case basis by issuing notification by the Government. However, the Industrial Policy 2009 envisaged that in order to facilitate the grant of stamp duty exemption, Revenue Department would issue a general notification for remission of stamp duty for Mega Projects as approved by the Empowered Committee or for other projects, Super Mega Projects[12] as admissible under Industrial Policies of the State. Consequently, the Government issued notification (24 June 2010) for remission of stamp duty chargeable on a document when executed by or in favour of any person purchasing land for setting up a Mega Project approved by the Empowered Committee. The Government also remitted (14 July 2010) stamp duty on the first sale or transfer of developed infrastructure by the developer of an Industrial Park or complex. Remission of Registration Fee (RF) was granted only to mega projects pertaining to Information Technology and Information Technology Enabled Services, Electronics Industry, Knowledge Park and Bio-technology.

Objective, Scope and Methodology: In order to assess whether remissions of SD and RF were allowed as per the provisions of the Act/Rules and guidelines issued by the State Government under the Industrial Policy 2003 and 2009, an audit of the **"Remission of Stamp Duty and Registration Fee on Mega Projects"** was conducted between July 2017 and May 2018 covering the office of the Chief Administrator, Punjab Urban Development Authority[13] (PUDA), Chief Town Planner[14] (CTP), Punjab and all 20[15] Sub Registrars/Joint Sub Registrars (SRs/JSRs)where mega projects were approved. There are 175 SRs/JSRs in the State. Audit examined records for the period from 2013-14 to 2016-17 of 32 Mega Housing Projects and three Mega Industrial Projects. Examination of records revealed irregularities

10 ` 25 crore or more for Agro Mega Projects.

11 A committee, constituted by the State Government for considering the desirability of granting concession for setting up mega projects for the development of the State of Punjab.

12 Project with the area of 250 acre of land and above is termed as Super Mega Project.

13 Nodal agency where applications for approval of mega projects are received. PUDA sends the proposal to the concerned department for comments. Proposal along with comments, if any, received from concerned department is placed before screening committee under the chairmanship of the Chief Secretary and comprising Administrative Secretaries of key departments. The screening committee then recommends project for grant of concessions to the Empowered Committee. After approval by the Empowered Committee, Letter of Intent (LoI) is issued by the nodal agency to the concerned applicant.
Audit had only examined the correctness of exemptions granted to Mega Projects as regards Stamp Duty and Registration Fee and commented on these issues. The process of inviting and processing applications of mega project is outside the purview of this Report.

14 Competent authority to grant permission for change of land use.

15 On the basis of information provided by PUDA.

regarding remission of SD and RF, Social Security Fund (SSF) and Social Infrastructure Cess (SIC) of ` 13.80 crore in mega projects which have been discussed in the succeeding paragraphs:

Audit Findings

4.8.2 Inadmissible remission of registration fee

Section 78 of Indian Registration Act, 1908 (IR Act) provides for levy of Registration Fee (RF) on registration of a document at a rate prescribed by State Government. Besides Registration Fee, Stamp Duty (SD) is also levied on execution of a document at a rate prescribed in Schedule I-A of Indian Stamp Act, 1899 (IS Act). Both the Acts (IS and IR Acts) empower the Government to reduce or remit[16] the duty/fee payable on execution/registration of a document. The Government remitted (24 June 2010) stamp duty chargeable on a document when the document is executed by or in favour of any person purchasing land for setting up a Mega Project approved by the Empowered Committee.

In Sub-Registrar (SR) Kharar and Joint Sub-Registrar (JSR) Majri, scrutiny of records for the years 2014-18 revealed that 193 documents (sale deeds) were registered in favour of five developers without levying SD and RF. The remission of SD and RF was allowed on the basis of notification dated 24 June 2010 on the ground that the documents were registered in favour of persons purchasing land for setting up Mega Housing Projects. However, this notification provided remission from SD only and remission from RF was not given to Mega Housing Projects. The value of the properties in these documents was ` 267.74 crore and RF of ` 1.85 crore was chargeable on registration of these documents. The omission resulted in inadmissible remission of RF of ` 1.85 crore. SSF (where applicable) and SIC were levied on these instruments.

SR Kharar and JSR Majri, stated (October 2017) recovery would be made after issuing notices to the concerned.

