

CHAPTER-II

VALUATION OF PROPERTY

Short levy of SD and RF due to under valuation of properties

Non-recovery of registration fees due to incomplete description of property in release deeds

CHAPTER - II

Valuation of property

2.1 Short levy of SD and RF due to under-valuation of properties

The Stamp Duty and Registration Fees are to be valued on the prescribed market rates as per the provisions of the relevant Act/Rules and Departmental instructions. The non-compliance of the relevant Act/Rules and Departmental instructions by the SRs resulted in short levy of Stamp Duty and Registration Fees.

2.1.1 On sale deeds

Under Article 21 (i) of the Schedule to the RS Act, SD on Instruments of Conveyance relating to immovable property shall be levied on market value of the property. Rule 58 of the RS Rules, 2004 provides that the market value of land shall be assessed on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by the IG (R&S), whichever is higher. The RF is also chargeable at the rate of one *per cent* of the valuation subject to maximum of ₹ 25,000 and ₹ 50,000 since 09 April 2010. As per point 5 (b) of the circular 2/2004 issued by the IG (R&S), If property is situated at the corner then 10 *per cent* extra land cost shall be charged on the valuation of the said property.

During scrutiny of the records of 29 SR offices¹ for the period 2006-07 to 2010-11, we noticed (October 2010 to November 2011) that 123 Sale Deeds were under-valued due to application of “residential” rates instead of “commercial” rates, non-charging of ten *per cent* extra land cost for corner plot, non-application of rates of irrigated land, incorrect rebate allowed on construction though no mention was there in recitals

etc. The under-valuation of the properties resulted in short levy of Stamp Duty

¹ Amer, Ajmer- II, Alwar-I, Asind, Bhiwadi, Beawar, Bikaner-I, Bundi, Deedwana, Gangapur City, Jaipur-IV, Jaisalmer, Jodhpur-II, Jodhpur-III, Jayal, Kota-II, Neem ka thana, Nimbaheda, Nohar, Nokha, Pilibanga, Rajakheda, Rawatsar, Revdar, Sanganer-II, Shrimadhopor, Sikar, Udaipur-I and Udaipur-II.

and Registration Fees aggregating ₹ 95.95 lakh as shown in table given below:-

Sl. no.	Deficiencies/ Irregularity noticed	Number of instruments	Amount in ₹ involved
1	Applying residential rates instead of commercial rates	17	28,34,008
2	Applying agricultural rates instead of commercial rates	1	31,08,437
3	Ten <i>per cent</i> extra land cost for corner plot not adopted	4	7,642
4	Non-application of rates of irrigated land	4	2,01,875
5	Incorrect rebate allowed on construction	1	25,494
6.	Non-applying prescribed DLC rates	13	11,40,809
7.	Stamp duty not taken at prescribed percentage	2	26,798
8	Others	81	22,49,885
TOTAL		123	95,94,948

When we pointed out, eight SRs² replied (May 2011) that notices had been issued to the executants for recovery of ₹ 4.26 lakh in 15 cases.

The SR Alwar-I, Asind, Deedwana and Jayal replied (February to May 2011) that in 25 cases, recovery of ₹ 0.45 lakh was under progress.

The reply of the SR Jayal (May 2011) that in one case, the agricultural land was un-irrigated as per *khasra Girdawari* report, was not tenable as in the *Jamabandi*, the agricultural land was mentioned as Irrigated.

The SR Asind replied (May 2011) that in one case, the matter will be investigated and action shall be taken accordingly (amount involved is ₹ 0.13 lakh).

The SR Revdar replied (May 2011) that in five cases (involving ₹ 1.10 lakh), DLC rate for undeveloped land were taken for valuation of property. The reply is not acceptable as the land was converted into the residential purposes and was adjoining the highway, and therefore, the DLC rates prescribed for developed land were applicable for valuation of properties and as such should have been applied.

The SR Sanganer-II replied (May 2011) that in one case, (amount of ₹ 0.36 lakh) had been recovered.

The SR Amer replied (December 2011) in two cases that the instruments were registered as per DLC rates described in check list by the vendor, which could not be verified from SARATHI software as the server was down on that day. The reply is not acceptable as the rates should have been confirmed through other means, before accepting them. Replies in remaining 73 cases were awaited (January 2012).

² Beawar, Bikaner-I, Neem ka thana, Nohar, Pilibanga, Rajakheda, Jaisalmer and Udaipur-I.

