

CHAPTER I

INTRODUCTION

The Registration Department was set up in 1864 to provide a method of public registration of documents establishing the legal rights and obligations arising out of or affecting a particular property. Registration of instruments which purports to transfer title to properties affirms the title through the deed. Documents are registered after collecting stamp duty and registration fees and the copies of these registered documents are preserved by the Registration Department permanently.

The Registration Department administers the Indian Stamp Act, 1899 and the Registration Act, 1908 and the rules made thereunder. It also administers 12¹ other Acts including the Hindu Marriage Act, 1955.

1.1 Organisational set up

The Inspector General of Registration (IGR) is the head of the department and functions under the control of the Secretary, Commercial Taxes and Registration Department at the Government level. He also functions as the Chief Controlling Revenue Authority under the Indian Stamp Act, 1899.

The IGR is assisted in the headquarters by three Additional Inspectors General of Registration (one each for Stamps & Registration, Intelligence and Guidelines).

1.1.1 Field formation

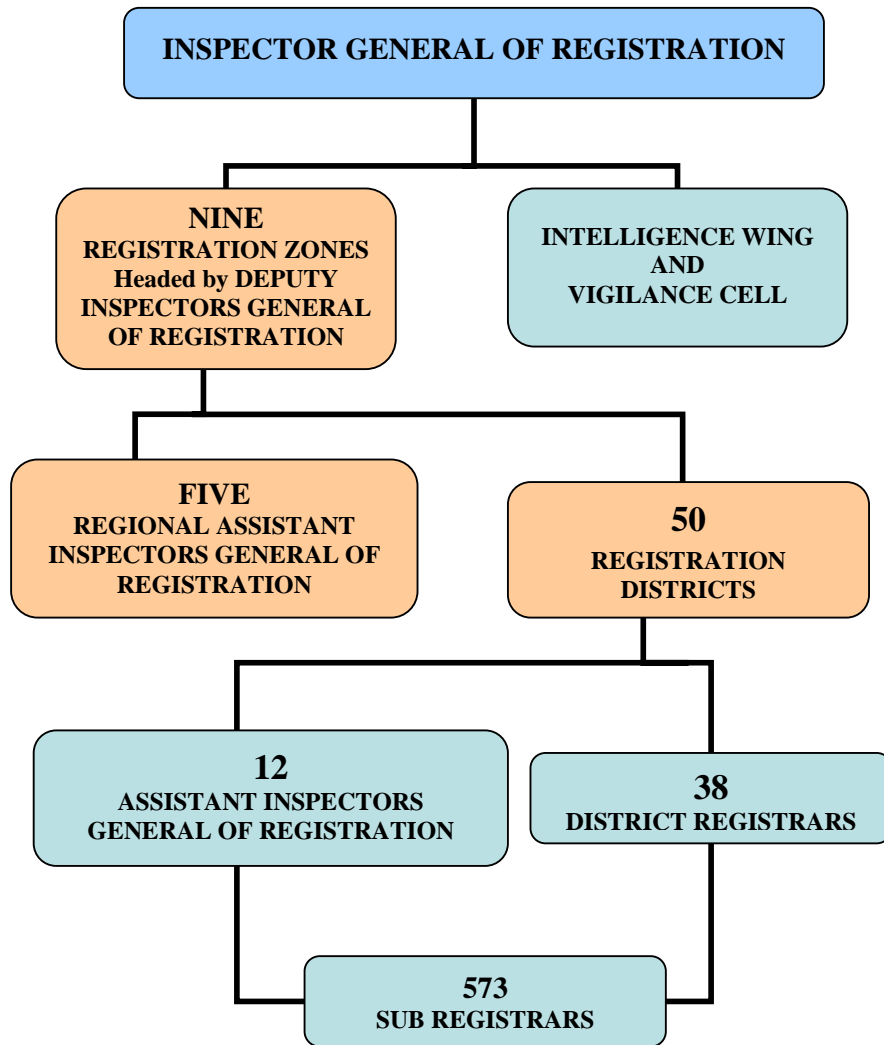
There are nine registration zones² in the state each headed by a Deputy Inspector General of Registration. There are five regional Assistant Inspectors General of Registration at Chennai, Trichy, Madurai, Tirunelveli and Coimbatore, attached to the Deputy Inspectors General concerned.

