

CHAPTER- VI: OTHER TAX RECEIPTS

STAMP DUTY AND REGISTRATION FEES

6.1 Cost of collection

The gross collection in respect of 'Stamp Duty and Registration Fees', expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2005-06 to 2009-10 along with the all India average percentage of expenditure on collection of the preceding years is indicated in the following table:

(Rupees in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the preceding year
2005-06	91.93	5.21	5.67	3.44
2006-07	122.02	9.86	8.08	2.87
2007-08	156.26	7.81	5.00	2.33
2008-09	192.16	9.91	5.16	2.09
2009-10	238.20	10.98	4.61	2.77

The above table indicates that the percentage of expenditure on collection was higher than the All India average in each year.

We recommend that the Government may consider looking into the higher cost of collection and take steps to bring it down.

6.2 Results of audit

Our test check of the records of 10 offices in 2009-10 relating to stamp duty and registration fees and one office relating to electricity duty revealed short levy of duty involving ₹ 7.04 crore in six cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
Stamp duty and Registration fees			
1	Receipts from stamp duty and registration fees including IT aspect (A review)	1	5.22
2	Other cases	1	0.24
Total		2	5.46
Electricity Duty/Passenger and Goods tax/Entry tax			
3	Short levy of electricity duty	2	0.70
4	Non-levy of penalty	1	0.02
5	Other cases	1	0.86
Total		4	1.58
Grand total		6	7.04

A review on the “Receipts from Stamp Duty and Registration Fees including IT aspect” with financial impact of ₹ 5.22 crore and an illustrative case of short levy of electricity duty of ₹ 22.27 lakh is mentioned in the succeeding paragraphs:

6.3 Receipts from Stamp Duty and Registration Fees including IT aspect

Highlights

- Non-execution of deed of conveyance for 198 flats/shops resulted in non-levy of stamp duty, registration fees and penalty of ₹ 3.23 crore.
(Paragraph 6.3.11.1)
- Non-renewal of 176 mining lease deeds resulted in non-realisation of stamp duty and registration fees of ₹ 415.28 crore.
(Paragraph 6.3.11.2)
- In District Sub Registrar office, Ranchi stamp duty and registration fees of ₹ 13.72 lakh was short levied in three lease deeds of *khas mahal*.
(Paragraph 6.3.12)
- Misclassification of lease deed as agreement resulted in short levy of registration fees of ₹ 13.32 lakh.
(Paragraph 6.3.14)
- Undervaluation of properties due to adoption of lower rates than the rates fixed as per the guideline register in 73 cases resulted in short levy of stamp duty and registration fees of ₹ 55.46 lakh.
(Paragraphs 6.3.15 and 6.3.16)
- Incorrect allowance of exemption on 26 deeds of purchases of flats from so called co-operative societies which actually acted like promoters/builders and constructed flats from their own resources, resulted in short levy of stamp duty and registration fees of ₹ 12.84 lakh.
(Paragraph 6.3.17)
- There was no documented User Requirement Specification (URS), in the absence of which the success of the project in terms of extent to which desired benefits had been achieved, could not be assessed.
(Paragraph 6.3.21)
- The system was unable to calculate the delays in presentation of documents for registration and levy of fines at the time of registration due to absence of provision for capturing of actual date of execution of documents in the database.
(Paragraph 6.3.22.1)
- Non-provision in the software to capture details of boundaries in the four directions (North, East, South and West) of the properties registered in the database made the software deficient in describing the exact location and unique identification of the registered properties.
(Paragraph 6.3.22.2)

- There was no policy framed by the IG Registration for taking backup and preservation of the data as per rule. Copies of the backup data were neither prepared/preserved nor were sent to IG Registration office quarterly by the DSR.

(Paragraph 6.3.23.1)

- The software had been designed with inadequate validation checks thus, failed to prevent registration of deeds having incomplete details.

(Paragraph 6.3.25.3)

6.3.1 Introduction

The Indian Stamp Act, 1899 (IS Act) as amended from time to time, by notifications issued by the State Government, provides for levy of stamp duty on the instruments presented for registration at the rates specified in the Act. Such duties are paid by the executors of instruments using “impressed stamps papers” or affixing “stamps on bond papers” of proper denominations. The rules framed under the Act lays down the detailed procedure for determination and collection of stamp duty.

The Indian Registration Act, 1908 and rules made thereunder by the State Government broadly outline the system of assessment and collection of revenue under registration fees.

The Registration (Bihar Amendment) Act, 1991 (adopted by the Government of Jharkhand) provided a table of fees payable (as amended from time to time) for registration of documents.

On presentation of instruments for registration, the registering authority examines the same to verify that the instruments were presented within four months from the date of execution, properly stamped as required under the Indian Stamp (Bihar Amendment) Act and registration fees collected according to the prescribed table of fees.

The Registration Department amended (July 2005) certain provisions of the Bihar Registration Rules, 1937 (adopted by the Government of Jharkhand) for implementation of the Jharkhand Automated Registration System (JARS) – an IT system to ensure completion of registration process through an efficient, correct and transparent service to the registering public. Accordingly, notifications were issued between 23 July 2005 and 29 August 2008 for implementation of “e-Nibandhan”, a web based automated system to facilitate registration process for all the districts of the State and having a central monitoring approach. The computerised system was made operational at a cost of ₹ 2.02 crore in all the District Sub Registrar (DSR) and Sub-Registrar (SR) offices (except DSR, Deoghar) between February 2008 and July 2009.

We reviewed the system of levy and collection of stamp duty and registration fees including IT aspect. It revealed a number of system and compliance deficiencies that are discussed in the subsequent paragraphs.

6.3.2 Audit criteria

The audit criteria adopted for the review were:

1. The IS Act, 1899;
2. The Bihar Stamp Rules, 1954 (adopted by the Government of Jharkhand);
3. The Bihar Stamp Manual, 1955 (adopted by the Government of Jharkhand);
4. Indian Stamp (Bihar Amendment) Act, 1988 (adopted by the Government of Jharkhand);
5. Indian Registration Act, 1908;
6. The Bihar Registration Manual, 1946 (adopted by the Government of Jharkhand);
7. Bihar Stamp (Prevention of Undervaluation of Instrument) Rules, 1995 (adopted by the Government of Jharkhand);
8. Jharkhand Apartment Act, 2005;
9. Bihar Co-operative Societies Manual (adopted by the Government of Jharkhand);
10. Operations Manual for e-Nibandhan; and
11. Executive and Departmental orders issued from time to time.

6.3.3 Organisational setup

The Registration Department is under the overall administrative control of Principal Secretary, Registration Department at the Government level. The Inspector General of Registration (IGR) is the head of the Department. He is responsible for administration of the Act, rules and orders issued by the Government from time to time. He is assisted by a Deputy Secretary, an Assistant Inspector General (AIG) at the headquarters, an Inspector of Registration and 24⁶³ DSRs and 8⁶⁴ SRs. The Inspector of Registration is responsible for inspection of all the five⁶⁵ divisions of the State, while DSRs and SRs are the primary units responsible for levy and collection of stamp duty and registration fees under the IS Act and the Registration Act.

