

CHAPTER III

STAMP DUTY AND REGISTRATION FEE

3.1 Tax Administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899 (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Maharashtra and are administered at the Government level by the Principal Secretary, Relief & Rehabilitation. The Inspector General of Registration (IGR) is the head of the Stamp duty & Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by Additional Controller of Stamps, Mumbai (ACOS), eight Deputy Inspector General (DIGs), six Collector of Stamps (COS) at Mumbai and Mumbai Sub-urban District, 34 Joint District Registrar (JDR) and 504 Sub-Registrar (SR) at District and Taluka levels.

3.2 Internal audit

The details of audit conducted by the internal audit wings of IGR are as detailed in **Table 3.2**.

Table 3.2

Year	No. Of units			Audit observations		
	Planned	Audited	Unaudited	Raised	Settled up to 31/03/2016	Pending as on 31/03/2016
2011-12	72	43	29	251	101	150
2012-13	72	43	29	405	112	293
2013-14	72	38	34	207	53	154
2014-15	72	14	58	55	12	43
2015-16	72	11	61	115	00	115
Total	360	149	211	1033	278	755

Source : Information furnished by the Department

Thus, the facts indicate that :

- During the year 2011-12 to 2015-16, audit was carried out only in 149 offices whereas it was planned for 360 units. Thus only 41 *per cent* of units were covered against the unit planned for internal audit.
- Only 27 *per cent* of the audit observations raised by the internal audit were settled.

3.3 Result of audit

In 2015-16, test check of the records of 216 units of the Stamp Duty and Registration Fees Department, showed non/short levy of stamp duty and

registration fees etc. and other irregularities amounting to ₹ 217.27 crore in 593 observations, which fall under the categories given in **Table 3.3**.

Table 3.3

(₹ in crore)			
Sl. No	Category	No. of cases	Amount
1	Audit of 'Remission in Stamp Duty'	1	35.72
2	Short levy due to under valuation of property	463	155.52
3	Short levy due to misclassification of documents	34	5.23
4	Incorrect grant of exemption of stamp duty and registration fees	58	13.47
5	Non-levy of stamp duty and registration fees	16	5.93
6	Other Irregularities	21	1.40
Total		593	217.27

In response to the observations made in the local audit through Inspection Reports during the year 2015-16 as well as during earlier years, the Department accepted short levy and other deficiencies and recovered ₹ 2.90 crore in 150 observations, of which 13 observations involving ₹ 51.66 lakh were pointed out during 2015-16 and rest during earlier years.

This Chapter contains nine paragraphs including one paragraph on "Remission in Stamp Duty".

3.4 Audit of “Remission in Stamp Duty”

Introduction

Levy of stamp duty in Maharashtra on different types of documents is governed by Maharashtra Stamps Act, 1958 herein after called “Act”. The State Government may by rule or order published in the Official Gazette reduce or remit prospectively or retrospectively whole or any part, stamp duty payable under Section 9 of the Act.

Government framed various policies providing tax incentives like remission of stamp duty to attract investment in different sectors. The concerned Departments of these sectors (called as ‘User Departments’¹) framed the policies which inter-alia provided for grant of remission of stamp duty. There were about twenty such schemes. Revenue and Forest Department (RFD) issued orders for remission of stamp duty in accordance with the concerned policies issued by the User Departments. The Registration and Stamps Department (RSD) is the Implementing Department under the administrative control of RFD. The Stamp Duty Exemption Certificate (SDEC) is issued by User Departments. In case of Package Scheme of Incentive (PSI), IT & ITES Policy and Tourism Policy the beneficiaries produce SDEC before the concerned Sub-Registrars (SRs) for availing the remission of stamp duty at the time of registration of the instrument of the units. In case of Special Economic Zone (SEZ) Policy and Special Township Scheme the letter of approval (LOA)/notification is issued by Government of India (GoI)/user department in favour of the beneficiaries. These LOAs/notifications are produced before the SRs for availing the remission in stamp duty.

Scope and Methodology of Audit

The audit of RSD for the period from 2011-16 was conducted between February 2016 and July 2016, with a view to ascertain whether the orders for remission of stamp duty issued by Revenue and Forest Department were correctly implemented and system of monitoring was adequate and effective.

An entry conference to discuss audit objectives, scope and methodology was held on 21st April 2016 with Revenue and Forest Department wherein representative of the User Departments were also present. The draft report was forwarded to RSD in September 2016. Exit conference was held on 23 January 2017 wherein the audit observations were discussed; however, the reply/report on action taken thereon has not been received from the Government. The replies of the Department, wherever received have been incorporated in the relevant paragraphs.

Methodology of Audit:- Out of 36 districts in the State, nine² districts, covering all the 15 JDR & COS Offices of these districts were test-checked. Further, 10 *per cent* of the total number of SR offices (21 offices out of 206 offices) in these nine districts was covered.

¹ Industry, Energy and Labour Department, Tourism and Cultural Affairs Department and Urban Development Department.

² Amravati, Aurangabad, Latur, Mumbai, Nagpur, Nashik, Pune, Raigad and Thane.

There were about twenty schemes relating to remission of stamp duty. No data regarding the scheme-wise number of documents on which remission was accorded was available with the RSD. However, as per the data obtained from the User Departments/GoI, it was seen that maximum number of SDECs / Notifications were issued in respect of five schemes. These schemes are Package Scheme of Incentive (PSI), IT & ITES Policy, Tourism Policy, SEZ Policy and Special Township Scheme. As such, these policies/schemes were selected for audit. Audit also cross checked the data/records with the User Department wherever necessary.

Audit findings

3.4.1 Non-maintenance of Scheme wise data base of remission of stamp duty

RSD in the State of Maharashtra has been computerized. The IT system in place is called as iSARITA. It contains twelve modules. The remission orders issued by the RFD were subject to the fulfillment of conditions mentioned therein.

3.4.1.1 Audit observed that iSARITA contained the data base of all instruments relating to remission of stamp duty registered in the office of each SR. However, scheme wise data base was neither maintained in the IT system nor was it maintained manually. There was no system for generating reports relating to grant of remission indicating the number of instruments and amount remitted under a particular scheme. Thus, the number of documents registered in each SR could not be ascertained. As a result monitoring of terms and condition mentioned in the remission order of the schemes relating to grant of remission of stamp duty could not be watched by JDR/SRs. Audit found a number of cases where breach of conditions committed by the beneficiaries of the scheme remained un-noticed by the RSD. These are mentioned in the succeeding paragraphs.

