

CHAPTER-V STAMP DUTY AND REGISTRATION FEE

5.1 Tax administration

Receipts from Stamp duty and Registration fee in the State are regulated under the Indian Stamp Act (IS Act) 1899, Indian Registration Act (IR Act) 1908, the UP Stamp (Valuation of Property) (SVOP) Rules, 1997 and circulars and orders of the Government of Uttar Pradesh, issued from time to time. Stamp duty is leviable on the execution of instruments at the prescribed rates. Evasion of stamp duty is commonly effected through under valuation of properties, non-presentation of documents in the office of the registering authority and non/short payment of stamp duty by the executants on the documents submitted before the registering authorities.

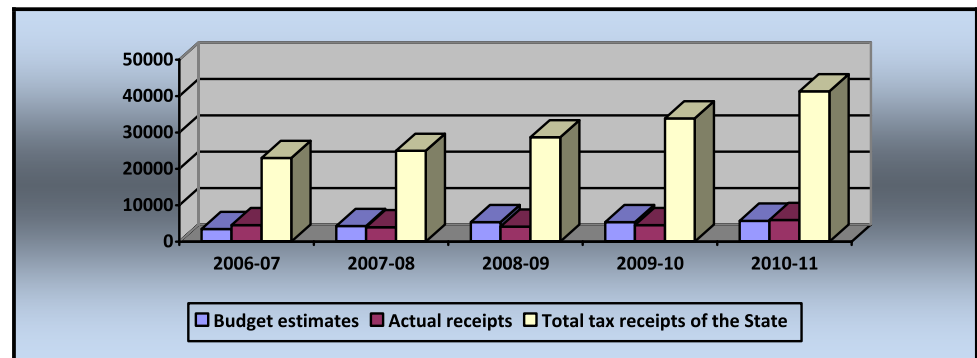
The framing of policy, and monitoring and control at the Government level is done by the Principal Secretary, *Kar evam Nibandhan*. The Inspector General is the head of the Registration Department (IGR) and exercises overall superintendence and control over the working of the Department. He is assisted by an Additional Inspector General (Addl. IG), 17 Deputy Inspectors General (DIGs) at the divisional level, 63 Assistant Inspectors General (AIGs) at the district level and 347 Sub-Registrars (SRs) at the district and *tehsil* level.

5.2 Trend of receipts

Actual receipts from Stamp duty and Registration fee 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 graph:

(₹ 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	3,500.00	4,513.67	1,013.67	28.96	22,997.97	19.63
2007-08	4,276.00	3,976.68	(-) 299.32	(-) 7.00	24,959.32	15.93
2008-09	5,370.53	4,138.27	(-) 1,232.26	(-) 22.94	28,658.97	14.44
2009-10	5,351.02	4,562.23	(-) 788.79	(-) 14.74	33,877.60	13.47
2010-11	5,736.99	5,974.66	(+) 237.67	(+) 4.14	41,355.00	14.45



5.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 amounted to ₹ 459.64 crore. The details of arrears outstanding for more than five years were not available with the Department. The following table depicts the position of arrears of revenue during the period 2006-07 to 2010-11.

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears
2006-07	215.02	60.03	246.50
2007-08	246.50	101.06	213.25
2008-09	213.25	109.08	553.05
2009-10	553.05	129.87	594.83
2010-11	594.83	132.16	459.64

Source: Figures provided by the Department (August 2011).

It is evident from the above table that during the years 2006-07 to 2010-11, the amount of arrears was increasing except in 2007-08 and 2010-11 but the collection of arrears by the Department was very low.

We recommend that the Government may consider taking appropriate steps for early recovery of the arrears.

5.4 Cost of collection

The gross collection in respect of Stamp duty and Registration fee, expenditure incurred on collection and percentage of such expenditure to the 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 relevant previous year are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage of previous year
2008-09	4,138.27	76.01	1.84	2.09
2009-10	4,562.23	120.73	2.65	2.77
2010-11	5,974.66	145.46	2.43	2.47

As can be seen from the above table, the cost of collection of Stamp duty and Registration fee was below the all India average in all the three years.

5.5 Revenue impact of audit

During the last five years (excluding the report of the current year), we had pointed out through our Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ₹ 131.66 crore in 1,931 cases. Of these, the Department/Government had accepted audit observations in 39 cases involving ₹ 11.29 lakh which has since been recovered. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	122	150	3.06	--	--	--	--
2006-07	186	233	7.08	--	--	--	--
2007-08	210	320	93.30	--	--	--	--
2008-09	329	608	14.70	20	0.08	20	0.08
2009-10	325	620	13.52	19	0.04	19	0.04
Total	1,172	1,931	131.66	39	0.12	39	0.12

In view of the large number of pending of audit objections, the Government may ensure holding of audit committee meetings at regular intervals for expeditious settlement of the pending paragraphs.