The AIG at the headquarters is the e-Governance Nodal Officer for computerisation in the Registration Department.

6.3.4 Audit objectives

The main objectives of the review were to ascertain whether:

- the system and procedures relating to classification of deeds, levy and collection of stamp duty and registration fees including fines and penalties were adequate, effective and efficient;
- the internal control mechanism and monitoring controls of the Department were adequate, effective and efficient;

⁶³ Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahebganj, Simdega and Saraikela.

⁶⁴ Barhi, Chakardharpur, Ghatsila, Hussainabad, Jamua, Nagarutari, Rajdhanwar and Tenughat.

⁶⁵ Dumka, North Chotanagpur, Kolhan, Palamu and South Chotanagpur.

- the activities of the Department were computerised, the application met the requirement of the Registration Act, IS Act, Bihar Registration Rules and JARS was synchronised with the critical business of the Department; and
- security measures in the computerised system were adequate, IT controls were in place and the data captured was reliable, accurate and complete.

6.3.5 Scope and methodology of audit

The audit for the period from 2004-05 to 2008-09 was conducted in eight⁶⁶ DSRs out of 24 DSR offices and two SRs of Barhi and Tenughat out of eight SR offices and the office of the IGR between April and August 2010.

Further, we obtained computerised data since inception to July 2010 in the form of dump files (ORACLE) from Registration Department. Out of the five divisions, we selected two divisions⁶⁷ on random basis. Of these divisions, we selected one DSR each having maximum number of documents received for registration. We analysed the database of DSR, Jamshedpur for the period from February 2008 to July 2010 and of DSR, Ranchi from May 2008 to July 2010 using generalised audit software. We cross checked the manual records of DSR, Jamshedpur and Ranchi with reference to the audit findings between July and August 2010.

The units were selected after risk analysis considering the revenue realised, volume of transactions etc. We also obtained information from State Government Departments and local body authorities to verify the correctness of payment of stamp duty and registration fees.

6.3.6 Acknowledgement

We acknowledge the co-operation of the Registration Department, Government of Jharkhand in providing necessary information and records for audit scrutiny. We held an entry conference on 5 May 2010 with the Inspector General of Registration in which we apprised him of the audit objectives, scope and methodology of the review. We reported the audit findings to the Government in August 2010 and discussed these in the exit conference held in September 2010. The Government was represented by the Secretary, Registration Department, Government of Jharkhand and IGR. The replies received during the exit conference and at other points of time have been incorporated in the respective paragraphs.

⁶⁶ Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Lohardaga, Ranchi and Saraikeela.

⁶⁷ Kolhan and South Chotanagpur.

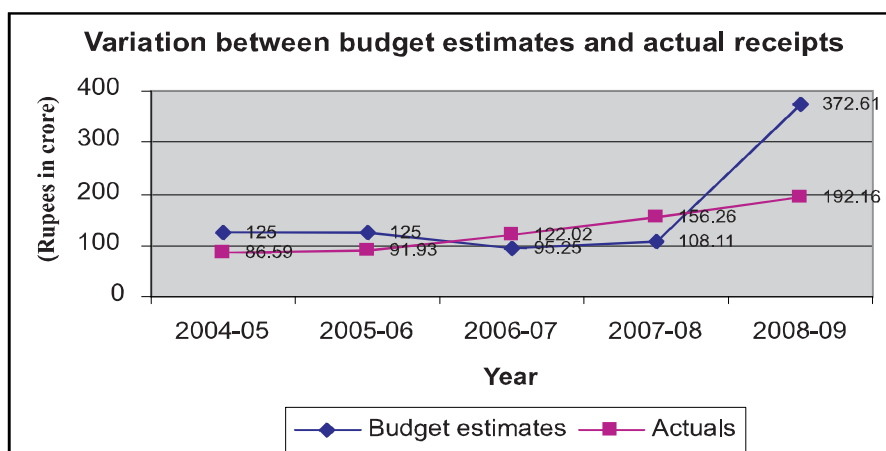
Audit findings**System deficiencies****6.3.7 Trend of revenue**

According to the provisions of the Bihar Financial Rules Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the materials for budget estimates are obtained from the concerned administrative departments which are responsible for the correctness of the materials. In case of fluctuating revenue the estimates should be based on a comparison of the last three years receipts.

We checked the budget estimates (BEs) and actual receipts in respect of revenues of stamp duty and registration fees during 2004-05 to 2008-09 and noticed large variation between the BEs and the actual receipts. A comparison of BEs and actuals is shown in the table and graph as under:

(Rupees in crore)

Year	Budget estimates (BEs)	Actuals	Variation excess (+)/shortfall (-)	Percentage of variation between BEs and Actuals	Increase in percentage of revenue over the previous year
2004-05	125.00	86.59	(-) 38.41	(-) 31	(+) 06
2005-06	125.00	91.93	(-) 33.07	(-) 26	(+) 06
2006-07	95.25	122.02	(+) 26.77	(+) 28	(+) 33
2007-08	108.11	156.26	(+) 48.15	(+) 45	(+) 28
2008-09	372.61	192.16	(-) 180.45	(-) 48	(+) 23



It would be seen from the above that the percentage of variation between the BEs and the actual receipts was very large. It was as high as 45 per cent above the BE during 2007-08 and as low as 48 per cent during 2008-09 below the BE. Further, the BEs for 2007-08 were less than the actuals of the preceding year (2006-07) while during 2008-09 the BEs were more than the actual receipts for 2007-08 by 138 per cent. This indicates that the BEs were not prepared on a realistic basis.

The reasons for variation between the BEs and the actual receipts though called for (April 2010) were not furnished (March 2011). During 2006-07 there was steep increase in revenue by 33 *per cent* as compared to 2005-06. This was attributed by the Department to registration of more number and value of instruments compared to the previous year despite reduction of rate of stamp duty and registration fees.

As BEs are an important part of the financial planning of the Government, these should be close to the actuals. **We recommend that the Government may issue suitable instructions to the Registration Department for preparing the BEs on a realistic and scientific basis and ensure that these are close to the actuals.**

6.3.8 Non-reconciliation of revenue receipts

The Bihar Financial Rules Vol. I (adopted by the Government of Jharkhand) enjoins upon the head of the Department to ensure regular reconciliation of the figures of the Department with those booked by the Accountant General (A&E).