4.8.3 Inadmissible remission of SD and RF on exchange deeds

The Government remitted (24 June 2010) stamp duty chargeable on a document when the document is executed by or in favour of any person purchasing land for setting up a Mega Project approved by the Empowered Committee. This remission is available only in case of purchase of land and not in case of exchange[17] of land as per decision given by the Collector of S.A.S Nagar in a case under Section 47-A of IS Act.

16 Section 9 of Indian Stamp Act, 1899 in relation to stamp duty and Section 78 and 79 for remission of registration fee.

17 When two persons mutually transfer the ownership of one thing for the ownership of another, the transaction is called an "exchange" (Section 118 of Transfer of Property Act).

Scrutiny of records of JSR Majri, for the year 2015-17 revealed that two developers were to set up Mega Housing Projects in villages approved by Empowered Committee. For this purpose, the developers obtained land in the approved villages by executing eight exchange deeds valued at ` 5.15 crore with land owners. The exchange deeds were registered without levying SD and RF on the ground that the land was being acquired for a Mega Project. Since, the deeds were executed for exchange of land and not for purchase of land, remission from payment of SD was not available. Moreover, remission of RF was also not available under the notification dated 24 June 2010. Rate of SD is three *per cent* on exchange deeds. SD and RF of ` 20.33 lakh[18] was chargeable on the exchange deeds but the same was remitted by the JSR. This resulted in inadmissible remission of SD and RF amounting to ` 20.33 lakh. SSF and SIC are not leviable on exchange deeds.

JSR Majri replied (October 2017) that outstanding recovery would be made.

4.8.4 Inadmissible remission of SD and RF where land was purchase in villages other than the approved village for Mega Projects

Scrutiny of the records of JSR Majri for the year 2016-17 revealed that four documents (sale deeds) were registered for a consideration of ` 7.15 crore without levying SD and RF on the plea that the land was being purchased for a Mega Housing Project. Cross verification of the list of approved mega projects obtained from PUDA with the names of villages as mentioned in the sale deeds revealed that the villages mentioned in the sale deeds did not match those that were approved. Remission of SD and RF was therefore not admissible in these cases. However, the JSR remitted both SD (` 35.74 lakh) and RF (` 5.45 lakh) in these cases. This resulted in inadmissible remission of SD and RF of ` 41.19 lakh. SSF and SIC were levied on these instruments.

4.8.5 Irregular remission of SD, SSF, SIC and RF on unapproved Mega Project

Govt. of Punjab, Department of Revenue and Rehabilitation (Stamp and Registration Branch) has made[19] it mandatory for all the Registering Officers in the State to compute the actual amount of SD and RF required to be levied/charged at the time of registration of document and note the particulars of Government Order/Notification in terms of which the exemption from the payment of registration fee or stamp duty has been allowed.

In SR Sangrur, four sale deeds were registered in May 2017 for consideration of ` 3.16 crore in favour of a company. SSF and SIC ` 12.65 lakh were levied whereas SD and RF of ` 18.98 lakh[20] were remitted treating it as a Mega Project. Information obtained from PUNGRAIN[21], for whom the project was

18 SD of ` 15.45 lakh (three *per cent* of ` 5.15 crore) and RF of ` 4.88 lakh.
19 No. 8/14/2004-ST-II/4115 dated 12 October 2004.
20 SD ` 15.82 lakh (five *per cent* of ` 3.16 crore) + RF ` 3.16 lakh (one *per cent* of ` 3.16 crore).
21 Punjab Grains Procurement Corporation Limited.

executed, revealed that it was not a Mega Project and hence no remission was available. Inadmissible remission resulted in non-levy of ` 18.98 lakh (SD of ` 15.82 lakh and RF of ` 3.16 lakh).

In SR Ludhiana (Central) a collaboration[22] agreement between the land owner and developer was registered on May 2013 for development of land. SD of ` 2,000 as applicable in case of an agreement and RF of ` 2.00 lakh was levied. As per information provided by PUDA, the project was not approved as a Mega Project. Hence, remission of SD, SSF and SIC was not admissible. Further, scrutiny of this agreement revealed that the owner of the land was entitled to receive part of the developed land as consideration and hence the contents of the agreements were those of conveyance. The owner was to receive 28 *per cent* of total land after development and value of this land on the basis of Collector's rate was ` 40.37 crore. Thus SD and RF at applicable rates should have been levied. Incorrect remission resulted in non-levy of SD, SSF and SIC of ` 3.63[23] crore.

