

CHAPTER IV: STAMP DUTY AND REGISTRATION FEE

4.1.1 Tax administration

Receipts from the stamp duty (SD) and registration fee (RF) in the State are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. SD is leviable on the execution of instruments as per Schedule I-A of the IS Act and RF is payable at the prescribed rates fixed by the State Government. At the Government level, the Financial Commissioner and Principal Secretary, Revenue Department, Haryana, Chandigarh (FCR) is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The overall control and superintendence over levy and collection of SD and RF vests with the Inspector General of Registration (IGR), Haryana, Chandigarh. The IGR is assisted by the 21 Deputy Commissioners (DCs), 67 Tehsildars and 46 Naib Tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

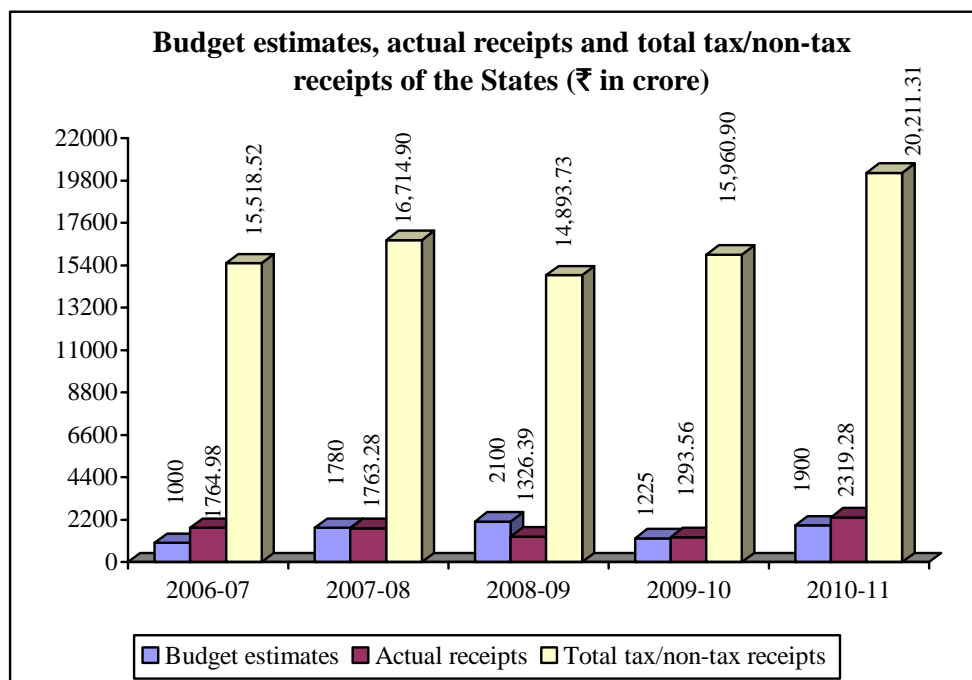
4.1.2 Trend of receipts

Actual receipts from Stamp duty (SD) and Registration Fee (RF) during the years 2006-07 to 2010-11 along with the total tax/non-tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation (Col. 4 to Col. 2)	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-à-vis total tax/non-tax receipts (Col. 3 to Col. 6)
1	2	3	4	5	6	7
2006-07	1,000.00	1,764.98	(+) 764.98	(+) 76	15,518.52	11
2007-08	1,780.00	1,763.28	(-) 16.72	(-) 01	16,714.90	11
2008-09	2,100.00	1,326.39	(-) 773.61	(-) 37	14,893.73	9
2009-10	1,225.00	1,293.56	(+) 68.56	(+) 6	15,960.90	8
2010-11	1,900.00	2,319.28	(+) 419.28	(+) 22	20,211.31	11

Source: State Budget and Finance accounts.



The percentage of actual receipts of the Department during the period 2006-07 to 2010-11 ranged between 8 to 11 *per cent* and the stamp duty receipts increased by 79 *per cent* in 2010-11 over the previous year.

4.1.3 Analysis of arrears of revenue

The Department stated that the information relating to arrears of revenue was awaited from the office of the Divisional Commissioner. The Department had not supplied the details of arrears pending at the beginning of the year, arrears added and collected during the year and arrears pending at the end of the year due to non-availability of centralised database at the apex level. Thus, the Department could not monitor and expedite the progress of recovery of arrears.