We noticed that the Departmental figures for collection of revenue did not match the figures shown in the Finance Accounts of the Government of Jharkhand prepared by the Accountant General (A&E) during 2004-05 to 2008-09 as mentioned below:

(Rupees in crore)

Year	Departmental figure	Figure as per Finance Accounts	Difference
2004-05	74.61	86.59	11.98
2005-06	77.51	91.93	14.42
2006-07	102.02	122.02	20.00
2007-08	140.47	156.26	15.79
2008-09	171.69	192.16	20.47

The wide difference between the Departmental figures of revenue receipts with those shown in the Finance Accounts of the State Government indicates that there is a need for reconciliation of the figures which is not being done by the Department despite several reminders by the Accountant General (A&E). Reasons for non-reconciliation, though called for (April 2010), were not furnished by the Department (March 2011).

We recommend that the Finance Department may consider issuing instructions to the Registration Department for periodical reconciliation of the Departmental figures with the figures exhibited in the Finance Accounts of the Accountant General (A&E).

6.3.9 Internal control and monitoring

6.3.9.1 Internal Audit

Internal audit in an organisation provides assurance that the prescribed systems are functioning reasonably well. The Finance Department ordered in May 1960 that the internal audit of the Registration Department would be conducted by its audit wing. The internal audit parties were required to conduct *cent per cent* audit of all demands, collection of revenue and verification of deposit of amounts into the treasury including scrutiny of registers maintained by offices.

We test checked the records of selected units which revealed that internal audit by the Finance Department was conducted only once in the offices of DSR, Bokaro, Dhanbad and Hazaribag during the period 2004-08.

In the absence of internal audit, the Department had no means of knowing the weaknesses in the system and did not, therefore, have the opportunity of taking remedial action at the appropriate time.

6.3.9.2 Inspection of registering offices

The Bihar Registering Manual, provides for inspections of registering offices by the IGR, the DSRs and the Inspectors. The DSR is required to inspect every SR office including the district headquarters office at least once in a year while the Inspector is required to inspect all offices in his jurisdiction once a year. The IGR is also required to inspect all district offices once in two years including as many rural offices as he could conveniently inspect.

We test checked the records of 10 selected units and found that no inspection was conducted during 2004-05 and 2005-06. Thereafter the number of inspections conducted in these districts was minimal as mentioned below:

Year	Inspector of registration		District Sub Registrar		Inspector General of Registration	
	Target	No. of inspections conducted	Target	No. of inspections conducted	Target	No. of inspections conducted
2006-07	10	Nil	10	Nil	5	2
2007-08	10	3	10	1	5	Nil
2008-09	10	2	10	Nil	5	Nil

It would be seen from the above, that the Department had not achieved the targets of inspections in any of the three years.

Since inspections are an important part of the internal controls and help in monitoring the proper functioning of the Department, **we recommend that the Government may issue necessary instructions to the Registration Department for strictly adhering to the norms prescribed for inspections in the manual.**

6.3.9.3 Incorrect grant of exemption on mortgage deeds

Under the notification dated 15 December 1998 issued under the provisions of the Registration Act and IS Act, exemption is admissible on mortgage deeds for taking loan from banks up to rupees three lakh for certain specific purposes. No exemption is admissible on mortgage deeds for taking loan of more than three lakh rupees from banks.

We test checked the records of DSR, Saraikela relating to mortgage deeds and found that exemptions were allowed to four beneficiaries on mortgage deeds for taking loans of more than three lakh rupees from the banks, by splitting up of documents. However, for

checking of exemption limits of remission of stamp duty and registration fee no register was maintained in the registration offices nor did the IT system provide any inbuilt check for the same. In absence of the register/inbuilt checks the registering authority could not detect the splitting up of the mortgage deeds. This resulted in incorrect grant of exemption of ₹ 1.49 lakh.

We recommend that a provision may be made in the manual or the IT system to check the limits within which exemptions are admissible to the beneficiaries under the IS Act.

6.3.9.4 Non-renewal of licenses of stamp vendors

As per the provisions of Bihar Stationery Manual and Bihar Stamp Rules, license granted to a stamp vendor was required to be renewed in April every year after depositing a fee of ₹ 2.50.

We test checked the register of stamp vendors of eight⁶⁸ districts and found that in five⁶⁹ districts licenses of all the 135 stamp vendors were not renewed during the period

2004-09 though the vendors were engaged in the business of sale and purchase of stamps. In Jamshedpur licenses of six stamp vendors out of 42 were not renewed since 2007-08. The reasons for non-renewal of the licenses were not found on record.

After we pointed this out, the Deputy Collectors (Stamp) stated that action would be taken for renewal of the licenses. Further reply has not been received (March 2011).

Non-renewal of the licenses is fraught with the risk of unauthorised sale of stamps and other stamp papers. **We recommend that the Government may issue instructions for timely renewal of the licenses.**

6.3.10 Delays in remittances of fees collected

The Bihar Registration Manual provides that fees collected were to be paid without delay into the nearest treasury.

We found during the scrutiny of records of selected units that four⁷⁰ registration offices remitted their realised fee with an average delay of eight days. In one case in the

office of the the DSR, Bokaro it was observed that during 2008-09, an amount of

⁶⁸ Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Lohardaga, Ranchi and Saraikela.

⁶⁹ Bokaro, Dhanbad, Giridih, Ranchi and Saraikela.

⁷⁰ Bokaro, Lohardaga, Saraikela and Tenughat.

₹ 55.27 lakh was transmitted after a delay of nine days while ₹ 1.47 lakh was deposited after a delay of 22 days.

After we pointed this out, the registering authorities stated that the provisions of the manual would be adhered to. Further reply has not been received (March 2011).

The delay in remittance amounted to violation of the provisions of the Manual, besides affecting the ways and means position of the Government and is fraught with the risk of loss of cash and misappropriation. **We recommend that the IGR may issue instructions to the concerned DSRs/SRs for timely deposit of the money received by them.**

6.3.11 Non-execution of lease deeds

The Jharkhand Apartment Act, 2005 was notified on 29 October 2005, with the objective of providing for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property. The Act is administered by the Urban Development Department (UDD) and the flats/apartments are required to be registered in the Registration Department.

Section 16 of the Act provided that if the owner of the apartment failed to execute a deed of apartment within three months of the date on which possession of the apartment was given or where the State Government has granted extension of period, on expiry of such extended period, the Competent Authority may impose penalty up to a maximum of five thousand rupees per apartment and may also impose minimum penalty for each apartment of one hundred rupees for every day if the default continues and the penalty may be recovered as an arrear of land revenue.

6.3.11.1 We noticed that the UDD collected information relating to the sale of apartments from local bodies in seven⁷¹ districts. The total number of apartments sold but not registered was 2,721 as on 31 March 2009. But the details collected did not contain the full particulars of allottees like area, date of possession, consideration

value etc. in 2,523 cases. As such we could not assess the total amount of penalty that could be levied by the Department. However, the details of 198 cases furnished by the UDD revealed that penalty of ₹ 2.01 crore for non-registration of the apartments could have been levied by the UDD. But we noticed that the UDD had not processed even a single case for levy of penalty. The levy of penalty would have served as a deterrent measure for non-registration of the flats and would have fetched a revenue of ₹ 1.22 crore in shape of stamp duty and registration fee in respect of these 198 flats.