The State is divided into 50 registration districts for administrative purpose, out of which 12 registration districts are headed by Assistant Inspectors General of Registration and the remaining districts by District Registrars (Administration).

There are 573 Sub Registrar Offices in the state for registration of documents and other purposes. The department has a system of internal audit and there are 45 audit units, each headed by a District Registrar (Audit).

¹ The Tamil Nadu Non-Trading Companies Act, 1972, The Tamil Nadu Societies Registration Act, 1975, The Chit Funds Act, 1982, Indian Christian Marriage Act, 1872, The Births, Deaths and Marriages Act, 1886, The Parsi Marriage and Divorce Act, 1932, The Special Marriage Act, 1954, The Hindu Marriage Act, 1955, Tamil Nadu Marriage Registration Act, 2009, The Indian Partnership Act, 1932, Dowry Prohibition Act, 1961 and Births and Deaths Act, 1969.

² Chennai, Coimbatore, Cuddalore, Madurai, Salem, Thanjavur, Tiruchirappalli, Tirunelveli, and Vellore



1.2 Audit objectives

We conducted this review with a view to ascertain that

- proper procedures were followed to determine the market value of properties undervalued and to collect the deficit stamp duty and registration fees;
- instruments were correctly classified for the purpose of levy of stamp duty and registration fees; and
- there was no leakage of revenue.

1.3 Audit methodology and scope

Mention was made in para 3.2 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006, Government of Tamil Nadu, highlighting the deficiencies in the levy and collection of stamp duty and registration fee during the period 2000-01 to 2004-05. The report has not yet been discussed by the Public Accounts Committee. The present review, covering the period from 2005-06 to 2008-09, was conducted from January 2010 to July 2010 in 75 registering offices. We attempted to focus on system issues and selected units for audit with a view to ensure a comprehensive coverage of the department. The selection of offices was made on the basis of the number of documents registered and potential risk applying the random sampling method. Besides, five offices of the District Revenue Officer/Special Deputy Collector (Stamps) and the office of the Inspector General of Registration were also covered in the review.

1.4 Acknowledgement

We acknowledge the co-operation extended by the Registration Department in providing us the necessary information and records. An entry conference was held with the Secretary to Government, Commercial Taxes and Registration Department in February 2010 in which we explained the audit objectives, scope and methodology. The draft report on comprehensive review of the Registration Department was forwarded to the Government and the Department in October 2010. The exit conference was held with the Inspector General of Registration on 12 October 2010. The views expressed at the exit conference and at other times have been taken into consideration and incorporated in the report.

1.5 Trend of revenue

1.5.1 Revenue position

The tax raised by the Registration Department, the total tax revenue of the Government of Tamil Nadu during the year 2009-10 and the corresponding figures for the preceding four years are as mentioned in the following table:

(₹ in crore)

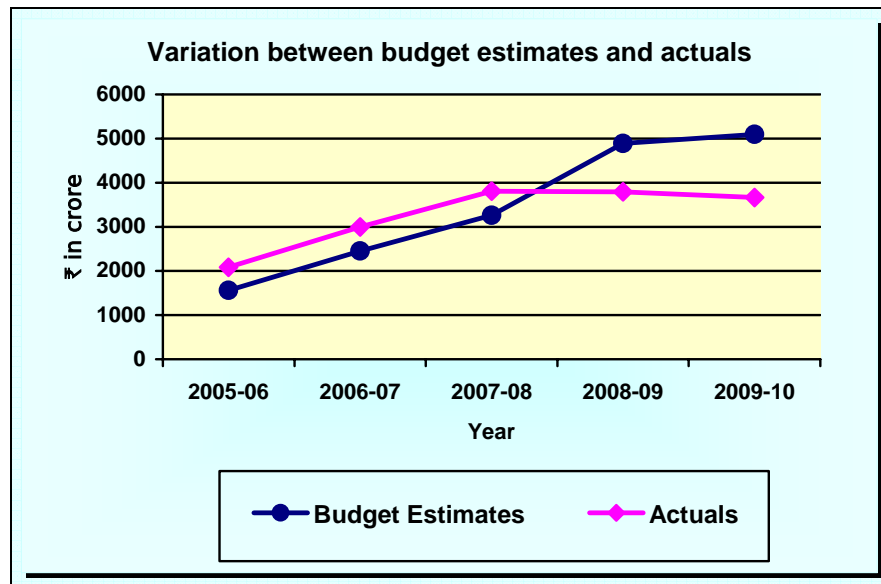
Sl. no.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1	Tax revenue	23,326.03	27,771.15	29,619.10	33,684.37	36,546.66
2	Stamp duty and registration fees	2,084.86	2,997.46	3,804.74	3,793.68	3,662.16
3	Percentage of increase/decrease from previous year	30	43.77	26.93	(-) 0.29	(-) 3
4	Percentage of 2 to 1	9	11	13	11	10