3.4.1.2 As per the information obtained from Industry, Energy and Labour Department (IELD) and Tourism and Cultural Affairs Department (TCAD), 8,017 Stamp Duty Exemption Certificates (SDEC) were issued by them under Package Scheme of Incentives (PSI), IT-ITES Policy and Tourism Policy. Out of these 3,443 units did not start activities and SDECs remained in-operative. The scheme wise information is given in **Table 3.4.1.2**.

Table 3.4.1.2

Name of the scheme	Period involved	Number of SDEC issued	Number of units started activity	Number of units did not start activity
PSI 2007	April 2007 to March 2013	7,039	3,746	3,293
IT-ITES policy 2009	August 2009 to June 2015	919	821	98
Tourism Policy 2006	November 2006 to March 2016	59	7	52
Total		8,017	4,574	3,443

Source : Information furnished by the Department

There was nothing on record in the RSD to indicate that these units had availed remission of stamp duty. So the amount of remission, if any, availed by the units could not be watched/recovered, in case of the units which had not start their activities within the prescribed time.

3.4.1.3 The remission in respect of SEZ Policy 2001 is based on letter of approval (LOA) issued by Government of India (GoI) while in case of Special Township Scheme 2004, it is based on notification issued by Urban Development Department (UDD).

As per the information obtained from GoI and UDD, 307 LOAs and notifications were issued by them under said policy/scheme. Out of these 98 projects were not established as shown in **Table 3.4.1.3**.

Table 3.4.1.3

Name of the scheme	Period involved	Number of LOA/ notification issued	Number of SEZ projects & units /townships established	Number of SEZ projects & units /townships not established
SEZ Policy 2001	2001 to 2016	291	209	82
Special Township	2005 onwards	16	0	16
Total		307	209	98

Source : Information furnished by the Department

Due to non-maintenance of scheme-wise data base, correctness of remission of stamp duty availed by units could not be monitored at the apex level. Besides it could not be ensured that the remission were utilized for the purpose for which these were granted.

It is recommended that RSD may consider maintaining a comprehensive database of all the remission cases for effective monitoring.

In addition to above system deficiency the audit findings noticed during the audit are mentioned scheme wise in the following paragraphs.

3.4.2 Remission of stamp duty on account of Package Scheme of Incentives

The IELD of the State Government introduced a PSI in 1964 which was renewed and amended after every 3-6 years. The operative period of PSI 2007 was from April 2007 to March 2013 and that of PSI 2013 is till March 2018.

3.4.2.1 Grant of remission on instruments not covered under remission order

As per remission order issued by RFD for PSI 2007 stamp duty was remitted on the instruments of hypothecation, pawn pledge, deposit of title deed (Article 6), conveyance (Article 25), lease (Article 36) and mortgage (Article 40) as mentioned in the schedule-I of the Act. Assignment deed (Article 60) meant transfer of lease by way of assignment. Lease deed (Article 36) is defined as agreement to let or sub-let.

IELD had issued a SDEC (March 2012) to a new industrial unit in Thane district. The unit acquired land admeasuring 34,588 sqms in 2012 from an

existing unit by executing an instrument. This instrument was titled as lease deed and remission of stamp duty of ₹ 52.40 lakh was granted (May 2012) by the JDR & COS, Thane Rural on the basis of SDEC.

Recital of the instrument revealed that the land was earlier allotted to a unit in 1967 by MIDC. That unit transferred its lease hold rights by way of assignment to the beneficiary unit with the consent of the MIDC. Thus, the instrument was an assignment deed and required to be classified as assignment deed under Article 60. However, the JDR classified it a lease deed under Article 36 and incorrectly allowed the remission of stamp duty of ₹ 52.40 lakh.

After this was pointed out in audit, JDR stated that remission was granted on SDEC issued by IELD. The reply was not correct as the recitals of the deed indicated that it was assignment deed and no remission was admissible under the remission order for PSI 2007. The matter should have been brought to the notice of IELD and remission should not have been granted.

3.4.2.2 Grant of Remission to the Developer of an IT Park

As per remission order issued by RFD for PSI 2007, only a new industrial unit or an existing unit taking up extension, expansion or diversification are entitled to avail remission of stamp duty. However, there is no clause for grant of remission of stamp duty to a developer of an IT park.

Audit scrutiny revealed that in Thane district a Developer was granted (2010) remission of stamp duty of ₹ 84.36 lakh by the JDR & COS on an instrument of sale deed under remission order for PSI 2007 for the land allotted to him for setting up of a private IT park. As the instrument for setting up a private IT park, was not covered under the remission order, the remission granted was irregular.

3.4.2.3 Grant of remission on incorrect issue of SDEC to ITES units

The PSI 2013 allows remission of stamp duty on IT (Information Technology) manufacturing units only and not on ITES (Information Technology Enabled Services) units. IT enabled services are defined in the IT & ITES Policy 2009.

Audit observed that in 44 cases in three³ districts IELD issued SDECs under remission order for PSI 2013. All these units were ITES units to whom, RSD granted the remission of stamp duty of ₹ 6.51 crore based on said SDECs. As the ITES units were not covered in PSI 2013, issue of SDEC by IELD was incorrect. This fact was also not noticed by the RSD, resulting in incorrect grant of remission of stamp duty of ₹ 6.51 crore thereon.

3.4.3 Remission of stamp duty on account of IT & ITES Policy 2009

The IELD of the State Government introduced the IT Policy in 1998 followed by IT & ITES Policy 2003 and since then it was renewed and amended after every 5-9 years. The operative period of IT & ITES Policy 2009 was from August 2009 to June 2015 and thereafter IT & ITES Policy 2015 is in force whose operative period is till June 2020.

³ Thane-39, Pune-4 and Nashik-1.

Grant of Remission on incorrect issue of SDEC to an existing unit

As per remission order for IT/ITES Policy 2009, remission of stamp duty is allowed to new IT/ITES units or expansions of units located in IT Park/IT SEZ in group A⁴ and B⁵ area. However, there is no provision to allow remission to existing unit. Existing unit means a unit that had been in operation at the time of promulgation of the policy.

Information obtained by audit from Development Commissioner (DC), SEEPZ, Mumbai revealed that an IT/ITES SEZ unit was established in 2008 in Phase II of MIDC Hinjewadi, in Pune District. It was relocated (2015) to MIDC Hinjewadi Phase III in Pune district with the permission (2013) of DC SEEPZ, Mumbai. There was no change in investment/export target or in the working of the unit. Thus, the unit was not a new unit and was not entitled to any remission of stamp duty. But IELD treated the same as a new unit and issued SDEC which was not in line with the remission order. The SR granted remission of stamp duty of ₹ 4.91 crore on eight instruments of sub-leases executed by the unit, based on said SDEC, which was incorrect.

