

## EXECUTIVE SUMMARY

<b>Tax collection</b>	In 2010-11, the revenue collection from stamps and registration fee was ` 3,531.08 crore, and the same had increased by 34 <i>per cent</i> over 2009-10 which was attributed by the Department to increase in registration of documents.
<b>Absence of Internal Audit Wing</b>	There was no Internal Audit Wing (IAW) in the Department, thus an important control mechanism is not being exercised. The Government was yet to decide on the proposal submitted by the Department as far back as July 2008. We had recommended in 2009-10 to Government to expedite the setting up of IAW. However, the Department informed us in September 2011 that the proposal is still pending with the Government.
<b>Insignificant recovery by the Department of observations pointed out by us in earlier years</b>	During the years 2006-07 to 2010-11, we had, through our Audit Reports pointed out non/short levy, non/short realisation of revenue amounting to ` 383.41 crore in 23 paragraphs. Of these, the Government/Department had accepted audit observations in 17 paragraphs involving ` 302.84 crore and had since recovered only ` 64 lakh. The recovery made by the Department is only 0.21 <i>per cent</i> of the amount involved in the total accepted cases.
<b>Results of audit conducted by us in 2010-11</b>	In 2010-11, we test checked the records of 104 offices of the Department and found non/short levy of stamp duty and registration fee, loss of revenue due to suppression of facts, undervaluation of properties etc in 108 cases involving ` 95.04 crore.  The Department accepted underassessments of ` 3.22 crore in 12 cases pointed out during the year 2010-11 and recovered ` 25.37 lakh in 29 cases pointed out in earlier years.
<b>What we have highlighted in this Chapter</b>	In this chapter, we present illustrative cases of ` 7.39 crore selected from observations noticed during our test check of the offices of the Department where we found that provisions of the Act/Rules were not observed.
<b>Our Conclusion</b>	We have through our previous Audit Reports brought out cases of non-realisation of stamp duty and registration fee in respect of instruments not presented for registration. The Department had accepted these

	<p>observations. We had recommended in the Report for the year ended 31 March 2009 that the Department install a system for co-ordination with various Departments/agencies to monitor realisation of proper stamp duty and registration fee on instruments presented in those offices. However, we continue to bring to the notice of the Department cases of unrealised revenue on documents presented in other offices.</p> <p>Besides there were cases of short levy of stamp duty due to suppression of facts in General Power of Attorney, Joint Development Agreement and due to undervaluation of properties.</p> <p>The Department needs to improve the internal control system including enforcement activities to detect leakage of revenue and suppression of facts so that the weakness in the system is addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the non-realisation, short levy, etc. pointed out by us, more so in those cases where it has accepted our contention.</p>
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## CHAPTER-V: STAMPS AND REGISTRATION FEES

### 5.1 Tax administration

Receipts from stamp duty and registration fees in the State are governed by The Indian Stamp Act (IS Act), 1899, The Karnataka Stamp Act (KS Act), 1957, The Registration Act, 1908 and the Rules made thereunder. The levy and collection of stamp duty and registration fee is administered by the Stamps and Registration Department headed by the Inspector General of Registration and Commissioner of Stamps (IGRCS). There are 33 District Registrar (DR) offices and 235 Sub-Registrar offices (SRO) in the State.