We further noticed that there was no co-ordination between the Registration Department and UDD for enforcing the provisions of the Act relating to the registration of the flats. As per the information furnished by five⁷² DSR offices 2,882 flats were unregistered as of March 2010.

After the cases were pointed out between April and June 2010, the DSR, Jamshedpur and Ranchi stated that the observations made by us would be communicated to the UDD. Further reply has not been received (March 2011).

⁷¹ Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Ranchi and Saraikela.

⁷² Bokaro, Dhanbad, Jamshedpur, Saraikela and Ranchi.

Under section 17(1) (d) of the Registration Act, leases of immovable property for any term exceeding one year was to be compulsorily registered if the value of the property exceeded one hundred rupees. Stamp duty was chargeable as per Schedule I-A of the Indian Stamp Act and registration fee was leviable as per table of fees determined by the Government. Further, a lease shall be deemed to have been extended by a further period till the State Government passes order thereon.

6.3.11.2 We obtained information from five⁷³ district mining offices which revealed that 176 mining leases had expired as on March 2009 but these lessees were extracting minerals and were paying royalty on the extracted minerals. The leases were neither cancelled nor renewed even after the receipt of application from the lessees. As these leases

were granted for five to thirty years, their registration was compulsory for further extraction of minerals after expiry of the lease period. Hence, non-registration of these mining lease deeds resulted in non-levy of stamp duty and registration fees of ₹ 415.28 crore. Of these, four leases were closed and are not working at present. Thus, the possibility of getting the lease registration is remote.

After we pointed this out, the DSRs stated that correspondence would be made with the concerned district mining offices. Further reply has not been received (March 2011).

Under the provisions of Registration Act, leases of immovable property for any term exceeding one year is to be compulsorily registered if value of the property exceeds one hundred rupees. A lease for settlement of 'jalkars' is immovable property and the terms of the lease exceeds one year or reserves yearly rent, such a lease is also required to be compulsorily registered.

6.3.11.3 We obtained information from the Director of Fisheries, Government of Jharkhand, Ranchi which revealed that 42,471 *jalkars*⁷⁴ were settled for three years on a settlement amount of ₹ 3.83 crore for the period from 2004-09. These *jalkars* were not registered as on March 2009. Thus, non-registration of these settled *jalkars* resulted in non-levy of stamp duty and registration fees of ₹ 35.43 lakh.

After we pointed this out, the Director of Fisheries, Government of Jharkhand stated that directions have been issued to the district fisheries officers for execution of lease agreement.

6.3.11.4 We obtained information from Municipal Council, Hazaribag and Saraikela in respect of eight⁷⁵ mobile tower companies for erection of 36 mobile towers and found that these companies entered into lease agreements with the land/building owners paying yearly rent in excess of rupees one hundred. These documents were not registered in the office of the DSRs even though they relate to lease for 12 to 20 years which required compulsory registration. Non-registration of these lease agreements resulted in non-levy of stamp duty and registration fee of ₹ 4.45 lakh.

⁷³ Bokaro, Dhanbad, Jamshedpur, Saraikela and Ranchi.

⁷⁴ Water storage like ponds/lakes in which fishes are produced and which are settled through auction by the Government.

⁷⁵ Bharati Airtel Ltd., Dishnet Wireless Ltd., Idea Cellular Infrastructure Pvt. Ltd., M/s Reliance Infocom Ltd., M/s Wireless-TT Infoservices Ltd., M/s Vodafone Essar Spacetel Ltd., M/s Bharti Tele Ventures Ltd. and Tata Tele Services Ltd.

After we pointed this out, the DSRs, Hazaribag and Saraikela stated that correspondence for registration of the towers would be made with the concerned Municipal Councils. Further reply has not been received (March 2011).

We recommend that the Government may consider :

- **establishing a system by way of returns from the Registration Department and UDD for monitoring the progress made in the registration of unregistered flats in the interest of revenue; and**
- **framing a provision in the Act for registration of leases that have been deemed renewed under the Department of Mines and Geology.**

6.3.12 Short levy in case of *khas mahal*⁷⁶ leases

Under the provisions of the Government Estates (*khas mahal*) Manual, 1953, '*salami*' is the current market value of the property and the rent is fixed by the Government according to the nature of the land. The registering officer is required to adopt guideline register rates fixed by the Collector from time to time. Further, stamp duty and registration fee is chargeable as per Schedule I-A to IS Act and as per table of fees respectively.

We test checked the records of DSR, Ranchi which indicated that in three lease deeds of *khas mahal* land, the registering officer levied stamp duty and registration fee of ₹ 7.30 lakh on a consideration value of ₹ 89.91 lakh, i.e., earlier fixed *salami* and rent instead of ₹ 21.02 lakh on the current market value of the

property of ₹ 2.63 crore as per guideline register. This resulted in short levy of stamp duty and registration fee of ₹ 13.72 lakh.

6.3.13 Short levy of stamp duty and registration fee due to mistake in calculation

Under the provisions of the IS Act, stamp duty is leviable as per item 35 of Schedule I-A and in the case of lease which is granted for a fine or premium or for money advanced in addition to rent reserved, the registration fees is chargeable on the aggregate amount of the fine, premium or advance and the amount which would be calculated on average annual rent.

We test checked the records of three⁷⁷ DSR offices and found that in 22 lease deeds, stamp duty and registration fee was levied incorrectly due to arithmetical mistakes in calculation of stamp duty and registration fee. The instruments were liable to be charged a stamp duty and registration fee of ₹ 1.58 crore against which the registering authorities levied ₹ 1.24 crore. This resulted in short levy of

stamp duty and registration fee amounting to ₹ 34.36 lakh.

After we pointed out the mistakes, the Department stated that instructions have been issued to the parties for depositing the deficit amount through treasury challans.

⁷⁶ Government estates and properties.

⁷⁷ Dhanbad, Ranchi and Saraikela.

6.3.14 Misclassification of instruments

Under the provisions of the IS Act, the rates of stamp duty in respect of “Agreement to Lease” is the same as in case of a lease deed including an under lease or sub-lease and any agreement to let or sub-let. The registration fee is leviable as per the table of fees fixed by the Government from time to time.

We test checked the records of DSR, Jamshedpur which revealed that Tata Steel Ltd. signed an “agreement for lease” of 1.96 acres of *khas mahal* leased land for construction of a hotel in favour of another company. The recitals of the agreement indicated that it had

all the ingredients of a lease deed like lease rent, date of validity etc. The registering authority classified the document as an agreement instead of lease deed and registered it on collection of stamp duty of rupees five hundred. Thus, application of lower rates resulted in short levy of stamp duty and registration fee of ₹ 13.32 lakh.

After we pointed this out, the DSR, Jamshedpur stated that the matter was referred to the Deputy Commissioner and orders in this regard would be intimated to audit. Further reply has not been received (March 2011).