The Deputy Secretary (Finance) replied (December 2011) that the concerned Collector (Stamps) have been directed (September 2011) for recovery of Stamp Duty and Registration Fees in documents pointed out by us.

2.1.2 On power of attorneys

Under Article 44 (ee) (ii) of the Schedule to the RS Act, 1998, stamp duty at the rate of two *per cent* on market value of the property shall be levied on execution of instruments in which power of attorney is given without consideration to sell immovable property to any other person.

During scrutiny of the records of SR Kota-I and Bundi, we observed (January and April 2011) that two sale deeds were executed through power of attorneys which were not duly stamped and were hence not acceptable as evidence in execution of Sale deeds. Power of attorney holders had paid stamp duty of ₹ 1.21 lakh at the rate of two *per cent* on land treating it as agriculture in nature amounting to ₹ 60.27 lakh instead of stamp duty payable of ₹ 3.34 lakh on value of residential land of ₹ 1.67 crore. This resulted in short levy of stamp duty of ₹ 2.13 lakh.

When we pointed out, the SR Bundi and Kota-I replied (April and May 2011) that power of attorney was duly stamped treating the land as agricultural in nature. The replies are not acceptable because agricultural land were divided into the plots (i.e. residential land) at the time of registering the power of attorneys. Hence, land should have been treated as residential in nature for Stamp Duty purpose.

The Deputy Secretary (Finance) replied (December 2011) that the concerned Collector (Stamps) have been directed (September 2011) for recovery of stamp duty and registration fees in documents concerned.

2.1.3 On purchase of land by a Company for industrial purposes

IG, Registration and Stamps, Ajmer directed in circular 1/2010 that, if any, private educational institutions/ Company purchase agricultural land, not having intention to cultivate the land in its Article of Association, stamp duty and registration fees shall be charged at commercial/ industrial rates.

During test check of the records of SR Jaisalmer for the year 2010-11, we noticed (November 2011) that SR while registering (Document no. 1273 dated 28.04.2010) an instrument pertaining to purchase of agricultural land for setting up wind power project by a company during the year 2010-11, incorrectly determined the value of land ₹ 6.64 lakh (Face value ₹ 41.00 lakh) on the rates prescribed for agricultural land instead of ₹ 2.93 crore at industrial rates. This resulted in short levy of stamp duty and registration fees amounting to ₹ 12.71 lakh.

The SR Jaisalmer replied (November 2011) that the valuation of land, at the time of registration was calculated on the rates prescribed for agriculture land. We do not accept the reply as the land purchased was for setting up an

industry (wind farms) which is evident from the authorisation letter dated 15 March 2010 issued in favour of their representative for the purpose of procurement of land for development of wind farms and conversion order of land on 13 July 2010 by the Collector Jaisalmer. The registration at agricultural rates violated the IG (Registration and Stamps)'s own circular of 2010.

2.2 Non-recovery of registration fees due to incomplete description of property in release deeds

As per Rule 91 (5) of the Rajasthan Registration Rules, 1955, the condition of admissibility of document is that the document should contain sufficient description about the immovable property. If the release deed of an ancestral property or part thereof is executed by or in favour of father, mother, son, daughter, brother and sister (in six close relations), the registration fees of ₹ 100 is chargeable (Article-I (1) of notification dated 21 March 1998) and in cases other than the six close relations, the registration fees at the rate of one *per cent* subject to maximum ₹ 25,000 is to be charged on the market value of the property renounced.

We observed (March 2011) in SR Nadbai that two release deeds were registered in one of the six close relations and ₹ 200 were charged as registration fees. The recitals of registered deeds revealed that the members who renounced the ancestral property in favour of other family members were those other than six close relations. Hence, the registration fees, at the rate of one *per cent* of the market value of the property were to be charged. We were unable to ascertain the market

value of property due to non-description of renounced property. The acceptance of incomplete deeds for registration by SR resulted in evasion of prescribed registration fees.

When we pointed out, the SR Nadbai replied (May 2011) that now full description in respect of ancestral immovable property renounced by other than six close relations is being indicated in documents. The registration fees payable on these two documents may be recovered under intimation to audit.

The Deputy Secretary (Finance) replied (December 2011) that the concerned Collector (Stamps) have been directed (September 2011) for recovery of Stamp Duty and Registration Fees in documents under audit objection.