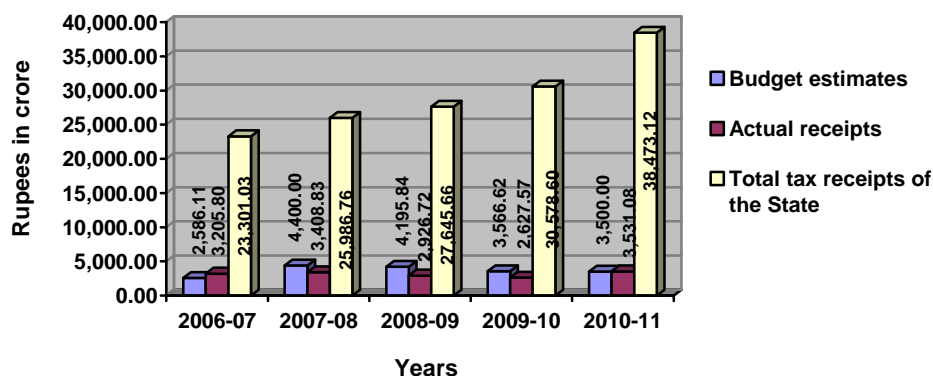
### 5.2 Trend of receipts

Budget Estimates (BEs) and actual receipts from stamps and registration fees during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graphs.

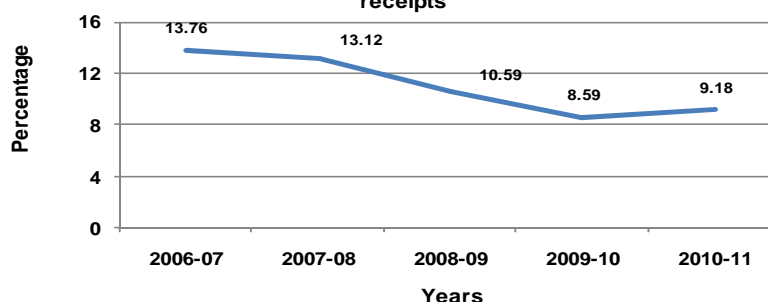
(` in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	2,586.11	3,205.80	(+) 619.69	(+) 23.96	23,301.03	13.76
2007-08	4,400.00	3,408.83	(-) 991.17	(-) 22.53	25,986.76	13.12
2008-09	4,195.84	2,926.72	(-)1,269.12	(-) 30.25	27,645.66	10.59
2009-10	3,566.62	2,627.57	(-) 939.05	(-) 26.33	30,578.60	8.59
2010-11	3,500.00	3,531.08	(+) 31.08	(+) 0.89	38,473.12	9.18

Graph 1 : Budget estimates, Actual receipts and Total tax receipts



Graph 2: Percentage of Actual receipts vis-à-vis Total tax receipts



It is seen from the table that revenue collection in 2010-11 increased by about 34 per cent as compared to 2009-10. The Department attributed the increase in revenue collection to increase in registration of documents. The variation between the BEs and actual receipts ranged between (-) 30.25 to (+) 23.96 per cent. The percentage of actual receipts in total tax receipts ranged between 8.59 and 13.76 during the five year period from 2006-07 to 2010-11.

### 5.3 Analysis of arrears of revenue

As per the information furnished to us by the Department in September 2011, the amount of uncollected revenue as on 31 March 2011 amounted to ` 77.57 crore. The year wise position of arrears of revenue for the period 2006-07 to 2010-11 as furnished is mentioned in the following table:

(` in crore)

Year	Opening balance of arrears	Amount collected during the year from the arrears	Closing balance of arrears	Percentage of collection to opening balance of arrears
2006-07	93.84	6.84	88.90	7.29
2007-08	88.90	11.32	77.65	12.73
2008-09	77.65	15.95	62.90	20.54
2009-10	62.90	4.83	60.53	7.68
2010-11	60.53	3.29	77.57	5.43

We observed that the closing balance of arrears computed were inaccurate. Thus, figures furnished were not reliable and needed reconciliation. Further, the percentage of collection of arrears to the opening balance of arrears ranged between 5.43 and 20.54 per cent for the years 2006-07 to 2010-11.

**We recommend that the Department take remedial measures for reconciliation of figures as well as for improving the collection of arrears of revenue.**

### 5.4 Cost of collection

The gross collection in respect of stamp duty and registration, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the respective preceding years were as follows:

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the preceding year
	(` in crore)			
2008-09	2,946.37	41.01	1.39	2.09
2009-10	2,650.17	53.18	2.01	2.77
2010-11	3,554.48	53.52	1.51	2.47

The above table indicates that the percentage of cost of collection to gross collection was less than the all India average percentage for all the three years.