6.3.15 Short levy of stamp duty and registration fees

As per the IS Act, stamp duty on deeds of lease where lease is granted for a fine or premium or for money advanced and where no rent is reserved is to be charged on consideration or market value equal to the amount or value of such fine or premium or advance as set forth in the lease. As per Bihar Stamp (prevention of undervaluation of instruments) Rules, the registering authority is required to adopt guideline register rates fixed by the Collector from time to time and levy stamp duty and registration fees accordingly.

We test checked the records of DSRs, Bokaro and Dhanbad and found that Bokaro Steel Employees Co-operative House Construction Society and Bokaro Industrial Area Development Authority (BIADA) had transferred 12 plots by way of lease to employees of Bokaro Steel Plant/individuals. The consideration value in the lease deeds was ₹ 79.12 lakh which was less than the value of ₹ 3.38 crore calculated on the basis of the rates fixed by the Collector as per guideline register of the concerned area. Undervaluation of ₹ 2.59 crore of the plots of land transferred by the

above lessees resulted in short levy of stamp duty and registration fee of ₹ 20.57 lakh.

6.3.16 Undervaluation of properties

Under the provisions of the IS Act and the Registration Act, read with rules contained in Bihar Stamp (Prevention of undervaluation of instruments) Rules, an instrument of deed of conveyance is chargeable to duty and fees on the consideration money expressed in instruments or value arrived at according to rates approved in the minimum estimated value of respective district whichever is higher.

6.3.16.1 We noticed during scrutiny of three sale deeds registered in three⁷⁸ DSR offices that plots of land and building were purchased by three companies for a consideration of ₹ 6.57 crore. However, as per the recitals of the documents it was purchased for commercial purposes like shops, rolling mills etc. As per the guidelines register the value of land and building at

commercial rates worked out to ₹ 12.23 crore. Thus, there was undervaluation of ₹ 5.66 crore. This resulted in short levy of stamp duty and registration fees of ₹ 28.34 lakh.

After we pointed this out, the Department accepted the audit observation and stated that remedial action would be taken.

6.3.16.2 We noticed during the scrutiny of records of three⁷⁹ DSRs that stamp duty and registration fees of ₹ 38.25 lakh was levied on the basis of consideration of ₹ 7.63 crore mentioned in the deed of land/property in 58 cases registered between October 2004 and March 2010. As per the approved rates in the guidelines register the value of the properties was ₹ 8.96 crore. Thus there was undervaluation of ₹ 1.33 crore. This resulted in short levy of stamp duty and registration fees of ₹ 6.55 lakh.

After we pointed this out, the DSR, Bokaro stated that the cases would be reviewed, while the DSR, Ranchi did not furnish any reply. Further reply has not been received (March 2011).

6.3.17 Incorrect grant of exemption

Under the provisions of the IS Act, stamp duty is exempted on the instruments of housing co-operative societies, where the society transfers its premises in favour of its members. But the duty is chargeable when the co-operative society acquires land/property in its favour. Further, societies registered under the Bihar Self-supporting Co-operative Societies Act, 1996 are not entitled to preferential treatment which is available for societies registered under Bihar and Orissa Co-operative Societies Act, 1935 and are not entitled to any exemption from payment of stamp duty and registration fees.

We noticed that in DSR offices, Jamshedpur and Ranchi exemptions were allowed to 26 members of co-operative societies during 2004-05 and 2008-09 registered under the Bihar Self-supporting Co-operative Societies Act. In these cases the landowners entered into a development agreement(s) with self-supporting co-operative societies for construction of multi-storied

⁷⁸ Dhanbad, Saraikela and Ranchi.

⁷⁹ Bokaro, Giridih and Ranchi.

buildings. As the societies did not own the land and only acted as builders/developers, its members were not entitled to any exemption from payment of stamp duty and registration fee. But the registering authorities incorrectly allowed the exemption. Thus grant of irregular exemption resulted in non-levy of stamp duty and registration fee of ₹ 12.84 lakh.

6.3.18 Non-collection of differential stamp duty

Under the provisions of the IS Act, if the registering officer, while registering any instrument of conveyance, exchange, gift, partition or settlement has reason to believe that the market value of the property is not rightly set forth in the instruments, he may refer the same to the Collector for determination of the market value of such property and proper duty payable thereon.

As per information furnished to us by the office of the IGR 691 cases involving deficit stamp value of ₹ 1.17 crore were referred to 24⁸⁰ Deputy Collectors (Stamp) for determination of the market value of the property. The age-wise analysis of 189 cases made available to us is as mentioned in the following table:

(Rupees in lakh)

Sl. No.	Age of cases	Number	Amount
1.	Cases more than 15 years old but less than 17 years old	83	5.09
2.	Cases more than 10 years but less than 15 years old	40	7.11
3.	Cases more than 5 years but less than 10 years old	5	0.22
4.	Cases more than 1 year old but less than 5 years old	61	30.22
Total		189	42.64

It would be seen from the above that 128 cases are pending for more than five years. There is a need for fixing a time frame for finalisation of the cases referred by DSRs/SRs.

After we pointed this out, the DSRs/SRs stated that action would be taken to dispose of the referred cases. Further reply has not been received (March 2011).

6.3.19 Non-disposal of impounded cases

Under the provisions of the IS Act, every person in charge of a public office before whom any instrument chargeable with duty is produced without proper stamping, is required to send the original instruments after impounding to the Collector. No time period has however been prescribed in the Act for disposal of the impounded cases by the Collector.

We test checked the records of the 10 selected units along with information obtained from the office of the Inspector General of Registration and found that 190 cases were impounded due to production of short value of non-judicial stamp papers in which deficit stamp value of ₹ 35.19 lakh was found. Of these, we found that five⁸¹ DSRs

impounded 126 cases involving deficit stamp value of ₹ 27.87 lakh and sent it to

⁸⁰ Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshepur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahebganj, Simdega and Saraikela.

⁸¹ Dhanbad, Giridih, Hazaribag, Jamshepur and Ranchi.

the respective Deputy Collectors (Stamp) between March 1992 and September 2006. These were not disposed of so far (March 2009). This resulted in non-collection of stamp duty of ₹ 27.87 lakh.

After we pointed this out, the DSRs stated that action would be taken for the disposal of cases. Further reply has not been received (March 2011).

We recommend that the Government may prescribe a time period for finalisation/disposal of the cases impounded/referred to Deputy Collectors (Stamp).

6.3.20 Discrepancy in referred and impounded cases

Under the provisions of the IS Act, when a person presents any instrument for registration, the stamp duty is payable on the instrument according to the nature of the document. A register of referred and impounded cases is maintained by each DSR/SR and Deputy Collector (Stamp). This register contains the details of date of reference, date of receipt, consideration value, market value as per guideline register, name of vendor/vendee etc.