3.4.4 Remission of stamp duty on account of SEZ Policy 2001

Government Resolution (GR) declaring SEZ Policy 2001, of the state was issued in October 2001 by the IELD of the State, it was valid till March 2006. The Policy provided concession in stamp duty as one of the incentives for setting up of a SEZ. Even though the operative period of the Policy was over in March 2006 for the purpose of giving exemption of stamp duty the time limit was extended by GR issued by IELD (March 2007) for a further period of 10 years. Remission order for stamp duty was issued (March 2007) by RFD based on this GR.

3.4.4.1 Non-recovery of remission of stamp duty from a Developer before de-notification of SEZ

GoI in September 2011 stipulated that in case of de-notification of SEZ, all benefits claimed under SEZ Act & Rules by the Developer and Co-developer should be refunded. This was to be confirmed by the concerned Development Commissioner (DC) by issue of “no due certificate” before actual de-notification of SEZ.

- Audit scrutiny revealed that GoI had granted formal approval (January 2009) to a Developer (Khed Economic Infrastructure Limited) for 1,559.81 hectares (ha) for setting up of a SEZ in Khed village of Pune district. The developer availed remission of stamp duty (December 2009 to June 2010) on 1705.62 ha. Thus, remission of stamp duty was granted on 145.81 ha of land for which no LOA was issued. It was further noted that the GoI notified (June 2010) only 1000 ha of said land for SEZ. As such the stamp duty on 705.62 ha (559.81 ha + 145.81 ha) of land on which remission was granted but not notified by GoI was required to be recovered.

⁴ Industrially developed as defined in PSI 2007 and 2013 read with their Annexure.

⁵ Areas industrially less developed than A area.

Thereafter, the Developer requested (July 2013) GoI for decrease in notified area of SEZ from 1000 ha to 100 ha by de-notification of 900 ha. The request of the Developer was accepted by GoI (September 2013) subject to refund of benefit of any tax/duty availed by Developer on the area of SEZ land approved for de-notification. Hence, the Developer was required to refund the benefit of stamp duty availed by him on 900 ha of area approved for de-notification.

Thus, remission of stamp duty and penalty amounting to ₹ 26.73 crore on total land area of 1,605.62⁶ ha not put to use for SEZ was required to be recovered but JDR worked out and recovered stamp duty and penalty of ₹ 22.04 crore on 1361.22 ha and NOC was issued to the Government. This resulted in short recovery of stamp duty and penalty of ₹ 4.69 crore on balance area of 244.40 ha.

After being pointed out in audit, JDR stated that 244.40 ha of lands was reserved for a company established by farmers named “M/s Khed Developers Limited” in view of orders of the Government. The reply of the Department was silent about refund of remission of stamp duty on 244.40 ha of land availed by the developer. In this case 244.40 ha of land was part of 900 ha of land. This was approved for de-notification by GoI. Hence, in view of GoI directives (September 2011) refund of stamp duty was required to be made on 244.40 ha.

- In another case, a Developer of SEZ was granted (November 2008) formal approval by GoI for setting up a SEZ on 10 ha land in Mulshi Taluka of Pune district. The JDR & COS, Pune city granted (2009) remission of stamp duty of ₹ 29.72 lakh on 8.74 ha of said land on six instruments of lease/sale deed for setting up the SEZ. The SEZ was notified by GoI in April 2010. Later on at the request (July 2011) of the Developer, GoI in September 2011 granted approval for de-notification of area of SEZ so notified. Even though the Regional Development Commissioner asked (December 2012 with reminder in April 2013) the IELD for issue of a “No due certificate” but no reply was furnished. Thus, refund of stamp duty remission of ₹ 29.72 lakh availed by the Developer on 8.74 ha of land approved for de-notification could not be made. This resulted in non-realisation of the Government revenue to that extent.

3.4.4.2 Irregular grant of remission on instruments of SEZ not covered in remission order

As per remission orders issued (2007) by RFD for SEZ Policy 2001, remission of stamp duty to any unit is allowed only on the instrument of first conveyance of land (Article 25) and lease (Article 36) executed between the Developer or Co-developer of the SEZ and the land owner, and the first transaction of transfer of land between the Developer or Co-developer and the units therein.

There was no provision for allowing remission of stamp duty on subsequent instrument.

⁶ LOA not issued -145.81 ha., Final notification not issued – 559.81 ha. and Area approved for de-notification – 900 ha. (145.81+559.81+900= 1,605.62 ha).

- Audit scrutiny revealed that GoI had issued (June 2007) a letter of approval to a Developer for setting up of a SEZ in Nashik district on 1000 ha of land. The JDR & COS, Nashik granted (August 2007) remission of stamp duty on said land. Out of this, the Developer allotted 371.24 ha of land to a Co-developer of SEZ for setting up a power plant. The land was allotted through three instruments of sub-lease deed registered between 2010 and 2012. The Co-developer also availed the remission of stamp duty of ₹ 5.12 crore on sub-lease deeds executed between developer and Co-developer on the basis of LOA issued by GoI. This was irregular, as three instruments of sub-lease deed were not only subsequent instruments of Principle lease deed executed in 2007 with the lessor but also the same were executed between a Developer and a Co-developer.
- In Pune district three instruments of lease deeds for acquiring office premises having constructed area of 33,945.57 sqm were executed between a Developer and a unit. The JDR and COS had granted (2009-10) remission of stamp duty of ₹ 3.63 crore on these instruments. This was irregular as the remission was available only for acquiring land. There was no provision in the remission order to allow remission of stamp duty on the constructed area in the buildings.

After this was pointed out in audit, JDR & COS Pune City accepted the audit observation and referred the case to Chief Controlling Revenue Authority (IGR) under section 53 of the Act.

3.4.5 Remission of stamp duty on account of Tourism Policy 2006

The Home Department of the State had introduced a Package Scheme of Incentives for Tourism 1993 which was first renewed in 1999. Thereafter, Government resolution for Tourism Policy 2006 was issued in December 2006 by TCAD of the State. The operative period of Tourism Policy 2006 was from November 2006 to March 2016. Thereafter the Tourism Policy 2016 has been in operation, and this will continue till March 2026.