4.1.4 Cost of collection

The gross collection in respect of SD and RF, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2006-07 to 2010-11 along with the relevant all India average

percentage of expenditure of collection to gross collection for the relevant year are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2006-07	1,764.98	10.59	0.60	2.33
2007-08	1,763.28	12.04	0.68	2.09
2008-09	1,326.39	16.31	1.23	2.77
2009-10	1,293.56	13.72	1.06	2.47
2010-11	2,319.28	11.39	0.49	-

Source: Finance Accounts.

4.1.5 Revenue impact of the Audit

4.1.5.1 Position of Inspection Reports

The performance of the Revenue Department to deal with the irregularities detected in the course of local audit conducted during the year 2009-10 and the corresponding figures for the preceding four years is tabulated below:

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year		Percentage of recovery to amount accepted
	Number	Number of cases	Amount	Number	Amount	Cases	Amount	
2005-06	179	8,349	22.10	5,878	13.19	108	0.07	0.53
2006-07	179	3,476	8.99	2,352	6.67	104	0.03	0.45
2007-08	180	85,543	44.43	2,136	6.04	240	0.07	1.16
2008-09	180	1,157	6.50	310	1.90	7	0.01	0.53
2009-10	182	481	23.07	159	20.99	18	0.13	0.62
Total	900	99,006	105.09	10,835	48.79	477	0.31	

We observed that the recovery in respect of accepted cases during the years 2005-06 to 2009-10 was only one *per cent* except in 2007-08.

4.1.5.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short levy/realisation of SD and RF, evasion due to non-execution of conveyance deeds, non-presentation of documents for registration, misclassification of documents, incorrect grant of exemptions/remissions, application of incorrect rate etc., with revenue implication of ₹ 55.83 crore in 20 paragraphs (including two reviews). Of these, the Department/Government had accepted audit observations in 20 paragraphs (including two reviews) involving ₹ 44.20 crore and recovered

₹ 16.71 lakh. The details are shown in the following table:

Year	Paragraphs included		Paragraph accepted		Amount recovered	
	(₹ in crore)				(₹ in lakh)	
	Number	Amount	Number	Amount	Number	Amount
2006-07	3	0.34	3	0.34	1	1.31
2007-08	4 1 (Review)	1.70 24.69	4 1	1.70 15.11	1 -	0.87 -
2008-09	5	0.76	5	0.76	1	1.43
2009-10	1 (Review)	22.85	1	20.96	1	11.50
2010-11	6	5.49	6	5.33	2	1.60
Total	20	55.83	20	44.20	6	16.71

We observed that the Revenue Department had recovered only ₹ 16.71 lakh out of accepted cases amounting to ₹ 44.20 crore during the years 2006-07 to 2010-11. Thus, the recovery in respect of the accepted cases was very low (0.38 per cent). The slow progress of recovery even in respect of accepted cases is the indicative of failure on the part of the Heads of offices/Department to initiate effective action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the revenue involved in accepted cases are promptly recovered.

4.1.6 Results of audit

Test check of the records of various registration offices during the year 2010-11 revealed non/short levy of stamp duty and registration fee amounting to ₹ 7.26 crore in 1,346 cases, which fall under the following categories:

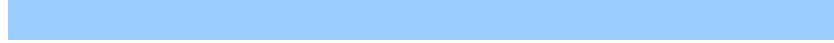
(₹ in crore)

Sr. No.	Category	Number of cases	Amount
A – Revenue Department			
1.	Short recovery of stamp duty and registration fee due to non-charging of residential rates on purchase of land	543	2.28
2.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	145	1.87
3.	Non/short recovery of stamp duty due to undervaluation of immovable property	293	1.62
4.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	44	0.33

Sr. No.	Category	Number of cases	Amount
5.	Short recovery of stamp duty due to misclassification of instruments	14	0.26
6.	Miscellaneous irregularities	307	0.90
	Total	1,346	7.26

During the year 2010-11, the Department accepted underassessment and other deficiencies of ₹ 5.78 crore involved in 1,158 cases, of which 931 cases involving ₹ 5.60 crore had been pointed out during 2010-11 and the remaining in earlier years. The Department recovered ₹ 17.63 lakh in 227 cases during the year 2010-11 relating to previous years.