1.5.2 Variation between the budget estimates and actuals

The variation between the budget estimates and the actuals of revenue receipts for the years 2005-06 to 2009-10 are as mentioned below:

(₹ in crore)

Year	Budget estimates	Actuals	Variation excess (+) or short fall (-)	Percentage of variation
2005-06	1,562.81	2,084.86	(+) 522.05	33
2006-07	2,451.65	2,997.46	(+) 545.81	22
2007-08	3,258.88	3,804.74	(+) 545.86	17
2008-09	4,888.90	3,793.68	(-) 1,095.22	(-) 22.40
2009-10	5,093.99	3,662.16	(-) 1,431.83	(-) 28.11



The decrease in the year 2008-09 was attributed to recession/slow down in the real estate sector as a result of which registration of documents with high value relating to transfer of properties declined.

1.5.3 Analysis of documents registered and revenue collected

Year	Number of documents registered	Percentage of increase/decrease over previous year	Revenue collected (₹ in crore)	Percentage of increase/decrease over previous year
2005-06	20,11,566	(+)14.18	2,084.86	(+)30.00
2006-07	24,92,294	(+)23.90	2,997.46	(+)43.77
2007-08	26,91,002	(+)7.97	3,804.74	(+)26.93
2008-09	28,32,686	(+)5.27	3,793.68	(-) 0.29
2009-10	27,31,026	(-) 0.04	3,662.16	(-) 3.00

A comparative study of the above particulars revealed that there was a decreasing trend in registration of documents as well as the revenue collected.

The Department stated that the reason for increase in registration of documents upto 2008-09 was due to increase in registration of those type of documents which attract lower stamp duty. This in turn reduced the revenue collection.

1.5.4 Cost of Collection

The gross collection in respect of stamp duty and registration fees, expenditure incurred on collection and percentage of expenditure to gross collection during the years from 2006-07 to 2009-10 along with all India average percentage of expenditure on collection to gross collection for the corresponding previous years are furnished in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
2006-07	2,997.46	106.89	3.57	2.87
2007-08	3,804.74	133.84	3.52	2.33
2008-09	3,793.68	133.20	3.51	2.58
2009-10	3,662.16	162.10	4.43	2.77

The percentage of expenditure on collection in the State was significantly higher than the All India average in all the years.

1.5.5 Analysis of arrears of revenue

The position of arrears of revenue at the end of each financial year beginning from 2005-06 to 2009-10 is mentioned below.

(₹ in crore)

Year	Opening balance	Addition	Total	Amount collected	Closing balance
2005-06	182.50	31.63	214.13	39.49	174.64
2006-07	174.64	11.23	185.87	25.52	160.35
2007-08	160.35	17.31	177.66	28.85	148.81
2008-09	148.81	29.98	178.79	30.91	147.88
2009-10	147.88	71.54	219.42	21.92	197.50

As seen from the table, the arrear position marginally decreased from year to year except during 2009-10. However, arrears of over five years have increased to a great extent. Out of ₹ 197.50 crore outstanding as on 31 March 2010, ₹ 193.68 crore was covered under the Revenue Recovery Act while demands of ₹ 3.81 crore were stayed by the High Court and other judicial authorities.