3.4.5.1 Irregular grant of remission of Stamp Duty on fake Certificate

Remission order issued by RFD (October 2007) for Tourism Policy 2006, provides remission of stamp duty for starting a new tourism unit or expansion of an existing unit, on SDEC issued by Maharashtra Tourism Development Corporation (MTDC). MTDC issues a copy of the SDEC to the beneficiary unit, there is no system to forward copy of the SDEC to the concerned registration authorities responsible for allowing the remission so as to ensure genuineness of the SDEC.

Audit cross verified 33 of 59 SDECs made available by the RSD with records of MTDC and found one of these SDECs was fake. The remission of stamp duty allowed on this fake SDEC was ₹ 57.88 lakh. This is briefly detailed as follows :

Audit scrutiny revealed that Sub-Registrar of Velha in Pune district granted (March 2012 to May 2012) remission of stamp duty of ₹ 57.88 lakh on 36.90 ha of land, on four instruments executed by a unit M/s Eiffel Developers and Realtors Ltd. In these four cases, a copy of the SDEC issued in February 2012

was produced before the SR by the beneficiary at the time of registration between March 2012 and May 2012. Cross verification done by audit revealed that the SDEC available with MTDC differed in date of issue, signature and official seal with that available in RSD. After this was pointed out by audit, MTDC confirmed that SDEC of February 2012 was not issued by their office.

Thus, grant of remission of stamp duty of ₹ 57.88 lakh on this fake SDEC was incorrect and escaped the notice of the Department. The MTDC stated that it had issued the SDEC to the Eiffel in August 2012 but on the request of M/s Eiffel Developer and Realtors Ltd., it was revised in December 2012 in favour of a unit M/s Eden Landmarks Pvt. Ltd. and SDEC issued to M/s Eiffel Developer and Realtors Ltd. stands already cancelled. However, audit found that Eden Landmarks Pvt. Ltd. had not used it for registering any document. Thus, the land continued to be in the name of Eiffel Developer and Realtors Ltd.

It was further noticed in audit that the unit was required to start the activity within the period of three years from the date of grant of remission. But audit found that 15.26 ha of the aforesaid land was divided and sold (February to December 2013) to 34 parties.

After this was pointed out the MTDC accepted the facts that the parties had committed breach of conditions and therefore remission of stamp duty granted is required to be recovered.

It is recommended that the Department may consider putting in place a system to ensure that SDECs are forwarded by the User Departments to JDRs and are further sent to SRs to enable them to cross verify the SDECs given with instruments at the time of registration.

3.4.5.2 Non-recovery of stamp duty and penalty thereon for breach of condition

Remission Order dated 1st October 2007 under Tourism Policy 2006 issued by RFD provided that if any unit fails to start the activities within a period of three years from the date of instrument for which the reduction of stamp duty is granted or commits breach of any of the conditions of the Tourism Policy of the State 2006, it shall be liable to pay the whole of the stamp duty and penalty, if any, as if there was no reduction in stamp duty from the beginning.

Audit scrutiny revealed that eight Tourism units in six⁷ of nine test-checked districts were granted reduction in stamp duty of ₹ 2.42 crore on 28 instruments during the period from 2009 to 2013. The units did not start their activities even after lapse of 3-7 years from the date of the instrument. Hence, remission of stamp duty granted was required to be recovered along with penalty.

There was no co-ordination between RSD and Tourism Department to ascertain the status of activities of the units within the prescribed period and recovery of the stamp duty wherever necessary.

⁷ 32 instruments of Pune and one each of Mumbai, Nashik, Aurangabad, Nagpur and Kolhapur.

In reply, MTDC confirmed the fact that the units had not started activities but further action taken was not intimated. Thus, to safeguard government revenue co-ordination needs to exist between Tourism Department and RSD. The RSD may be asked to prepare scheme wise data in respect of the remission allowed and send it to the concerned User Department.

3.4.5.3 Grant of remission of stamp duty on instruments not covered under remission order

As per remission order (October 2007) for Tourism Policy 2006, assignment deed (Article 60), partnership deed (Article 47) and lease deed (Article 36) of land executed between private parties are not entitled to any remission of stamp duty.

Audit scrutiny in three⁸ districts, revealed that three instruments were titled as Partnership deed, Deed of Assignment and Agreement of lease executed between private parties. These instruments were not entitled to the remission of stamp duty under the remission order of the Tourism policy. But remission of stamp duty of ₹ 59.45 lakh was incorrectly allowed (2010 to 2012) by the SRs. This resulted in incorrect grant of remission of stamp duty.

3.4.5.4 Irregular grant of remission of stamp duty

In the remission order issued (October 2007) for Tourism Policy 2006, the remission of stamp duty is granted on the first conveyance of the land. There is no provision for grant of remission of stamp duty for building, apartments constructed on the land.

Audit scrutiny revealed that MTDC had issued two SDECs (September 2012 and July 2015) to a unit for purchase of a total land area of 6253.28 sqm in Pune district for setting up a new Hotel project and expansion thereof. However, instead of purchasing land, the unit purchased 'built to suit' (apartments) premises having constructed area of 8,783.72 sqm by registering two instruments as "Agreement to Sale" (September 2012 and September 2015). The concerned SR granted remission of total stamp duty of ₹ 76.27 lakh which was irregular.

After being pointed out in audit, MTDC confirmed that they had issued SDEC for purchase of land only. Reply of the SRs for grant incorrect remission was not received.

3.4.6 Remission of stamp duty on account of Special Township Scheme 2004

The Government of Maharashtra had approved Special Township Scheme in the year 2004 as a part of Development Control Rules of all the Municipal Corporations/ Councils and Development Control Regulation of Regional Plan area. Accordingly, Government Resolution was issued by the UDD incorporating Regulation for Development of Special Township in area under regional plan of Pune (November 2005) followed by Nagpur, Mumbai Metropolitan region and Thane (February-May 2006). The scheme is still in operation.

⁸ Thane, Mumbai and Nagpur.

3.4.6.1 Incorrect grant of remission on instruments not covered under remission order

As per remission orders (January 2008) for Special Township Scheme 2004 (STS), remission of stamp duty to a developer is allowed only on instrument of agreement or conveyance (Article 25) and there is no provision for grant of remission of stamp duty on Development agreement falling under Article 5 (g) (a), of the Maharashtra Stamp Act 1958.