### 5.5 Working of Internal Audit Wing

The objective of an IAW is to have a deterrent and reforming effect in the direction of prevention of mistakes and to play a corrective role by pointing out mistakes and ensuring remedies without loss of time.

There was no IAW in the Department, thus leaving it vulnerable to risk of control failure. The Department had reported (August 2010) that proposals for setting up an IAW were submitted to Government in 2008. We had in Audit Report (Revenue Receipts) for the year ended 31 March 2010 recommended that the Government expedite the setting up of IAW in the Department, especially as the proposals are lying with them since 2008. However, as reported by the Department in September 2011, the proposal is still pending with Government.

## 5.6 Impact of Audit Reports

During the last five years, through our Audit Reports, we had pointed out non/short levy, non/short realisation and loss of revenue, etc., with revenue implication of ₹ 383.41 crore in 23 paragraphs. Of these, the Government/Department had accepted audit observations in 17 paragraphs involving ₹ 302.84 crore and had since recovered ₹ 64 lakh. The details are given in the following table:

( ₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount <sup>1</sup>	Number	Amount <sup>1</sup>
2006-07	03	31.26	01	0.35	-	--
2007-08	02	2.44	01	0.03	01	0.03
2008-09	06	325.83	05	283.04	03	0.45
2009-10	07	16.49	05	12.03	04	0.08
2010-11	05	7.39	05	7.39	01	0.08
<b>Total</b>	<b>23</b>	<b>383.41</b>	<b>17</b>	<b>302.84</b>	<b>9</b>	<b>0.64</b>

As seen from the above table, the recovery made by the Department is only 0.21 per cent of the amount involved in the total accepted cases.

**We recommend that the Government intensify its measures to ensure expeditious recovery of revenue in respect of the accepted cases.**

## 5.7 Results of audit

We conducted a test check of the records of 104 offices of the Stamps and Registration Department during the year 2010-11, which revealed evasion, non-realisation, short levy of stamp duty and registration fee, etc., amounting to ₹ 95.04 crore in 108 cases, which fall under the following categories:

( ₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short levy of stamp duty and registration fees	69	44.24
2.	Loss of stamp duty and registration fee due to suppression of facts	11	41.99

<sup>1</sup> Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.

			(` in crore)
Sl. No.	Category	Number of cases	Amount
3.	Short levy due to undervaluation of properties	11	8.33
4.	Other irregularities	17	0.48
<b>Total</b>		<b>108</b>	<b>95.04</b>

During the course of the year 2010-11, the Department accepted underassessments of ` 3.22 crore in 12 cases pointed out in audit during the year. The Department also recovered an amount of ` 25.37 lakh in 29 cases pointed out in earlier years.

A few illustrative audit observations involving ` 7.39 crore are mentioned in the succeeding paragraphs.

## **5.8 Non-observance of provisions of the Act/Rules**

*The KS Act, 1957 provides as under:*

- *Section 3 for stamping of all instruments chargeable with duty as per the schedule to the Act and executed by any person in the State of Karnataka before or at the time of execution.*
- *Section 28 to set forth in the instrument the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable. Section 61 for punishment with fine which may extend to five times the amount of the deficient duty thereof for any person, who, with an intent to defraud the Government, executes any instrument in which all the facts and circumstances required to be set forth are not fully and truly set forth.*
- *Section 45A for estimating the market value, if the registering officer, while registering any instrument has reason to believe that the market value of the properties has not been truly set forth and upon payment of duty on such market value, to register the document.*
- *Section 46 A for issue of notice on any person to show cause notice as to why the proper duty should not be collected from him in respect of any instrument which has not been duly stamped.*
- *Section 67B for power to enter and search any premises excluding residential premises and if on such inspection, the authorised officer<sup>2</sup> is of opinion that any instrument chargeable with duty is not duly stamped, he shall require the person liable, to pay the proper duty or the amount required to make up the same and also penalty not exceeding five times the amount of the deficient duty thereof, if any leviable.*