We cross verified the records of four⁸² DSRs with the records of the Deputy Collectors (Stamp) of the concerned districts which revealed that 332 referred and impounded cases between 1993 to 2009 involving deficit value of stamp duty of ₹ 38.41 lakh were sent to

the Deputy Collector (Stamp) for disposal. But only 220 referred and impounded cases involving money value of ₹ 39.42 lakh were found in the records of the Deputy Collectors (Stamp). This indicated that the records of the respective office were not correctly maintained. The discrepancy in the number of referred and impounded cases involving stamp duty of ₹ 36.22 lakh needed reconciliation.

IT system deficiencies

6.3.21 Planning and implementation

In order to implement e-Nibandhan, an Inter Departmental Implementation and Monitoring Committee was constituted (September 2005) and the committee had conducted regular meetings as well. However, we noticed that the User Requirement Specification (URS) were not documented in the absence of which it was not possible to assess the extent to which the intended user requirements were met. A copy of operations manual was available on the website. In addition to these, the system revealed a number of other deficiencies which are explained in the following paragraphs:

⁸² Dhanbad, Hazaribag, Jamshedpur and Ranchi.

6.3.22 System Design Deficiencies

6.3.22.1 Non-mapping of business rule for levy of fines

Article L of the table of fees prescribed under the provisions of the Registration Act and rules made thereunder stipulates levy of fine for presentation of executed documents for registration with delays from the date of execution. The fine is equal to the amount of registration fee when the delay does not exceed seven days, three times the amount of registration fee when it exceeds seven days but does not exceed one month and nine times the registration fee when the delay exceeds one month but does not exceed four months.

We analysed the system which revealed that fine leviable under the Act on the presentation of documents with delays was not mapped in the software due to absence of provision for capturing of actual date of execution of documents in the database. In the absence of this provision, the system was unable to calculate the delays in presentation of documents for registration and levy of fines at the time of registration. As such,

loss of government revenue on account of delay cannot be worked out.

After we pointed this out, the Government directed (September 2010) Jharkhand Agency for Promotion of Information Technology (JAPIT)⁸³ /M/s CMC Ltd.⁸⁴ to furnish necessary suggestion for incorporation of provision for levy of fines in the software.

6.3.22.2 Non-capturing of details of boundaries of immovable property

Under the provisions of the Registration Act and rules made thereunder, the instruments presented for registration must contain the name of the vendor/ vendee, consideration value, area of land, the exact location of land/property along with boundaries to have unique identification. Further, houses in towns shall be described as situated on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

We found that the software has no provision for capturing the details of boundaries in the four directions (North, East, South and West) of the properties registered in the database. In the absence of this, the software is unable to describe the exact location and unique identification of the registered properties.

After we pointed this out, the Government directed (September 2010) JAPIT/ M/s CMC Ltd. to make necessary changes in the software by providing unique identification to the property at the time of registration in order to

comply with the audit observation.

⁸³ An Autonomous body under Department of Information Technology, Government of Jharkhand responsible for maintenance of e-Nibandhan application and its database at Data Centre.

⁸⁴ An agency appointed as Service Provider by the Government for work for installation and maintenance of work stations with provision of online registration of lands for all the registration offices in Jharkhand on Build, Own and Operate (BOO) basis.

6.3.22.3 Non-provision for deletion/edition of documents presented for registration

Under the provisions of the Registration Act and rules made thereunder all fees for registration shall be payable as per table of fees fixed from time to time on presentation of documents. Further, the documents presented for registration can not be refused without sufficient reasons for refusal.

We analysed the database relating to Deeds and found that the software did not have the facility to delete/edit the data relating to the documents presented for registration but not registered at the level of DSR/SR offices. Further, we found that in 2,328 cases,

documents were presented for registration on which stamp duty was levied. These cases were however neither referred nor refused and were still pending for registration till the date of audit as the deed number and date of execution were found blank/zero in the database.

Thus, non-provision of weeding out of unnecessary data in the software resulted in huge accumulation of garbage data and consequent occupation of valuable storage space.

After we pointed this out, the Government directed (September 2010) JAPIT/M/s CMC Ltd. to make necessary changes in the software and to delete garbage data.

6.3.23 General controls

General controls create the environment in which IT applications and related controls operate. Deficiencies noticed in General Controls are discussed below:

6.3.23.1 Absence of security policy

Under the provisions of the Registration Act and rules made thereunder IGR shall frame a policy for preparation of duplicate and triplicate copies of data in storage media. Further, duplicate copy of the storage media shall be preserved in the office of the DSR and triplicate copy will be sent to the office of IGR on quarterly basis for preservation. Restoration and re-recording of storage media will be made at regular interval as prescribed in the policy. IGR has to review the security system at least once in a year to ensure that high standard of security system was in vogue.

Scrutiny of the information furnished to us revealed that no policy was framed by the IGR for taking backup of data and its preservation as per rules. Copies of the backup data were neither prepared/preserved nor were sent to IG Registration office quarterly by the DSR. Media backups were taken in the Central Data Centre of the system but were not stored at off-site location. The information furnished to audit

revealed that the review of the security system required to be carried out was actually not carried out.

After we pointed this out, the Government directed (September 2010) JAPIT/M/s CMC Ltd. to prepare duplicate copy and triplicate copy of data and to make available duplicate copy to the respective registration office and the triplicate copy was to be preserved in the office of IG Registration as records.

Further, the Government directed JAPIT to ensure review of security arrangements of data at the Data Centre.

6.3.23.2 Logical access control

There was no documented password policy. We noticed that the normal password control practices like restriction on unsuccessful login attempts, automatic lapse of password after a pre-defined period and application enforced periodical change of password were non-existent. In view of the weak system control, unauthorised access, particularly as the application was accessible through the internet, could not be ruled out.

After we pointed this out, the Government decided (September 2010) that password system would be two-tiered. JAPIT would change the password on the first day of every month and DSR/SR would also change the password on the same day. JAPIT/M/s CMC Ltd. would provide necessary training to the officers to ensure changing of passwords. Further, the Government decided that the password would be of 10 digits containing alphanumeric, numeric and special character inclusive of characters representing unit.

Similarly, we also found that the Department had no documented policy for creation of users of the system, in the absence of which users were created either by name or by designation.

6.3.24 Audit trail

Audit trail is incorporated into an IT application for tracing the flow of transactions at every point of processing from the input of the data to the output stage. Our scrutiny of the database revealed that there was no built in audit trail to capture activities of the users as log off programmes and transactions executed did not exist in the application. It was also observed that although the relevant table of the database provided for capturing the details of logout date and logout time of the users, these were not captured by the system, clearly establishing the lack of even minimum audit trail in the application.

After we pointed this out, the Government directed (September 2010) JAPIT/M/s CMC Ltd. to furnish necessary suggestion for incorporation of logout date and logout time in the software to avoid delay in the registration process.

6.3.25 Application Controls

6.3.25.1 Incomplete input controls

Under the provisions of the Registration Act and rules made thereunder non-testamentary document relating to immovable property shall not be accepted for registration unless it contains description of such property sufficient to identify the same. The software has provision to capture description of property related to documents presented for registration.