In Pune district a developer had purchased a piece of land admeasuring 19 acres for the development of STS. He executed (2013) an Agreement of joint venture with land owners for this purpose. The recital of the instrument revealed that the land owners had decided to transfer the land for development on joint venture basis. The instrument was titled as Joint Venture. The recitals of the instrument revealed that it was a development agreement classifiable under article 5 (g) (a). However, the Sub-registrar incorrectly allowed the remission of 50% of stamp duty and levied stamp duty of ₹ 2.86 crore. Besides, the SR had incorrectly valued the property. The stamp duty leviable was ₹ 6.10 crore. Thus, there was a short levy of stamp duty of ₹ 3.24 crore.

3.4.6.2 Irregular grant of remission on instruments not covered under remission order

The remission order for Special Township Scheme 2004 was issued on 15th January 2008 and amended on 6th January 2015. As per amended remission order, remission of stamp duty to a developer is allowed only on first instrument of agreement or conveyance (Article 25) and there is no provision for remission on subsequent instruments. The amendment was made effective retrospectively from January 2008.

In Thane district, a total area of 82.22 ha in village- Kavesar and Kolshet was notified (March-August 2009) vide two notifications issued by the UDD. Out of this, 34.38 ha land was Government land and remaining 47.84 ha was private land. The developer executed an instrument for acquiring Government land admeasuring 19.51 ha and availed (December 2010) remission of stamp duty of ₹ 1.52 crore thereon as a first instrument. The Developer partially developed township on part area and constructed residential flats in that area.

Audit scrutiny revealed that the Developer had executed 93 instruments of sale deed of flats constructed in that Township area during 2012-15, which were subsequent to the instrument of acquiring land (2010). Out of these 30 instruments were registered after amendment of remission order on 6th January 2015 on which remission of stamp duty of ₹ 1.65 crore was granted which was irregular. Further, 63 instruments were registered during 2012- 2014 on which remission of stamp duty of ₹ 2.87 crore was granted. Hence in view of amendment of the remission order from January 2008, action was required to be taken to recover the remission of stamp duty on these instruments.

Thus, issue of amendments retrospectively after a lapse of seven years is not prudent and in the interest of revenue. There may be more cases that need revision and recovery of the remission amount allowed. The IGR had not issued any directions/instructions for tracing of the cases in which remission was allowed and the manner in which recovery should be made.

3.4.7 Systems for monitoring through inspections

IGR office had issued instructions (June 2001 as amended in December 2007) for monitoring mechanism by periodical inspection of sub-ordinate offices by controlling officers. This included monthly targets⁹ for Internal Audit wing of RSD, regional DIGs and JDR. The instructions required checking of all instruments on which remission of stamp duty was granted and of complex instruments like release deed, partition deeds, lease deeds etc. by the JDRs.

The deficiencies noticed in monitoring by RSD are as follows:

- During the period from 2011 to 2015, there were shortfalls in annual inspection of Sub-Registrar offices by internal audit wing headed by Assistant IGR at IGR office (Hqrs), eight regional DIGs, and all the JDRs, which ranged between 22 and 80 *per cent*. Similarly shortfall in the number of instruments relating to grant of remission of stamp duty checked by the JDRs during the above period ranged from 17 to 53 *per cent* as shown in **Table 3.4.7**.

Table 3.4.7

Year	Shortfall in inspection of Sub-Registrar offices by			Shortfall in checking remission instruments by JDR
	Eight DIGs	Asst.IGR	JDRs	
2011	64.06	80.56	62.87	53.83
2012	22.40	40.28	27.70	17.45
2013	42.71	40.28	38.85	49.74
2014	46.35	47.22	41.67	38.07
2015	44.79	80.56	43.26	49.61

Source: Information furnished by the Department

Due to shortfall in inspection the monitoring of the working of SRs for correctly allowing remission of stamp duty under various schemes could not be done. As a result various irregularities as pointed out in foregoing paragraphs occurred.

3.4.8 Conclusion

The audit revealed that due to non-maintenance of scheme-wise database of instruments on which remission was granted, RSD was not able to identify the erring units. There was no mechanism to ensure fulfillment of conditions prescribed in the remission orders and policies. Due to non-existence of system of sending SDECs by the User Department to Registration authorities at district and taluka level, a case of availing remission on fake certificate was noticed. In many cases the remission was granted, though not admissible, as per remission orders. The User Departments issued SDEC to ineligible units. The monitoring mechanism in RSD was weak as is evidenced by the shortfall in periodical inspection of the Sub-registrar offices.

⁹ Three SR offices by each of the two Desk of Internal audit wing of IGR office, two SR offices by each regional DIG(8) and two by each JDR (34).

3.5 Other audit observation

During scrutiny of records of the various registration offices, we noticed several cases of non-compliance of the provisions of the Maharashtra Stamp Act, 1958 and Government notifications and instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on our test check of records. The Government / Department need to improve internal control mechanisms so that such cases can be avoided, detected and corrected.

3.5.1 Short levy of stamp duty due to non-consideration of License fees, Security Deposits, etc in Lease Agreement

Levy of stamp duty without treating the license fees, security deposits, etc. as consideration, in terms of Explanation-I of Article 36 (iv), resulted in short levy of stamp duty of ₹ 19.61 crore

Article 36 (iv) of the MS Act, 1958, provides levy of stamp duty at the rates of three *per cent* on 90 *per cent* of the market value of the property in cases of leases exceeding 29 years. Further, Explanation-I of the Article stipulates 'Any consideration in the form of premium or money advanced or to be advanced or security deposit by whatever name called shall, for the purpose of market value be treated as consideration passed on'.

Two lease Agreements were executed (July 2014) for two pieces of land admeasuring 4,68,367.63 sqm in Office of the Joint Sub Registrar-III, Kalyan, District Thane (SR), valued at ₹ 51.10 crore. The Department levied the stamp duty at the rate of five *per cent* at ₹ 2.56 crore. Scrutiny of instruments revealed (August 2015) that consideration of the instruments was ₹ 821.10 crore. The SR had excluded consideration received in the form of license fees, cost of infrastructure, security deposits valued at ₹ 770 crore. The instruments were liable to a stamp duty of ₹ 22.17 crore instead of ₹ 2.56 crore levied by the SR. This resulted in short levy of stamp duty of ₹ 19.61 crore¹⁰.

After being pointed out (August 2015 and June 2016), the IGR, Pune stated (July 2016) that the order for recovery of short levy of stamp duty had been passed, on which the party had filed an appeal in the Court of law.

This was pointed out to the Government in June 2016; their reply has not received (February 2017).