*The Registration Act, 1908 and the Karnataka Registration Rules, 1965 provides as under:*

- *Section 23 for presentation of a document for registration within four months from the date of its execution. Section 25 provides for directions of DR to concerned SR to register a document which is presented after the prescribed four months but within a delay which does not exceed four months from the time prescribed for presentation on payment of a fine not exceeding ten times the amount of registration fee. Rule 52 of the*

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<sup>2</sup> Deputy Commissioner or an Assistant Commissioner or any officer not below the rank of a Sub-Registrar authorised by the Deputy Commissioner or Chief Controlling Revenue Authority.

*Karnataka Registration Rules, 1965 prescribes the rates of fine leviable depending upon the period of delay.*

- *Section 80 for levy of fees in respect of various documents presented for registration.*
- *Section 80(A) for recovery of registration fee not paid or insufficiently paid on any document as an arrear of land revenue from the person who presented the document for registration based on a certificate of the IGRCS which is granted after giving the person an opportunity of being heard.*

*We noticed in eight SROs and information obtained during audit of office of the Deputy Commissioner of Excise, Bangalore (South) and two offices of the Income-tax Department that the above provisions were not fully followed by the concerned authorities. This resulted in a number of discrepancies which led to non/short realisation of Government revenue amounting to ` 7.39 crore. The Department reported in November 2011 that it had initiated action in all the cases and recovered ` 7.93 lakh in one case.*

### **5.8.1 Short levy of stamp duty/registration fee due to suppression of facts**

As per Article 41(e) of the schedule to the KS Act, when General Power of Attorney (GPA) was given for consideration and or when coupled with interest and authorising the attorney to sell any immovable property, stamp duty was the same as a conveyance on the consideration or market value of the property, whichever is higher.

**5.8.1.1** During test check in November 2010 of the documents registered and the 'A' register in the SRO, Srirangapatna, we noticed that five sale agreements and corresponding five GPA were registered on 11 April 2009 (three sale agreements and corresponding GPAs) and 12 August 2009 (two sale agreements and corresponding GPAs). The sale agreements were without possession of the properties and hence stamp duty

and registration fee of ` 300 each were

levied on the sale agreements. The GPAs authorised the attorney (in favour of the authorised signatory of the purchaser company mentioned in the sale agreement) to sell the properties and accordingly stamp duty of ` 19.73 lakh and registration fee of ` 2.77 lakh at the rates applicable were levied on ` 2.77 crore being the estimated guideline market value of the properties. Our scrutiny of the recitals in the corresponding sale agreements between the vendors and purchaser revealed that the purchaser had paid the entire sale consideration of ` 49.33 crore which was also acknowledged in the sale agreements. Since both the GPA and Agreement for sale, came together for registration, the registering officer should have linked the sale consideration as per Agreement to the GPA, instead of the estimated guideline market value. This was not done resulting in short levy of stamp duty of ` 3.31 crore and



registration fee of ` 46.56 lakh on the differential market value of ` 46.56 crore. Further, a penalty of ` 16.56 crore could have been levied for suppression of facts.

After we pointed out the case to the IGRCS in January 2011; the IGRCS reported in September 2011 that the DR, Mandya had been instructed to initiate action under section 46(A) of the KS Act and section 80(A) of the Registration Act.

We reported the cases to the Government in July 2011; we have not received their reply (January 2012).

As per articles 20 and 41(eb), Stamp Duty on conveyance deeds and GPA were leviable on the market value of the property. As per definition in the KS Act, market value of a property is the price which the property would fetch, in the opinion of the Deputy Commissioner, if sold in the open market on the date of execution of instrument or consideration stated in the document whichever is higher.