SR Ludhiana (Central) stated (May 2018) that the collaboration agreement was registered for Mega Project. This was however not correct as PUDA has stated that this was not an approved Mega Project. Deficient amount of SD was not deposited (August 2018). Further, Deputy Commissioner Ludhiana intimated (May 2019) that the case had been decided under Section 47-A wherein order for recovery of ` 1.19 crore along with interest was issued. Recovery was awaited (July 2019).

SR Sangrur stated (May 2019) that clarification was sought from Director, PUNGRAIN whether the remission of SD had been granted to the company by the Empowered Committee. Moreover, the cases have been sent to Collector under Section 47-A.

Reply regarding clarification from PUNGRAIN is not convincing as the SR was required to ascertain before registering the deeds that the remission of SD was allowed in valid cases only.

4.8.6 Evasion of SD and RF due to acceptance of unregistered document

Section 17(b) of IR Act provides that an instrument is compulsorily registrable if it purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest of the value of one hundred rupees and upwards to or in immovable property. It was noticed that Chief Town Planner, Punjab (CTP) accepted unregistered development agreements collaboration agreements and agreements to exchange at the time of grant of CLU with the result that these documents were not presented by developers

22 An agreement between at least two parties looking to work together on a commercial project on a collaborative or cooperative basis. The agreement spells out the specific terms and conditions of the parties' working relationship including allocation of responsibilities and division of revenues derived from the exploitation of the work.
23 Nine *per cent* of ` 40.37 crore.

for registration. This resulted in evasion of SD and RF of ` 6.99 crore as discussed in the succeeding paragraphs:

(a) In SR Mohali, a developer executed an agreement to exchange a property with land owners and SD of ` 2,000 only was paid by the developer as applicable in case of an agreement. It was observed that the developer and the land owner had already exchanged their properties at the time of agreement as per declaration given in the document. Hence, the document fell under the description of exchange. The value of the property was ` 8.24 crore (on the basis of Collector's rate) on which SD of ` 24.73 lakh[24] and RF of ` 2.00 lakh were chargeable. Since the unregistered document was accepted by the CTP, the same was not presented by the developer for registration. The omission resulted in evasion of SD and RF of ` 26.71 lakh[25]. SSF and SIC were not leviable on exchange deeds.

SR Mohali replied (May 2019) that the agreement was not presented in the office of the Sub-Registrar so no action could be taken. Reply of CTP was awaited (July 2019).

(b) In CTP office Mohali, it was observed that 34 unregistered collaboration agreements executed between March 2013 and October 2016 by three developers of Mega Housing Projects (in the jurisdiction of JSR Majri) were accepted by CTP at the time of grant of CLU. These agreements were executed by levying SD of ` 26,200[26]. In the case of 29 agreements, the owners were entitled to receive part of the developed land as consideration. Hence, the contents of the development agreement were those of conveyance. The value of the property involved was ` 136.15 crore on the basis of Collector's rate. SSF, SIC and RF of ` 5.93 crore[27] was leviable in these agreements. As the CTP had accepted unregistered agreements, revenue of ` 5.93 crore was not realised.

In the case of five agreements, it was noticed that the villages were not covered under Mega Housing Project as informed by PUDA. Hence, remission of SD and RF was not available for these agreements. As the agreements were not registered, SD, SSF, SIC and RF were not realised. Value of the property involved was ` 8.13 crore on the basis of Collector's rate and the amount of SD, SSF, SIC and RF leviable was ` 0.79 crore[28].

JSR Majri stated (November 2017) that information/reply would be sent after verification of record.

24 Three *per cent* of ` 8.24 crore.

25 (` 24.73 lakh + ` 2.00 lakh) – 0.02 lakh (` 2,000).

26 In nine agreements @ ` 2,000, in one agreement @ ` 1,500, in three agreements @ ` 1,000, in four agreements @ ` 500, in 17 agreements @ ` 100.

27 Value of property: ` 136.15 crore; SSF -` 4.08 crore (three *per cent*) + SIC -` 1.36 crore (One *per cent*) + RF -` 0.49 crore (One *per cent* subject of maximum of ` 2.00 lakh).