3.5.2 Short levy of stamp duty of ₹ 11.94 crore due to non-inclusion of encumbrance on the property in consideration

Incorrect calculation of consideration of property (without considering the unearned income and encumbrance of sales tax on property) resulted in short levy of stamp duty of ₹ 11.94 crore

As per Section 2(n)(a) of MS Act, 1958, market value in relation to any property which is the subject matter of an instrument, means the price at which such property would have fetched if sold in open market on the date of

¹⁰ ₹ 22.17 crore – (₹ 1.51 crore + ₹ 1.05 crore).

execution of such instrument or the consideration stated in the instrument whichever is higher. Further, as per Section 25 (b), a charge or encumbrance¹¹ upon the property, shall be deemed to be the consideration and is chargeable with stamp duty. Accordingly, unearned income or any debt paid by the purchaser is part of consideration.

3.5.2.1 Scrutiny of instruments in Office of the Joint Sub Registrar-IX, Thane, revealed (August 2015) that an Agreement to Sale was executed (December 2014) between 'Vendor' and 'Purchaser' for a 'Sanad Land'¹² admeasuring 2,55,643.97 sqm along with structures situated at villages Dhokali, Kolshet and Balkam of Tahsil and District Thane. The Department worked out market value/consideration of property at ₹ 386.57 crore and stamp duty at the rate of six *per cent* amounting to ₹ 23.19 crore was levied. The 'Indenture of Conveyance' was executed in March 2015.

As per 'Indenture of Conveyance', the 'Purchaser' had deposited one cheque and three post-dated cheques (December 2014) aggregating to ₹ 193.27 crore on account of unearned income. The unearned income was not treated as consideration and stamp duty of ₹ 11.60 crore was not levied. This resulted in short levy of stamp duty to that extent.

After this was pointed out (August 2015 and June 2016), the IGR, Pune stated (August 2016) that the action for recovery of short levy of stamp duty had been initiated under Section 32 (A) of MS Act against which the party had filed an appeal in the Court of law and Court directed that no coercive steps be taken.

3.5.2.2 Scrutiny of instruments in Office of the Sub Registrar, Sinnar, Nasik, revealed (August 2014) that a Deed of Confirmation was executed (May 2013) between 'Seller' and 'Buyer' for a plot admeasuring 15,000 sqm situated at mouza Musalgaon-Industrial area, Taluka Sinnar, District Nasik. The Department worked out market value/consideration of the property at ₹ 1.42 crore and stamp duty at the rate of five *per cent* amounting to ₹ 7.11 lakh was levied and recovered at the time of registration. The calculation of market value was not found on the record.

As per recital of the instrument and 'Sale Certificate' (April 2012) attached with it, the consideration amount of the property was ₹ 6.56 crore along with encumbrance of sales tax of ₹ 1.73 crore which was to be borne by the buyer. Thus, total consideration worked out to ₹ 8.28 crore on which stamp duty of ₹ 41.41 lakh at the rate of five *per cent* should have been levied. Non-inclusion of encumbrance on property in calculation of consideration resulted in short levy of stamp duty of ₹ 34.30 lakh.

After this was pointed out (August 2014 and May 2016), the IGR, Pune stated (July 2016) that the action for recovery of short levy of stamp duty had been initiated under Section 32 (A) of MS Act.

The above observations were brought to the notice of Government (June 2016). Reply thereto was awaited (February 2017).

¹¹ Burden, obstruction, or impediment on property that lessens its value or makes it less marketable.

¹² Means authority given in writing by the government to hold land.

3.5.3 Short levy of stamp duty due to non-consideration of 'Revenue Sharing' aspect

'Revenue Sharing' aspect between Owners and Purchasers was not considered for calculating the market value, resulting in short levy of stamp duty of ₹ 10.87 crore

As per provision contained in Article 5 (g-a) (i) of MS Act, if immovable property is given to a Developer for development, construction, sale or transfer then stamp duty is leviable on conveyance under Article 25 (b) under the said Act. Also, for the purpose of determining consideration that is passed on by the developer to the owner, in the form of revenue share after selling of the constructed unit, the rate of residential unit as per ready reckoner would be considered (i.e. unit rate).

Scrutiny of instruments in Offices of five¹³ Sub Registrars, revealed (November 2013 and July 2015) that in eleven cases the Development Agreements were executed between 'Owners' and 'Developers' for development of land. As per recital of the agreement the owners and developers had agreed to develop the properties on the basis of revenue sharing¹⁴ on certain percentage¹⁵. The Department levied stamp duty of ₹ 5.32 crore on market value/consideration of ₹ 93.74 crore.

Audit observed that the Department did not consider the revenue sharing aspect while calculating the market value/consideration of the property. The consideration as per revenue sharing was worked out to ₹ 379.99 crore involving stamp duty of ₹ 16.19 crore. Thus, there was short levy of stamp duty by ₹ 10.87 crore.

After this was pointed out (November 2013, July 2015 and June 2016), the IGR, Pune accepted (July/August 2016) the audit observations. However, while calculating the consideration it incorrectly applied ASR of 2015 instead of ASR of the respective years. The Department raised demand of ₹ 9.27 crore. The matter relating to short levy has been taken up with the Department.

All the above observations were brought to the notice of Government (June 2016). Reply thereto was awaited (February 2017).

¹³ Joint Sub Registrar, Haveli-XII, Pune, Sub Registrar, Haveli-XXVI, Pune, Joint Sub Registrar-I, Kalyan, Thane, Sub Registrar, Haveli-XXI, Pune, Sub Registrar, Haveli-XIII, Pune.

¹⁴ Revenue realized from selling of constructed units in open market.

¹⁵ Ranged between 38:62 and 48:52.

3.5.4 Short levy of stamp duty due to applying of incorrect rate on Gift Deed

Department allowed the concession of stamp duty on Gift Deed, though not admissible as the ‘Donor’ and ‘Donee’ were not lineal ascendant or descendant, which resulted in short levy of stamp duty amounting to ₹ 1.15 crore

As per Article 34 of Schedule-I of MS Act, 1958, for property gifted to a family¹⁶ member or any lineal ascendant or descendant of the donor, the amount of stamp duty chargeable on Gift Deed was three *per cent* (which includes one *per cent* additional Municipal Cess) of the market value of the property; otherwise the stamp duty was same as that leviable at the rate of six *per cent* on a Conveyance Deed which was of the market value of property.