**5.8.1.2.** During test check of the assessment records of the Income-tax Department, we noticed that in the appraisal reports of the Department and information furnished to the Income-tax Department, the persons concerned had acknowledged receipt of money as consideration received for transactions relating to sale of two immovable properties. We cross-

verified the details of the transactions of immovable properties as reported to the Income-tax Department with the instruments relating to these properties registered in the office of the SRO, Mysore North in June 2010. A GPA and two sale deeds were registered between January 2006 and February 2007, wherein Stamp duty of ` 50.53 lakh and registration fee of ` 5.96 lakh were levied on the estimated guideline market value/consideration stated in the documents. The consideration for these transactions as acknowledged by the executants of the documents to the Income-tax Department was ` 14.04 crore, whereas non-disclosure of the actual consideration in the documents resulted in short levy of stamp duty of ` 68.35 lakh and registration fee of ` 8.08 lakh on the differential market value of ` 8.08 crore. Besides, a penalty of ` 3.42 crore was leviable for suppression of facts.

After we pointed out the case to the IGRCS in July 2010; the IGRCS reported in November 2011 that the DR, Mysore had initiated action under section 46(A) of the KS Act and section 80(A) of the Registration Act.

We reported the cases to the Government in July 2011; we have not received their reply (January 2012).

**5.8.1.3** During test check in September 2010 of the documents registered and the 'A' register in SRO,

As per schedule, stamp duty on Joint Development Agreement (JDA) was 1 per cent of the market value of the property or cost of proposed construction or development whichever was higher. Registration fee on JDA ranged between ` 1,000 and ` 15,000 depending upon the market value of the property. As per the KS Act, market value of the property is the value that in the opinion of the Deputy Commissioner, the property would fetch in the open market on the date of execution of document or consideration stated in the document whichever is higher.

Shivajinagar, we noticed that a JDA between a owner of a property and developer was registered on 1 September 2009 on which stamp duty of ` 4.31 lakh and registration fee of ` 5,000 were levied on the guideline market value of ` 4.31 crore. Scrutiny of the recitals revealed that the owner had acquired the property in a court sale for a

consideration of ` 18.18 crore

in an auction held by the Court and registered the document in the same SRO on 1 December 2008, as revealed in our cross verification. Thus, non-disclosure of the true market value of the property in the JDA, as per purchase value of the property, resulted in short levy of stamp duty of ` 13.87 lakh and registration fee of ` 10,000 on the differential market value of ` 13.87 crore.

Besides, penalty of ` 69.35 lakh was leviable for suppression of facts.

After we pointed out the case to the IGRCS in November 2010, the IGRCS reported in September 2011 that the DR, Shivajinagar had been instructed to initiate action under section 46(A) of the KS Act and section 80(A) of the Registration Act.

We reported the case to the Government in July 2011; we have not received their reply (January 2012).

As per Article 5(e) of the Schedule to the KS Act, when an agreement related to sale of immovable property wherein part performance of the contract, possession of the property was delivered or agreed to be delivered without executing the conveyance, stamp duty was the same as that for a conveyance on the market value of the property. Stamp duty of `200 was leviable if possession was not delivered

**5.8.1.4** During test check in November 2010 of the documents registered and 'A' register in SRO, Srirangapatna, we noticed that two Sale Agreements for Sale of 3 acres and 36 guntas of land were registered on 7 May 2008. The consideration/ value of the properties set forth in the documents was ` 78 lakh. Stamp duty and

registration fee of ` 200 each were levied on the two Sale Agreements as applicable to sale agreements without possession. We also noticed that two GPAs were also registered in the same office on the same day as the sale agreements in respect of these properties between same parties. Stamp duty

and registration fee of ` 100 each were levied on the GPAs. As per the recitals of the GPA, the attorney holder was authorised to represent the vendor in all Government offices, get the documents relating to the property changed to his name, enter into sale agreements, receive consideration etc. The Agreement for Sale had a clause that the entire sale transaction would be completed within 30 days of communication order of conversion/change of land. The parties to the Agreement were also obliged to have a proper sale deed executed on conversion of the Land.