28 Value of property: ` 8.13 crore; SD- 0.41 crore (five *per cent*), SSF - ` 0.24 crore (three *per cent*) + SIC - ` 0.08 crore (One *per cent*) + RF - ` 0.06 crore (One *per cent* subject of maximum of ` 2.00 lakh).

4.8.7 Short levy of RF and SIC

Entry 23 of Schedule I-A of IS Act read with Rule 3-A of the Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983 provides that stamp duty on conveyance is leviable on consideration or Collector's rate whichever is higher.

In JSR Majri, in the year 2015-16 a developer purchased property for setting up a Mega Project from land owners through three land pooling agreements. Scrutiny of the agreements revealed that the land owners were entitled to receive developed residential as well as commercial plots[29]. SIC of ` 3.32 lakh was levied at the rate of one *per cent* on ` 3.32 crore calculated on the basis of Collector's rate for agricultural land. RF was not levied. As the owners were to receive residential and commercial plots, SIC and RF should have been levied on Collector's rates for residential and commercial plots. The value of residential (` 6.03 crore) and commercial (` 0.80 crore) plots as per Collector's rate was ` 6.83 crore on which RF of ` 4.70 lakh and SIC of ` 6.83 lakh were leviable. However, SIC of ` 3.32 lakh was levied and RF was remitted. The omission resulted in short levy of SIC and RF of ` 8.21 lakh (RF of ` 4.70 lakh + SIC of ` 3.51 lakh[30]). SSF was not leviable on these instruments as the property was situated beyond five kilometers from the outer limit of Municipality/Corporation.

JSR Majri stated (October 2017) that notice would be issued after verification of records and outstanding recovery would be made, if due.

4.8.8 Irregular remission of stamp duty on Power of Attorneys

As per Entry 48 (f) of Schedule I-A of IS Act, SD on a Power of Attorney (PoA) executed to give the right to a person, other than family members, to sell immovable properties shall be two *per cent* of the amount of consideration, or of Collector rate whichever is higher.

Scrutiny of records of JSR Majri for the years 2015-17 revealed that two PoAs, giving rights to persons other than family members, to sell immovable property, were registered between 2014-15 and 2015-16. PoAs were registered by levying SD of ` 3,000 only i.e. without levying SD at the rate of two *per cent* on the ground that the land was being purchased for Mega Project. However, the remission was not available on PoA as the remission was allowed only on purchase of land. The value of the property involved was ` 66.25 lakh on the basis of Collector's rate on which SD of ` 1.33 lakh was chargeable. However, SD of ` 3,000 was levied. This resulted in inadmissible remission of SD amounting to ` 1.30 lakh. RF was levied on these documents. SSF and SIC were not leviable on PoA.

JSR Majri stated (October 2017) that recovery would be made.

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29 Residential plot of 1,000 sq. yard and commercial plot of 100 sq. yard per acre of land.
30 ` 6.83 lakh - ` 3.32 lakh.

4.8.9 Non-recovery of SD where developer failed to comply with the conditions of the agreement

Scrutiny of information received from Bathinda Development Authority (BDA) in respect of an approved mega project (in the jurisdiction of JSR Guniana Mandi) of a developer revealed that the Empowered Committee approved a Mega Housing Project in May 2008. The project was to be developed in an area of 71.81 acre. The agreement was executed with the State Government in August 2008 which provided that the project was to be completed within three years from the date of signing of the agreement, failing which the concessions allowed would stand withdrawn. Further, the completion period of the project was extended upto 30 June 2017 in a supplementary agreement (June 2016). The supplementary agreement again provided that in case the developer failed to comply with any clause of the supplementary agreement and original agreement within the stipulated period mentioned therein, the concession enumerated in the agreements would stand automatically withdrawn and the developer would have no claim or liability whatsoever on the State Government or its agency.

Audit noticed that the project was not completed even as per time frame mentioned in the supplementary agreement i.e. upto June 2017. Though the developer was issued (October 2015) partial completion certificate with respect to project area measuring 67.625 acres by the BDA, final completion certificate was not issued by the development authority. Remission of SD of ` 54.25 lakh was availed by the developer on purchase of 71.81 acre of land. Since the Developer failed to comply with the condition of the agreements regarding completion of the project in respect of 4.185 acre of land, the concession of ` 3.16 lakh[31] allowed on account of SD was required to be recovered. Though the developer had not applied for extension of time period of completion, the Department did not initiate any recovery proceeding to recover SD of ` 3.16 lakh.