A few illustrative cases involving ₹ 5.49 crore are mentioned in the following paragraphs.



4.2 Non-compliance of the provisions of the Acts/Rules

The provisions of the IS Act and IR Act require:-

- (i) *levy of stamp duty at the prescribed rate;*
- (ii) *exemption of stamp duty on fulfillment of prescribed conditions; and*
- (iii) *correct classification of documents.*

We noticed that the registering authorities did not observe some of the above provisions at the time of registration of documents in cases mentioned in the paragraphs 3.2.1 and 3.2.2. This resulted in short levy/evasion of stamp duty of ₹4.57 crore.

4.2.1 Evasion of stamp duty due to misclassification of documents

Under the provisions of the IS Act, as applicable to the State of Haryana, separate rates have been prescribed for different types of instruments. The classification of an instrument depends upon the nature of the transactions recorded therein. In case possession of the property is handed over after receipt of full amount of consideration, the instrument becomes a conveyance deed and stamp duty (SD) becomes leviable under the IS Act.

During test check of the records of the offices of six¹ registering authorities for the year 2009-10 between May and September 2010, we noticed that seven instruments conveying possession and transfer of property valued at ₹57.07 crore to the vendees were executed between June 2009 and March 2010. In all the cases, the vendors received full amount in lieu of the property sold and the possession of immovable property was also handed over to the purchasers. The deeds were liable to be treated as conveyance deeds and SD of ₹3.99 crore was leviable. However, the registering authorities misclassified these documents and registered the deeds as Agreements to sell charging SD of ₹430 which was incorrect. This resulted in evasion of SD of ₹3.99 crore.

After we pointed out these cases between May and September 2010, Sub Registrars (SRs), Bahadurgarh, Faridabad and Matanhail stated in January and June 2011 that the cases had been sent to the Collector between September and December 2010 under Section 47-A of the Act for decision. SRs Thanesar (Kurukshetra) stated in January 2011 that the case had been sent to the Collector under Section 47-A of the Act for decision and notice had been issued for recovery in September 2010. We have not received further report of recovery and reply from the remaining SRs (October 2011).

¹ SRs: Bahadurgarh, Faridabad, Farukhnagar, Gurgaon, Matanhail (Jhajjar) and Thanesar (Kurukshetra).

We pointed out the matter to the Revenue Department between June and November 2010 and reported to the Government in March 2011; we are yet to receive their reply (October 2011).

4.2.2 Evasion of stamp duty due to undervaluation of immovable property

Section 27 of the IS Act, as applicable to the State of Haryana, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amounts of duty with which it is chargeable, should be fully or truly set forth therein. Further, Section 64 of the IS Act provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to ₹ 5,000 per instrument.

4.2.2.1 During test check of the records of seven² registering offices between April and September 2010, we noticed that 26 conveyance deeds were registered between May 2009 and July 2010 on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was ₹ 3.19 crore. Cross verification of these deeds with the agreements executed between the concerned parties between March 2009 and March 2010 and recorded with the various document writers revealed that the total sale value of agreements worked out to ₹ 5.88 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than agreed upon between the parties. Undervaluation of immovable properties in conveyance deeds resulted in evasion of SD of ₹ 10.28 lakh which needs to be recovered. Additionally, penalty not exceeding ₹ 1,30,000 for undervaluation made with intent to defraud the Government was also leviable.

After we pointed out the cases between April and September 2010, Five³ SRs stated in November 2010 and May 2011 that the cases had been referred to the Collector between June and November 2010 under Section 47-A of the Act for final decision. The reply of the registering authorities does not explain why these cases had been referred to the Collector since there was no need to refer the cases to the Collector for decision as the value of the property had already been agreed upon between the concerned parties. Further, Collector, Hisar stated in May 2011 that an amount of ₹ 23,500 had been recovered in three cases and efforts would be made to recover the balance amount. We have not received report on recovery and reply from the remaining Gharaunda and Nissing SRs (October 2011).

² SRs: Ballabgarh, Gharaunda, Hansi, Hisar, Indri, Karnal and Nissing.

³ SRs: Ballabgarh, Hansi, Hisar, Indri and Karnal.