Scrutiny of instruments in Offices of the Joint Sub Registrar-IX, Haveli, Pune and Joint Sub Registrar-VII, Thane at Bhayandar, revealed (July 2014 and September 2014) that two Gift Deeds were executed (May 2013, August 2013) between ‘Donors’ and ‘Donees’ for a land admeasuring 1,83,511.80 sqm and 8,450 sqm bearing various Survey Nos. 9,10,11,12 and 19 at village Lohgaon, Tahsil and District Pune and new survey no. 166 at village Bhayandar within the limits of Mira Bhayandar Municipal Corporation, Thane, respectively.

Further, audit observed that the Donees and donors were not covered under Article 34 of MS Act, as family member or lineal ascendant or descendant of the Donor. Therefore, stamp duty levied by the Department amounting to ₹ 0.90 crore by granting of concession was incorrect. The market value of land worked out to ₹ 34.26 crore involving stamp duty of ₹ 2.05 crore at the rate of six *per cent*. This resulted in short levy of stamp duty of ₹ 1.15 crore. The details are shown in **Table 3.5.4**.

Table 3.5.4

(₹ in crore)						
Sr No	Name of Office	Market Value as per Department	Stamp Duty levied	Market Value as per the ASR	Stamp Duty leviable	Short levy of Stamp Duty
1	Jt SR-IX, Haveli, Pune	19.17	0.57	23.36	1.40	0.83
2	Jt SR-VII, Thane at Bhayandar	10.90	0.33	10.90	0.65	0.32
Total		30.07	0.90	34.26	2.05	1.15

Source : Information furnished by the Department

After this was pointed out (July 2014, September 2014 and May 2016), the IGR, Pune stated (July 2016) that the action for recovery of short levy of stamp duty had been initiated under Section 32 (A) of MS Act.

This was brought to the notice of Government (June 2016). Reply thereto was awaited (February 2017).

¹⁶ As per notes under Article 34 (Gift) the family member of the donor means father, father’s father etc. and the lineal descendant means son, son’s son and daughter etc.

3.5.5 Short levy of stamp duty of ₹ 57.95 lakh due to undervaluation of property

Incorrect calculation of market value of property resulted in short levy of stamp duty of ₹ 57.95 lakh

As per Article 25 of MS Act, 1958, stamp duty is leviable on true market value of property, which is the subject matter of Conveyance. As per the Section 2 (na) of MS Act, “market value” in relation to any property which is the subject matter of an instrument means the price which such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument, whichever is higher. True market value is determined by considering the rates prescribed in the ASR.

3.5.5.1 Scrutiny of instruments in Office of the Joint Sub Registrar-IV Bhayandar, District Thane, revealed (March 2015) that a Deed of Conveyance was executed (December 2013) between the Owner and Purchaser for land admeasuring 4,444.75 sqm bearing Survey No. 82 at village Navghar within the limits of Mira-Bhayandar Municipal Corporation for the consideration of ₹ 2.79 crore. The Department determined the market value of the land at ₹ 2.78 crore and levied stamp duty of ₹ 16.74 lakh.

It was observed that as per ASR-2013, rate of ₹ 20,300 per sqm was applicable to the property and accordingly the market value worked out to ₹ 7.81¹⁷ crore involving stamp duty of ₹ 46.89 lakh. Thus, incorrect application of rate of the land resulted in short levy of stamp duty of ₹ 30.15 lakh.

After this was pointed out (March 2015 and June 2016), the IGR, Pune stated (July 2016) that the action for recovery of short levy of stamp duty had been initiated under Section 32 (A) of MS Act.

3.5.5.2 As per Instruction No. 17 of Annual Statement of Rates (ASR), various slabs on the basis of areas to determine the market value of the bulk land are prescribed. If two or more pieces of land are consolidated together, the bulk land benefit (slab rate) should not be given on consolidated area which means valuation of each piece of land should be done separately.

Scrutiny of instruments in Office of Joint Sub Registrar-I, Haveli, Pune (March 2012), audit noticed that Sale Deed was executed (December 2010) between Owner and Purchaser for sale of property consisting of 16¹⁸ pieces of

¹⁷ Market Value as per instruction 16 (B) of ASR-2013

Market value of land 294.75 sqm of S No 82/hissa-4, 294.75 sqm X ₹ 20,300 X 100% = ₹ 59,83,425...(A)

Market value of land 4,150 sqm of S No 82/hissa-6, 500 sqm X ₹ 20,300 X 100% = ₹ 1,01,50,000/-

1,500 sqm X ₹ 20,300 X 90% = ₹ 2,74,05,000/-

2,000 sqm X ₹ 20,300 X 80% = ₹ 3,24,80,000/-

150 sqm X ₹ 20,300 X 70% = ₹ 21,31,500/-

Total = ₹ 7,21,66,500...(B)

Total market value = ₹ 7,81,49,925/- (₹ 59,83,425 + ₹ 7,21,66,500) say ₹ 7,81,50,000/-.

¹⁸ 16 pieces of land at survey numbers 331/1, 331/2, 331/4, 331/5, 331/6, 331/8, 331/9, 331/3, 331/7, 336/1, 336/5, 336/2, 336/6, 337/2, 337/1 and 338/2 of Mouza Bawhan (Budruk), Tahsil Mawal, District Pune.

land (Total land 31,640 sqm) as a single piece of land. Department applied the rate applicable to bulk land for a consideration of ₹ 8.21 crore and levied stamp duty of ₹ 32.84 lakh on it. As per instruction no. 17 of ASR the market value of the land should have been calculated separately for each piece of land which worked out to ₹ 11.96 crore involving stamp duty of ₹ 47.87 lakh. Thus, there was a short levy of stamp duty of ₹ 15.03 lakh (₹ 47.87 lakh - ₹ 32.84 lakh).

After this was pointed out (March 2012 and May 2016), the IGR, Pune stated (August 2016) that the action for recovery of short levy of stamp duty had been initiated under Section 32 (A) of MS Act.

3.5.5.3 Scrutiny of instruments in Office of Joint Sub Registrar-IX, Haveli, Pune, revealed (March 2011) that a Sale Deed was executed (June 2009) between the 'Owner', 'Subsequent Owner' and 'Purchaser' for the property. The property consists of a plot admeasuring 841.40 sqm together with two new buildings admeasuring 1,116.17 sqm and old structure admeasuring 349.67 sqm in Survey No. 212 Pune. The Department worked out market value of the property at ₹ 1.41 crore for which calculation was not available and levied stamp duty at the rate of five *per cent* of ₹ 7.02 lakh.