- We analysed the database relating to Deeds and Property and found that in 52 cases, the immovable properties were shown registered in the database without capturing description of the properties viz. *Anchal Name, Thana Name, Thana No., Mauza Name, Ward No., Khata No., Halka No., Plot No., Plot Type, Category of land, Area of land,*

Unit of measurement etc. We cross checked 15 such deeds which revealed that all

descriptions of the properties were available in the deeds. However, the same was not entered in the database.

Under the provisions of the Jharkhand Automated Registration System, the documents are to be presented for registration along with an input form as prescribed by the Inspector General of Registration. The Registering officer shall endorse the day, hour and place of presentation on input form and put his signature on every presented document after satisfying himself that the document is fit for registration. Further, the system has provision to store date/time of presentation of deed in the database.

- We analysed the database relating to Deeds and Token and found that in seven cases, date of presentation of the documents presented for registration was found blank in the database. It was also noticed that in 96,532 cases time of presentation was also not captured. We cross checked four such deeds which revealed that the date of presentation was not generated by the system. These

are indicative of design deficiencies in the software.

We recommend that proper validation checks should be incorporated in the software to prevent registration of documents with incomplete entries in the database.

6.3.25.2 Non-capturing of details regarding registration certificate

Under the provisions of the Jharkhand Automated Registration System, the Registering officer shall issue a certificate in the proforma prescribed under JARS containing “book no.”, “volume”, “page from”, “page to”, “deed number” and “year”.

We analysed the database relating to Deeds and found that in 21 cases of registered deeds the fields storing values of “volume”, “page from” and “page to” were found blank/zero in the

database. Further, in two cases date and time of execution of deed was also not found captured. We cross checked such five deeds which revealed that the book number has appeared but volume number and page numbers have not appeared in the document.

After we pointed this out, DSR, Ranchi stated that “volume”, “page from” and “page to” were self generated by the software but in these cases the system failed to generate them, while DSR, Jamshedpur assured to take necessary steps for remedial measures in future. Generation of incomplete data reflected inconsistency/doubtful performance of the software.

We recommend that necessary correction/modification should be made in the software to ensure consistency in performance in future.

6.3.25.3 Inaccurate input and validation controls leading to incorrect computation

Under the provisions of the Indian Stamp Act, stamp duty on lease deed is payable depending upon the terms and conditions of the lease including period of lease, rent reserved, fine, premium or money advanced as set forth in the instrument. The registration fee is payable as per table of fees fixed by the Government from time to time. Further, when a lease is granted for a fine or premium or for money advanced in addition to the rent reserved, the fee is payable on the aggregate of the amount of the fine, premium or advance. The software has provision to capture details of lease documents presented for registration.

We analysed the database relating to Deeds and found that in case of 388 lease deeds, stamp duty and registration fee were levied without capturing the necessary details viz. period of lease, rent reserved, fine, premium or money advanced etc. in the database. Similarly, in case of 407 lease deeds, stamp duty and registration fee were levied without capturing the period of lease in the database. Thus, incorrect computation of stamp duty and registration fees cannot be ruled out. We cross checked 15 such deeds which revealed that all descriptions of the

lease details were available in the deeds but the same was not entered in the database. The system permitted the calculation of the stamp duty and registration fees without entering these details.

This indicated that the software had been designed with inadequate validation checks and failed to prevent registration of deeds having incomplete details.

6.3.25.4 Capturing of incorrect Permanent Account Number (PAN)

Under the provisions of the Jharkhand Automated Registration System, the documents are to be presented for registration along with an input form prescribed by the Inspector General of Registration. The Registering officer shall endorse the day, hour and place of presentation on input form and put his signature on every presented document after satisfying that the document is fit for registration. The software has provision to capture PAN of the party involved in the registration.

PAN should be in a specified manner of 10 characters i.e. first five characters as alphabets, next four characters as numeric and last character as alphabet. We analysed the database relating to Party, Token and Deeds and found that in 251 cases (vendor/vendee), incorrect PAN (viz. PAN having less than 10 characters, PAN with all numeric characters, PAN with first four characters as alphabets etc.) was entered in the database.

This indicated that the application had not been designed with proper validation checks to detect an incorrect PAN. In the absence of correct PAN the genuineness of the transactions made by the vendors/vendees cannot be ascertained. We cross checked 15 such cases which indicated that in four cases incorrect PAN was mentioned in the documents and in 11 cases correct PAN was given but incorrect entry has been made in the database.

After we pointed this out, DSR, Ranchi stated that the software did not have the provision for verification/examination of incorrect PAN, while DSR, Jamshedpur assured to take necessary steps for remedial measures in future.

We recommend that proper validation checks should be incorporated in the software to prevent capturing of incorrect PAN.

6.3.26 Processing control

6.3.26.1 Registration of objectionable lands

Under the provisions of the Bihar Government Estates (*Khashmahal*) Manual (adopted by the Government of Jharkhand), *Khashmahal* leased lands, being the property of the Government, can not be sold by the lessee without prior permission of the Government. It can be leased or sub-leased. Further, under the provisions of Bihar Land Ceiling Act (adopted by the Government of Jharkhand) no person shall, after commencement of this Act, either by himself or through any other person, acquire or possess by transfer, exchange, lease, mortgage, agreement or settlement any land which together with the land, if any, already held by him exceeds in the aggregate of the ceiling area. The software has provision to verify the property details with the list of objectionable lands stored in the database before calculation of fees.

We analysed the database relating to Property, Objection lands and Deeds and found that 431 documents related to objectionable lands⁸⁵ were registered, of which one deed related to *Khasmahal*, seven to BG *Khas* land, two to *Pashupalan Ghotala*, 84 to leased lands, 283 to Ceiling and 54 to other objectionable land. This indicated that the provision of verification of the property being registered with the objectionable lands is either by-passed or no link established between two sets of tables. We cross checked 20 such deeds in the DSR, Jamshedpur and Ranchi office which revealed that 18 cases involving objectionable land had been registered and in two cases registration was carried out with the permission from the Government Department but on

grounds other than those required.

The DSRs stated that the software did not have the provision to prohibit objectionable lands from registration and the same was checked manually.

After we pointed this out, the Government directed (September 2010) JAPIT to develop identification system in the software to discontinue dependence on manual checking. Necessary assistance from the Department would be provided for this purpose.

The contention of the Government/Department clearly establishes that the provision contained in operations manual in this regard has not been inbuilt into the system.

⁸⁵ "Objection type" column in "Objection lands" table were categorised as *Acquired, Bhumi Ghotala, BG Khas Land, Ceiling, Khaasmahal, Lease Lands, Objection lands and Pashupalan Ghotala*.