With a view to check undervaluation of property at the time of registration, evaluation committees, constituted under the directions of Government, suggest minimum market value of the property in various areas of the State for the guidance of Registering Authorities. Under Section 47-A of the Act, if the registering officer, while registering any instrument relating to transfer of any property or the consideration has not been truly set forth in the instrument, he may after registering such instrument, refer the same to the Collector for determination of the value or consideration and the proper duty payable.

4.2.2.2 During test check of the records of the office of SR, Nilokheri (District Karnal) in August 2010 for the year 2009-10, we noticed that a vendee purchased a Sheller land measuring 64 kanal 12 marla (39,080 square yards) for a consideration of ₹ 6.82 crore treating the land as residential. The registering authority levied SD of ₹ 34.10 lakh on the consideration of ₹ 6.82 crore as set forth in the instrument though the value of land determinable on the basis of minimum market value fixed for commercial property by the Collector for that locality worked out to ₹ 16.41⁴ crore and SD of ₹ 82.07 lakh was leviable. The registering authority did not refer the same to the Collector for determination of the value as consideration and proper duty payable. This resulted in short levy of SD of ₹ 47.97 lakh.

After we pointed out the case in August 2010, SR Nilokheri stated in March 2011 that the case had been sent to the Collector in October 2010 under Section 47-A of the IS Act for correct proceedings. We have not received further progress of recovery (October 2011).

4.3 Non-compliance of Government notification/instructions

- (i) *Government instructions of November 2000 prescribes for levy of SD on land sold within municipal limits with an area less than 1,000 square yards be valued at the rates fixed for the residential property of that locality.*
- (ii) *Government notification of August 1995 provides for exemption for purchase of agriculture land from the compensation received for acquired land.*

We noticed that non-compliance of some of the provisions in the above notifications/instructions in some of the cases as mentioned in paragraphs 4.3.1 to 4.3.4 resulted in non/short realisation/recovery of duty of ₹92.01 lakh.

⁴ 64 kanal 12 marla =39,080 square yards X 4,200 per square yards=₹ 16,41,36,000

4.3.1 Short levy of stamp duty due to application of incorrect rates of immovable property

In order to check evasion of SD in sale deeds, the Government issued instructions in November 2000 to all registering authorities in the State to the effect that agricultural land sold within municipal limits, with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, be valued at the rate fixed for the residential property of that locality for the purpose of levying SD.

During test check of the records of 16 offices⁵ of SRs between April and September 2010 for the year 2009-10, we noticed that 64 sale deeds of plots within municipal limits with an area less than 1,000 square yards and in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, were registered between April 2009 and March 2010. The deeds were liable to be assessed for ₹ 16.64 crore based on the rates fixed for residential areas and SD of ₹ one crore was chargeable. However, the registering authorities assessed the deeds for ₹ 5.03 crore based on the rates fixed for agricultural land and levied SD of ₹ 31.11 lakh. This resulted in short levy of SD of ₹ 69.10 lakh.

After we pointed out these cases between April and September 2010, 13 SRs⁶ stated between November 2010 and August 2011 that the cases had been sent to the Collector between June 2010 and January 2011 under Section 47-A of the IS Act for decision. Further, Collector Hisar stated in June 2011 that an amount of ₹ 83,400 in respect of JSR Barwala had been declared as arrear of land revenue. We have not received report on recovery and reply from the remaining SRs Bahadurgarh, Jhajjar and Karnal (October 2011).

Similar cases were also pointed out in earlier reports for the years 2006-07 to 2008-09 and Department replied that cases were referred to the Collector under Section 47 A of the IS Act for decision, and such mistakes are still repeated.

We pointed out the matter to the Revenue Department between June and November 2010 and reported to the Government in April 2011; we are yet to receive their reply (October 2011).

⁵ SRs: Bahadurgarh, Ballabgarh, Faridabad, Gharaunda, Gurgaon, Hansi, Hisar, Jagadhari, Jhajjar, Karnal, Ladwa, Pataudi, Pehowa, Shahbad, Thanesar and JSR Barwala.

⁶ SRs: Ballabgarh, Faridabad, Gharaunda, Gurgaon, Hansi, Hisar, Jagadhari, Ladwa, Pataudi, Pehowa, Shahbad, Thanesar and JSR Barwala.