As per the recital of the instrument, the new buildings were used for commercial as well as residential purpose. Hence, total market value of the property should have been worked out as per the use of the property for commercial as well as residential purpose. The total market value of the property as per ASR was worked out at ₹ 3.96¹⁹ crore on which stamp duty of ₹ 19.80 lakh at the rate of five *per cent* was leviable. This resulted in short levy of stamp duty of ₹ 12.77 lakh.

After this was pointed out (March 2011 and June 2016), the IGR, Pune stated (July 2016) that the action for recovery of short levy of stamp duty has been initiated under Section 32 (A) of MS Act.

All the above observations were brought to the notice of Government (June 2016). Reply thereto was awaited (February 2017).

3.5.6 Incorrect exemption in stamp duty

Incorrect grant of exemption on Lease Deed by the Department, resulted in non-levy of stamp duty of ₹ 21.05 lakh

As per Government Notification, Revenue Department No. STP. 1364 dated 29 October 1954, stamp duty is exempted for certain instruments (Deeds of Settlements, Gift Deeds and Trust Deeds) executed for any educational purpose by or in favor of any Educational Institutions recognized by State Government. Further, as per Article 36 (iv) of MS Act, 1958, on Lease Deed, stamp duty is leviable on a conveyance under clause (a), (b), (c), or (d) as the

¹⁹ **Wing A** : Commercial area = 746.93 sqm X ₹ 38,000 = ₹ 2,83,83,340/-... (i)
Wing B : Commercial area (at ground floor) = 73.31 sqm X ₹ 38,000 = ₹ 27,85,780/- (ii)
Residential area (I, II and III floor) = 295.60 X ₹ 24,200 = ₹ 71,53,520/- (iii)
Total area of old Building = 349.54 sqm X ₹ 24,200 X 15% = ₹ 12,68,830/- (iv)
Total market value = ₹ 3,95,91,470/- (₹ 2,83,83,340 + ₹ 27,85,780 + ₹ 71,53,520 + ₹ 12,68,830).

case may be, of Article 25, on 90 *per cent* of the market value of the property, where such lease purports to be for a period exceeding twenty-nine years.

Scrutiny of instruments in Office of the Joint Sub Registrar-III, Haveli, Pune, revealed (January 2015) that a Lease Deed was executed in July 2013 between Lessor and Lessee for a period of thirty years. The Department granted exemption of stamp duty in terms of notification *ibid*.

As the exemption of stamp duty under the notification stated above was not available for the Lease Deed, the exemption given by the Department was incorrect. As per ASR 2013 the market value of the property worked out to ₹ 4.21 crore involving stamp duty of ₹ 21.05 lakh. This resulted in non-levy of stamp duty of ₹ 21.05 lakh.

After this was pointed out (January 2015 and May 2016), the IGR, Pune stated (July 2016) that the action for recovery of stamp duty has been initiated under Section 32 (A) of MS Act.

This was brought to the notice of Government (June 2016). Reply thereto was awaited (February 2017).

3.5.7 Short levy of stamp duty due to non-consideration of renewal clause as part of Lease Deed for calculation of market value

Department did not consider the renewal clause as part of 'Lease Deed' for calculation of market value resulted in short levy of stamp duty of ₹ 10.27 lakh

According to Article 36 (iii) of the MS Act 1958, stamp duty leviable on Lease Deed was on 25 *per cent* of the market value of the property if period of lease is up to 10 years and on 50 *per cent* of the market value of the property if period of lease is exceeding 10 years but not exceeding 29 years, with a renewal clause contingent or otherwise. Further, as per Explanation-II under Article 36, the renewal, if specifically mentioned, shall be treated as part of present lease.

Scrutiny of records in Office of the Joint Sub Registrar Thane-1, revealed (February 2015) that a lease deed was executed (December 2012) between the Lessor and the Lessee for the property of built-up area of 11,958 sqft. The said lease was from 1st January 2010 for period of 10 years. The Department worked out the market value of the property at ₹ 6.39 crore and levied stamp duty of ₹ 7.98 lakh at the rate of five *per cent* on 25 *per cent* of market value by considering the period of lease as 10 years. The details of the calculation of market value were not found on the record. As per the ASR 2012 market value of the property was worked out to ₹ 7.30 crore.

The recital of the instrument revealed that the lessee was given option of renewal for a further period of 10 years after 31st December 2019 on mutually acceptable terms and conditions. Thus, by considering the further lease renewal period as part of lease, the stamp duty of ₹ 18.25 lakh at the rate of five *per cent* of 50 *per cent* of the market value (₹ 7.30 crore) should have been levied. This has resulted in short levy of stamp duty of ₹ 10.27 lakh.

After this was pointed out (February 2015 and June 2016), the IGR, Pune stated (July 2016) that the action for recovery of short levy of stamp duty has been initiated under Section 32 (A) of MS Act.

This was brought to the notice of Government (June 2016). Reply thereto was awaited (February 2017).

3.5.8 Short levy of stamp duty due to misclassification of instrument

Misclassification of instrument of Release Deed resulted in short levy of stamp duty amounting to ₹ 10.57 lakh

Article 52 (a) of Schedule-I of MS Act, 1958 provides that if the Release Deed is in respect of ancestral property or part thereof and is executed by or in favour of blood relations of the renouncer or the legal heirs of the blood relations then stamp duty of ₹ 200/- is levied. Further, Article 52 (b) provides that in any other case stamp duty is levied as per Article 25 of MS Act.

Scrutiny of instruments in Office of the Joint Sub Registrar-III, Vasai, Thane, revealed (March 2013) that a Release Deed was executed in May 2009 for a non-agricultural land admeasuring 9,960 sqm situated at Mouza Bolinj, Taluka Vasai, District Thane. The instrument was classified under Article 52 (a) and stamp duty of ₹ 200 was recovered at the time of registration.

From the recital of the instrument it was observed that the releaser had purchased the property and was the sole owner of the property. Thus, the property in question was not ancestral. Therefore, stamp duty of ₹ 10.57 lakh at the rate of six *per cent* should have been levied under Article 52 (b) on market value of ₹ 1.76 crore. This had resulted in short levy of stamp duty of ₹ 10.57 lakh.

After this was pointed out (March 2013 and May 2016), the IGR, Pune stated (July 2016) that the action for recovery of short levy of stamp duty had been initiated under Section 32 (A) of MS Act.

This was brought to the notice of Government (June 2016). Reply thereto was awaited (February 2017).