We could not verify whether the Sale Deed was executed and neither could the SRO confirm the Registration of the same. Stamp duty of ` 5.85 lakh and registration fee of ` 78,000 were leviable. The Government is advised to verify the same by issuing notices to the parties.

After we pointed out the cases to the IGRCS in January 2011, the IGRCS reported in September 2011 that the DR, Mandya had been instructed to initiate action under section 46(A) of the KS Act and section 80(A) of the Registration Act.

We reported the cases to the Government in July 2011; we have not received their reply (January 2012).

## 5.8.2 Non-realisation of stamp duty

As per the Schedule to the KS Act, any instrument of lease or any agreement to let or sub-let shall be chargeable to duty. The rates of duty depend upon the duration of the lease and consideration reserved for the lease. Under the Registration Act, 1908, documents relating to leases of immovable properties for periods exceeding one year are to be compulsorily registered.

**5.8.2.1** We noticed from the records of the Deputy Commissioner of Excise, Bangalore (South) that a hotel had presented an agreement to lease executed in April 2008 in respect of the hotel premises for obtaining CL-7 licence<sup>3</sup>. The lease period was for 10 years with option to renew. As per terms of the Agreement, the lessee was to deposit a sum of

` 1.5 crore as refundable security deposit and the lease rent was ` 21 lakh per month for the first year of lease and enhanced by 4 *per cent* thereof every calendar year. Our scrutiny of the Agreement to lease revealed that the document was executed in the State of Maharashtra in respect of property situated in Karnataka. We requested the jurisdictional SRO that is, SRO, Begur to verify whether the document was registered and stamp duty realised in Karnataka. The SRO, Begur confirmed that the document was not presented for registration in his office. Consequently, stamp duty of ` 46.10 lakh<sup>4</sup> as

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<sup>3</sup> Licence granted by the State Excise Department for selling liquor in Hotel and Boarding House.

<sup>4</sup> As per section 19 of the KS Act, this amount is subject to adjustment of stamp duty, if any, paid outside the State of Karnataka.

leviable under the KS Act and registration fee of ` 7.45 lakh were not realised, though the document was registrable in the State.

After we pointed out the case to the IGRCS in May 2011; the SRO, Begur reported in October 2011 that a demand notice was issued to pay the stamp duty.

We reported the cases to the Government in July 2011; we have not received their reply (January 2012).

**5.8.2.2** We noticed from the records of two offices<sup>5</sup> of the Income-tax Department that two assesseees had furnished six lease agreements executed in Karnataka between August 2006 and March 2007 to the Income-tax Department as proof of sources of income. We requested the jurisdictional SROs that is, SRO, Chamarajpet and SRO, Dasanapura to verify whether the documents had been registered and stamp duty realised. The jurisdictional SROs confirmed that the lease deeds were not presented for registration. Consequently, stamp duty of ` 1.44 crore and registration fee of ` 21.94 lakh were not realised.

After we pointed out these cases to the IGRCS in May 2011, the IGRCS reported in November 2011 that the DR, Basavangudi and DR, Jayanagar had initiated action under section 67B of the KS Act.

We reported the cases to the Government in July 2011; we have not received their reply (January 2012).