4.3.2 Suspected misappropriation of stamp duty

Section 27 and Schedule 1-A of the IS Act, as applicable to the State of Haryana, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, should be fully or truly set forth therein and deed of conveyance are required to be stamped on a slab according to the amount of the consideration for which conveyance is set forth therein.

During test check of the records of the offices of SR, Ballabgarh and Faridabad in September 2010, we noticed that nine conveyance deeds were registered between April 2009 and March 2010 on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was ₹ 2.75 crore and SD amounting to ₹ 16.91 lakh was leviable. The registering authorities recovered ₹ 3.53 lakh and the differential amount of SD of ₹ 13.38 lakh was not recovered before registration of documents. Although, differential amount of SD of ₹ 13.38 lakh was shown to be recovered through receipt book (B⁷ book) on each of the instruments. Though the documents were registered, on cross verification with Daily Collection Register (DCR), we did not come across any entry of the requisite stamp duty having being collected and deposited in the Treasury/Bank. This resulted in suspected misappropriation of SD of ₹ 13.38 lakh.

After we pointed out (September 2010) these cases, Commissioner, Gurgaon Division investigated the cases registered and found that the receipt numbers given in the documents were fake and the registry clerks pocketed the amount instead of depositing in the exchequer, we have not received any reply from the Department regarding the cases of the year 2009-10 which were pointed out by audit.

We pointed out the matter to the Revenue Department between June and November 2010 and reported to the Government in March and April 2011; we are yet to receive their reply.

⁷ 'B' book is simply a kind of departmental receipt book through which deficient amount of stamp duty is collected.

4.3.3 Short levy of stamp duty on partition deed

Under Section 2 (15) of the Indian Stamp Act, 1899 (IS Act) as applicable to the State of Haryana also, “Instrument of partition” means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any revenue authority or any civil Court and an award by an arbitrator directing a partition, on which stamp duty (SD) is chargeable at the rate of 1.5 per cent for the amount of the value of the separated share or shares of the property as envisaged in clause 45 of Schedule I-A of the IS Act.

During test check of the records of the offices of Sub Registrar (SR), Nilokheri and Indri in August 2010, we noticed that two partition deeds were registered between October and November 2009 valued at ₹ 3.48 crore as per Collector rate on which SD of ₹ 5.22 lakh was leviable but SRs levied ₹ 100 as SD on these instruments. This resulted in short levy of SD of ₹ 5.22 lakh.

After we pointed out these cases in August 2010, SR Nilokheri stated in March 2011 that the case had been sent to the Collector in October 2010 for favourable action under Section 47-A of the IS Act. SR Indri stated in August 2010 that action would be taken as per rules under intimation to audit. We have not received further report on recovery (October 2011).

We pointed out the matter to the Revenue Department in October 2010 and reported to the Government in May 2011; we are yet to receive their reply (October 2011).

4.3.4 Irregular exemption of stamp duty

By a notification issued on 11 August 1995, the Government remitted the SD in respect of the sale deeds to be got executed by the farmers whose land is acquired by Haryana Government for public purposes and who purchase agricultural land in the State within one year of the amount of compensation received by them for the acquired land.

During test check of the records of the offices of SR, Fatehabad and Kaithal in October and November 2010, we noticed that the farmers whose land was acquired by the Government for public purposes, purchased residential and agricultural land (having value more than the compensation amount received) valued as ₹ 4.96 crore and got registered three sale deeds. The registering authorities allowed exemption of SD of ₹ 4.31 lakh under aforesaid notification though SD was leviable since they had purchased one residential plot from the amount of compensation received and two agricultural land more than the compensation amount received. Thus,

irregular exemption of SD resulted in non-levy of SD to the extent of ₹ 4.31 lakh.

After we pointed out the case in October and November 2010, SRs Fatehabad and Kaithal stated in October and November 2010 that action would be initiated as per rules under intimation to audit. Further, Collector Kaithal stated in September 2011 that an amount of ₹ 1.36 lakh had been recovered in August 2011. We have not received report on recovery (October 2011).

We pointed out the matter to the Revenue Department in November and December 2010 and reported to the Government in April 2011; we are yet to receive their reply (October 2011).