JSR Guniana Mandi stated (April 2018) that action would be taken as per rules.

4.8.10 Non-utilisation of information of CLU to update status of land

Rule 3-A of the Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983 provides that the Collector of a district shall, in consultation with Committee of experts consisting of officers of the Department of Public Works (Building and Road), Department of Revenue and Rehabilitation, Punjab Urban Development Authority, Department of Local Government, Department of Rural Development and Panchayats, Department of Horticulture/Forest/Town Planning/Industrial or any other department as may

31 Since exact information regarding detail of land where project was not completed was not available, audit calculated the amount of remission of SD on incomplete project on proportionate basis. (` 54.25 lakh x 4.185 acre/71.81 acre)

be found desirable, fix the minimum market value of land/properties, located in his district, locality wise and category wise for the purpose of levy of stamp duty. The rates so fixed, will be revised by the Collector once a year. Further, Rule 3-A (b) (iii) provides that besides other factors, purpose for which the land is being used presently and any other special features having bearing on the valuation will be kept in view while fixing/revising the rates. The purpose of land use is represented/authorized by Change of Land Use (CLU) certificate granted by Department of Town Planning.

In SR Ludhiana (West), audit observed that two conveyance deeds were registered in June 2016 for sale of land for a Mega Project. The land was valued at ` 2.56 crore by applying Collector's rate for agricultural property. However, cross verification with the records of Chief Town Planner, Punjab revealed that purpose of use of land was changed from agricultural to residential by granting CLU in December 2014 after charging fee of ` 99.12 lakh. Since fee had been charged for granting CLU, it had a bearing on the value of land and should have been considered by the Collector at the time of revision of rate list. Thereafter the rate list was revised twice (2015-16 and 2016-17) by the Collector under Rule 3-A *ibid* but the category of the said land was not updated as residential nor any higher rate was prescribed for that land. The value of the land as per Collector's rate of residential property was ` 12.19 core[32] on which SSF, SIC and RF of ` 52.75 lakh[33] was leviable. However, ` 12.81 lakh[34] was levied. The omission resulted in short levy of RF, SSF and SIC of ` 39.94 lakh (` 52.75 lakh - ` 12.81 lakh).

SR Ludhiana (West) agreed (November 2017) that Collector rate for residential plot was applicable and recovery would be made. Further, Deputy Commissioner Ludhiana intimated (May 2019) that the case was sent to Collector under Section 47-A. Final outcome was awaited (July 2019).

Conclusion

Instance of non-compliance to provisions of order regarding remission of SD for Mega Projects as pointed out by Audit indicate weak internal controls of the Department. Department remitted registration fee of ` 1.85 crore whereas remission of RF was not available to Mega Housing Projects. Remission of SD and RF of ` 20.33 lakh was allowed on exchange of land and SD of ` 1.30 lakh on power of attorney whereas remission was only available on purchase of land. SD and RF of ` 4.04 crore was remitted in those cases also where either the project was not approved by Empowered Committee or villages in which land purchased was not a part of approved Mega Projects. Developers evaded SD and RF of ` 6.99 crore by not presenting collaboration

32 Since CLU was granted for use of land for residential/commercial purpose, residential rate of Collector's rate list has been used for calculating value of land for the purpose of levy of SSF, SIC and RF.

33 Four *per cent* of ` 12.19 crore (three *per cent* SSF and one *per cent* SIC) + RF of ` 4.00 lakh (` 2.00 lakh in per case)

34 Four *per cent* of ` 2.56 crore (three *per cent* SSF and one *per cent* SIC) + RF of ` 2.56 lakh (One *per cent* of ` 2.56 crore)

agreements for registration due to acceptance of unregistered documents by Chief Town Planner, Punjab at the time of issue of change of land use. Due to non-consideration of CLU while updating Collector's rate list, SSF, SIC and RF of ` 39.94 lakh was short realised.

The issues pointed out are based on test check conducted by Audit. The Department may initiate action to examine similar cases and take necessary corrective action.

The above points were reported to the Government/Department and Chief Town Planner, Punjab (June 2018); their replies were awaited.

The State Government may strengthen the internal control mechanism and institutionalise a system to ensure that such omissions as pointed out, do not recur.

The cases pointed out are based on the test check conducted by Audit. The Department may initiate action to examine similar cases and take necessary corrective action.