### 5.8.3 Short levy of stamp duty and registration fees

#### Two SROs

As per Article 5(f) of the schedule to the KS Act, when an agreement relates to construction or development or sale of an immovable property, including a multi-unit house or building or unit of apartment or flat or portion of a multi-storied building by a person having a stipulation that after construction or development, such property shall be held jointly or severally by that person and the owner of such property or that it shall be sold jointly or severally by them or that a part of it shall be held jointly or severally by them and the remaining part thereof shall be sold jointly or severally by them, stamp duty was to be levied at 1 per cent on the market value of the property, or the estimated cost of construction or proposed construction or development or proposed development of the property or on the consideration for such transfer whichever is higher. Assistant Commissioners of Income Tax, Circles 1 and 2, Bangalore

**5.8.3.1** During test check in August 2010 of the documents registered and 'A' register in SRO, Dharwad, we noticed that an instrument titled 'Development and authority to sell/transfer of land' was registered on 25 February 2010. Stamp duty of ` 75,000 as applicable to Agreement for Development under Article 5(f) and Registration fee of ` 1,000 were levied. Scrutiny of the recitals revealed that a consideration of ` 75 lakh

had been agreed upon and the owner had handed over possession of the property to the developer. There was no stipulation to either jointly or severally own or sell the developed property. The developer was authorised to enter into sale agreements and execute sale deeds in favour of prospective purchasers. The developer was solely responsible for any dealings with third parties and the owners were in no way responsible for any sort of agreement between the developer and third parties. The document had all the recitals of a Sale Agreement. Hence, the document was to be treated as a conveyance by which the property was transferred to the developer. Stamp duty to be levied as applicable to a conveyance amounted to ` 5.04 lakh and ` 75,000 respectively. Thus, incorrect classification of the document resulted in short levy of stamp duty of ` 4.29 lakh and registration fee of ` 74,000.

After we pointed out the case to the IGRCS in September 2010, the IGRCS reported in September 2011 that the DR, Dharwad had been instructed to initiate action under section 46(A) of the KS Act and section 80(A) of the Registration Act.

We reported the case to the Government in July 2011; we have not received their reply (January 2012).

As per Article 45 of the Schedule to the KS Act, where release<sup>6</sup> is not between family members and the release is not for any consideration, stamp duty was leviable at 2.5 *per cent* of the market value of the property, which is the subject matter of release. If the release is between family members, stamp duty of ` 1,000 was leviable. As per explanation below the article, family in relation to a person means husband, wife, sons, daughter, father, mother, brother, wife/children of a predeceased brother, sister, husband/children of a predeceased sister, wife of a predeceased son and children of a predeceased son or predeceased daughter.

**5.8.3.2** We noticed from the records of SRO, Raichur in December 2010 that a release deed was registered on 4 February 2009. Stamp duty of ` 1,200 and Registration fee of ` 500 were levied as applicable to a release between family members. Scrutiny of the recitals of the document revealed that the releaser and releasee were two firms which was the family business and were being jointly run by the partners. Both the firms were represented by the same partner. Since firms do not come under the definition of “family” as given in the explanation below the Article, the document was not

a release between family members, but between two firms. As the release was not for consideration, stamp duty (at 2.5 *per cent*) of ` 18.14 lakh and registration fee of ` 7.26 lakh were leviable on ` 7.26 crore, which was the estimated guideline market value of the property. Thus, incorrect

<sup>6</sup> Release, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property.

classification resulted in short levy of stamp duty of ` 18.13 lakh and registration fee of ` 7.26 lakh.

After we pointed out the case to the IGRCS in January 2011, the IGRCS reported that the DR, Raichur had been instructed to initiate action under section 46(A) of the KS Act and section 80(A) of the Registration Act.

We reported the cases to the Government in July 2011; we have not received their reply (January 2012).

#### 5.8.4 Short levy due to undervaluation

##### Three SROs

Under the KS Act, if the registering officer while registering any instrument has reason to believe that the market value of the properties has not been truly set forth, he shall estimate the market value and upon payment of duty on such market value, register the document.