6.3.26.2 Short levy of stamp duty/registration fee in case of lease deeds

Under the provisions of the Registration Act and rules and instructions issued thereunder, registration fee is payable as per table of fees fixed by the Government from time to time. When a lease is granted for a fine or premium or for money advanced in addition to the rent reserved, the fee is payable on the aggregate of the amount of the fine, premium or advance. Further, the software has provision to calculate the fees leviable as per the data entered.

• We analysed the database relating to Deeds and found that in case of 45 lease deeds, registration fee levied was ₹ 14.53 lakh instead of ₹ 17.19 lakh leviable. This resulted in short levy of registration fee amounting to ₹ 2.66 lakh. We cross checked 15 such deeds which revealed that registration fees

was actually short levied in all the cross checked cases.

Under the provisions of the Indian Stamp Act, stamp duty on lease deed is payable as per item no. 35 of Schedule 1A under Section 3 of the Act, depending upon the terms and conditions of the lease including period of lease, rent reserved, fine, premium or money advanced as set forth in the instrument. Further, the software has provision to calculate the stamp duty leviable as per the data entered.

• We analysed the database relating to Deeds and found that in case of 40 lease deeds, stamp duty was levied at ₹ 5.40 lakh as against the leviable amount of ₹ 6.56 lakh. The calculation is based on the formula prescribed under the provisions of the Act. This resulted in short levy of stamp duty amounting

to ₹ 1.16 lakh. We cross checked seven such deeds which revealed that stamp duty was actually short levied.

This is indicative of deficiencies in mapping of rules for calculation of fees/ stamp duty as per the Act in the system with serious implications of leakage of the Government revenue.

We recommend that correct mapping of the formula for calculation of registration fees/stamp duty should be ensured.

6.3.26.3 Discrepancy in fees as per Fee and Deed tables

Under the provisions of the Registration Act and rules made thereunder fees for the registration of documents shall be payable on the presentation of such documents and the registration fees is payable as per the table of fees fixed by the Government from time to time. The fees realised in respect of every document shall be entered in the Fees Book.

We analysed the database relating to Fee and Deeds and found that in 399 cases, the registration fees shown in 'Fee' table was ₹ 24.70 lakh whereas the fee amount shown in 'Deed' table was ₹ 14.47 lakh only resulting in a discrepancy of ₹ 10.23

lakh. It also indicated deficiencies in the system with respect to consistency of flow of data from one table to another with serious implication of leakage of Government revenue. We cross checked 15 such deeds in the office of DSR, Jamshedpur and Ranchi and found that in all the 15 cases there was difference in figures of fees in deed table and fee table. In 10 of the above cases fee was shown as zero in the deed table.

After we pointed this out, the Government directed (September 2010) JAPIT/ M/s CMC Ltd. to make changes in the software after analysis of the facts.

6.3.26.4 Manual issuance of Non-Encumbrance Certificate

Non-encumbrance certificate is a certificate issued denoting the property to be free from any encumbrance. This is one of the major services provided by any Registration office after receiving the prescribed fee from the applicant. Issue of non-encumbrance certificate was one of the objectives of the automation process under the IT system.

We analysed the system and found that there was a facility of generation of non-encumbrance certificate through the software, but the certificates were being issued manually. Thus, the very objective of computerisation was defeated.

Though the digitisation of Index registers⁸⁶ for the period from 1970 to 2000 had been carried out, search operation of the software could not be invoked on this data due to non-synchronization with the current database. This has resulted in wastage of resources.

We recommend that the existing practice of issuing manual non-encumbrance certificate should be discarded and the provision available in the system may be made use of to avoid manual intervention.

6.3.27 Conclusion

We observed that there was lack of co-ordination between the Registration Department and other Departments, local bodies etc. for obtaining data/information periodically, before whom documents liable to stamp duty were presented. As such, the Department could not monitor the realisation of proper stamp duty and registration fee. Internal control mechanism was weak as evidenced by the fact that the internal audit and inspection by the IGR/other senior officers was inadequate during the period under review. The Department failed to utilise the required tools effectively to ensure that the various wings of the Department were functioning reasonably well.

There was no documented User Requirement Specification to assess the extent to which the desired benefits had been achieved. The IT system with e-Nibandhan was developed with system/design deficiencies. Complete translation of essential business processes was not ensured. Even after two years of implementation of the system, availability and dissemination of information from the system regarding property registration to ensure transparency, better service delivery and plugging of revenue leakage was not achieved.

6.3.28 Summary of recommendations

The Government may consider taking the following steps:

- the Government may issue necessary instructions to the Registration Department for strictly adhering to the norms prescribed for inspections in the manual;

⁸⁶ The details of the registered documents were recorded in different registers viz. Index Register 1, Index Register 2, Index Register 3 and Index Register 4.

- a provision may be made in the manual or the IT system to check the limit within which exemptions are admissible to the beneficiaries under the IS Act;
- the IGR may issue instructions to the concerned DSRs/SRs for timely deposit of the money received by them;
- the Government may consider establishing a system by way of returns from the Registration Department and UDD for monitoring the progress made in the registration of unregistered flats in the interest of revenue;
- a provision may be made in the Act for registration of leases that have been deemed renewed under the Department of Mines and Geology;
- the Government may prescribe a time period for finalisation/disposal of the cases impounded/referred to Deputy Collectors (Stamp);
- proper validation checks should be incorporated in the software to prevent capturing of incorrect PAN;
- necessary correction/modification should be made in the software to ensure consistency in performance in future;
- correct mapping of the formula for calculation of registration fees/stamp duty should be ensured; and
- the existing practice of issuing manual non-encumbrance certificate should be discarded and the provision available in the system may be made use of to avoid manual intervention.

ELECTRICITY DUTY

6.4 Short levy of electricity duty

Under the provisions of the Bihar Electricity Duty Act, 1948, as adopted by the Government of Jharkhand, the State Government notified in August 1993, the rate of electricity duty for mining purposes in all premises where the total load exceeded 100 British Horse Power, to be 15 paise per unit of energy sold or consumed. The duty on sale of electrical energy for industrial purposes is leviable at the rate of two paise per unit. It has been judicially held* that the process of mining comes to an end only when the ore extracted from the mines is washed, screened, dressed and then stacked at the mining site.

* Chowgule & Co. Vs Union of India (1981) 47 STC-124 SC.

We noticed (March 2010) in Jharia commercial taxes circle that 1.71 crore units of electricity were consumed by the Central Coal Fields Limited during 2004-05 at the mining site for mining purposes i.e., for washing, screening, dressing and stacking after the extraction of ore. The electricity used was liable to be taxed at the rate of 15 paise per unit but the Department while finalising the assessment in July 2007 incorrectly treated it as an industrial process and levied duty at the rate of two paise per unit. This resulted in short levy of duty of ₹ 22.27 lakh.

After we pointed this out (March 2010), the Deputy Commissioner of Commercial Taxes stated in March

2010 that the case would be reviewed.

We reported the matter to the Department in May 2010 and to the Government in June 2010. Their replies have not been received (March 2011).