The Department stated that District Revenue Officers/Special Deputy Collector(Stamps), Zonal Deputy Inspectors General, District Registrars and Sub Registrars were instructed during monthly review meetings to collect the arrears.

1.6 Results of audit

We test checked³ the records of the offices of the Registration Department, and found cases of under assessment, misclassification, etc. amounting to ₹ 156.59 crore in 948 cases, which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1	Comprehensive separate audit report	1	90.84
2	Misclassification of documents	537	37.80
3	Undervaluation of properties	216	10.16
4	Miscellaneous	194	17.79
	Total	948	156.59

During the year 2009-10, the Department accepted and recovered ₹ 2.59 crore, involved in 170 cases of under assessments and other irregularities. Out of this, an amount of ₹ 0.32 crore involved in 24 cases was pointed out in 2009-10 and the rest in earlier years.

1.7 Outstanding inspection reports and audit observations

The Principal Accountant General (Commercial and Receipt Audit) conducts periodical inspection of the Registration Department to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and regulations. When important irregularities, detected during the inspection, are not settled on the spot, those inspection reports (IRs) are issued to the head of the office inspected with a copy to the next higher authority. More serious irregularities are reported to the head of the department and the Government. The head of office is required to furnish replies to the IRs through the head of Department within a period of one month.

The number of IRs and audit observations issued upto 31 December 2009 and pending for settlement by the department as on 30 June 2010, along with corresponding figures for the preceding two years are as mentioned below:

Particulars	2008	2009	2010
Number of Inspection Reports pending for settlement	988	1,170	1,239
Number of outstanding audit observations	1,532	2,311	2,635
Amount of revenue involved (₹ in crore)	146.69	261.31	260.32

³ Regular Audit - April 2009 to March 2010; Separate Audit Report - January to July 2010

1.8 Follow up on Audit Reports – summarised position

To ensure accountability of the executive in respect of the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) had directed that the department concerned should furnish remedial/corrective action taken notes (ATN) on the recommendations of the PAC relating to the paragraphs contained in the Audit Reports within the prescribed time frame of six months.

We reviewed the outstanding ATNs as on 31 March 2010 and found that the Registration Department had not submitted the ATNs in respect of 41⁴ recommendations pertaining to eight audit paragraphs.

Further, the PAC has laid down that necessary explanatory notes for those issues mentioned in the Audit Reports should be furnished to the Committee within a maximum period of two months from the date of placing of the Report before the legislature. Though the Audit Reports for the years from 2006-07 to 2008-09 were placed before the Legislative Assembly between 14 May 2008 and 14 May 2010, the Department is yet to submit explanatory notes for 24 paragraphs (including one review) included in these reports.

1.9 Compliance with the earlier Audit Reports

During the period from 2004-05 to 2008-09, the Department/Government accepted audit observations involving ₹ 7.12 crore, of which ₹ 2.17 crore had been recovered till 31 October 2010 as mentioned below:

(₹ in crore)

Year of Audit Report	Total money value SD & RF	Accepted money value	Recovery made
2004-05	1.30	1.30	1.14
2005-06	76.66	0.05	0.05
2006-07	8.58	0.00	0.00
2007-08	42.63	1.90	0.37
2008-09	10.73	3.87	0.61
Total	139.90	7.12	2.17

The Government may institute a mechanism to monitor the position of recoveries pointed out in the Audit Reports and take necessary steps for early collection.

⁴ One recommendation pertains to the Audit Report year 1979-80 and the rest are from Audit Report 1988-89 to 1997-98.

1.10 Departmental audit committee meetings

In order to expedite the settlement of the outstanding audit observations contained in the inspection reports, departmental audit committees are constituted by the Government. These committees are chaired by the Secretaries of the concerned administrative department and attended by the concerned officers of the State Government and officers of the Principal Accountant General (Commercial & Receipt Audit).

It is necessary that the audit committees meet regularly and ensure that final action is taken in respect of all the audit observations outstanding for more than a year, leading to their settlement. During the period from 2007-08 to 2009-10, only four meetings were held by the Registration Department in which 18 paragraphs were settled. Considering the huge number (2,635) of outstanding paragraphs, it is imperative that meetings are held periodically to clear the cases.