During test check between May 2010 and October 2010 of the documents registered and 'A' registers in three SROs, we noticed that stamp duty of ` 10.03 lakh and registration fee of ` 1.04 lakh were short levied. This was due to levy of stamp duty on consideration stated in the document and incorrect determination of market value in respect of three documents, as

detailed below:

(` in lakh)		
SRO/Nature of document/ Date of registration	Nature of observation	Short levy of stamp duty/ registration fee
Dharwad/ Sale deed/ 30.09.2008	Stamp duty was levied on the consideration of ` 3.06 crore stated in the document which comprised of land (66836 sq.ft)- ` 56 lakh, building - ` 200 lakh, plant and machinery - ` 35 lakh and Furniture, interior and fixtures - ` 15 lakh. As the market value of land as per estimated guidelines was ` 210/sq.ft, the estimated market value of the land worked out to ` 1.40 crore as against ` 56 lakh considered for valuation and levy of stamp duty. The short levy of stamp duty and registration fee on the differential market value of land of ` 84.36 lakh worked out to ` 7.09 lakh and ` 84,000 respectively.  After we pointed out the case to the IGRCS in September 2010, the IGRCS reported in September 2011 a recovery of ` 7.93 lakh.	7.09/ 0.84
Shivajinagar/ Joint Development Agreement/ 08.10.2009	As per article 5(f) of the schedule, stamp duty on JDA was to be levied on market value of property or estimated cost of development or construction whichever was higher. In the instant case, the recitals stated that the owner and developer were sharing the built up area on 50:50 basis and that the cost of construction of the developer's share was ` 1.56 crore.	1.57/ 0.04

	<p>Hence, cost of development of entire property was `3.13 crore. However, stamp duty was levied on `1.56 crore. The incorrect determination of cost of construction resulted in short levy of stamp duty and registration fee.</p> <p>After we pointed out the case to the IGRCS in November 2010, the IGRCS reported in November 2011 that the DR, Shivajinagar had initiated action under section 46(A) of the KS Act and section 80(A) of the Registration Act.</p>	
Hubli/ Sale deed/ 30.06.2008	<p>As against the consideration of ` 10 lakh stated in the document conveying 7540 sq.ft of undivided share in a commercial property, the SRO determined the market value at ` 21.36 lakh and levied stamp duty and registration fee thereon. However, the market value of the property as per the estimated guideline value worked out to ` 37.70 lakh at ` 500 per sq.ft. The incorrect determination of market value resulted in short levy of stamp duty and registration fee.</p> <p>After we pointed out the case to the IGRCS in June 2010, the IGRCS reported in November 2011 that the DR, Shivajinagar had initiated action under section 46(A) of the KS Act and Section 80(A) of the Registration Act</p>	1.37/ 0.16
<b>Total</b>		<b>10.03/ 1.04</b>

We reported these cases to the Government in July 2011; we have not received their reply (January 2012).

### 5.8.5 Non-levy of fine

#### SRO, Udupi

The Registration Act 1908, stipulates that no document other than 'will' shall be accepted for registration unless presented for that purpose within four months from the date of its execution. If owing to urgent necessity or unavoidable accident, any document executed is not presented for registration till after four months from its execution, the Registrar, in cases where the delay does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration. Any application for such direction may be lodged with the Sub-Registrar who shall forthwith forward it to the Registrar to whom he is subordinate. As per the Karnataka Registration Rules 1965, when the delay in presentation for registration exceeds two months but does not exceed four months, the fine leviable was equal to ten times the registration fee.

While test checking in December 2010 the documents registered, we noticed that a lease deed executed on 11 December 2006 was presented for registration on 31 December 2008 after a delay of over 20 months. Contrary to the provisions of registration, the Sub-Registrar accepted the same for registration and registered the document. Stamp duty of ` 4.93 lakh and registration fee of ` 98,540 were levied. However, it was noticed

that no fine was levied. A fine of ` 9.85 lakh was realisable for a delay of even four months. This resulted in loss of revenue of ` 9.85 lakh.

After we pointed out the case to the IGRCS in February 2011, the IGRCS reported in November 2011 that action was initiated under section 80(A) of the Registration Act.

We reported the case to the Government in July 2011; we have not received their reply (January 2012).