5.6 Results of audit

Test check of the records of 329 units during 2010-11 relating to Stamp and Registration Department revealed under assessment of stamp duty and other irregularities involving ₹ 16.40 crore in 669 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Short levy of stamp duty due to misclassification of documents	258	7.69
2.	Short levy of stamp duty and registration fee due to under valuation of properties	255	6.07
3.	Other irregularities	156	2.64
Total		669	16.40

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 37.79 lakh in 149 cases, pointed out in audit in earlier years. The entire amount of ₹ 37.79 lakh involved in these cases was realised during the year 2010-11.

A few illustrative cases involving revenue of ₹ 10.36 crore are mentioned in the following paragraphs:

5.7 Audit observations

Our scrutiny of records in the offices of Stamp and Registration Department revealed cases of evasion of stamp duty on lease deeds, short levy of stamp duty, undervaluation of land, etc. as mentioned in succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out by us each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

5.8 Evasion of stamp duty on lease deeds

Section 73 A(1) of the Indian Stamp Act, 1899 provides that where the Collector has reason to believe that any instrument chargeable to duty has not been charged at all or has been incorrectly charged with duty leviable under this Act, he or any other officer authorised by him in writing in this behalf may enter upon any premise where the Collector has reason to believe that any registers, books, records, papers, maps, documents or proceedings relating to or in connection with any such instrument are kept and to inspect them, and to take such notes, copies and extracts as the Collector or such officer deems necessary. As per Article 35 of Schedule 1-B of the Act, stamp duty on documents relating to lease, including an under lease or sub-lease and any agreement to let or sublet immovable property, is chargeable at the prescribed rate notified by the State Government from time to time.

In order to examine if large shopping malls which lease out their shops have paid the correct stamp duty on the lease deeds, we checked the records of the Sub-Registrars where two of the prominent malls¹ in the State were registered. Our scrutiny showed that the lease agreements of six out of 59 shops of the mall in Ghaziabad and none of the agreements of the 109 leased shops of the mall in Lucknow were registered with the concerned registering authority. As a result

of this stamp duty of ₹ 5.20 crore² was evaded on the lease of 115 shops of these two malls alone.

We also examined the rental lease deeds of five corporates³ from their records submitted to the Central Excise Department and found that all the seven lease deeds were stamped for ₹ 100 each, totaling to ₹ 700 rather than the correct stamp value of ₹ 95.14 lakh as detailed in **Appendix-XIV**.

The Department did not exercise its powers and detect stamp duty evasion even by the most visible shopping malls. The evasion may be higher if the

¹ Shipra Mall- Ghaziabad and Sahara Mall – Lucknow

² ₹ 1.37 crore Shipra Mall Ghaziabad and ₹ 3.83 crore Sahara Mall Lucknow.

³ (i) M/s I Engineering India, Pvt Limited, A-37 Sector-60 Noida.

(ii) M/s Advance State Tube Limited, Ghaziabad.

(iii) M/s. I. Technologist Pvt, Limited , New Delhi.

(iv) M/s Salora National Limited D-13/4 Okhala Industrial Area, New Delhi.

(v) M/s Rohit Surfactants Pvt. Ltd., Kanpur.

details of lease deeds of other malls of the State are checked as per the provisions of the Act.

The Inspector General Stamps and Registration (IGR) is a member of the Regional Economic Intelligence Committee (REIC) set up to promote inter agency cooperation between Central and State Government agencies. We noticed that the Department did not utilise the forum of REIC to gather information on such issues.

We recommend that the Department should make effective use of its powers and also of the forum of REIC to obtain more information from other departments to avoid revenue losses.

We reported the matter to the Department and the Government between April to August 2011. The Department and the Government replied (September and October 2011) that action is being taken in the case of the Sahara mall, Lucknow. In the other case action would be initiated.

5.9 Short levy of stamp duty due to incorrect valuation of the property

5.9.1 24 Sub-Registrars⁴

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of the consideration set forth therein, whichever is higher. As per the Uttar Pradesh Stamp (valuation of property) Rules, 1997, market rates of various categories of land situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering Authorities.

On scrutiny of the records of 24 Sub-Registrars between April 2010 and February 2011, we noticed that 39 deeds of conveyance relating to non-agricultural land were registered between July 2009 and December 2010 for ₹ 6.13 crore at agricultural rates and stamp duty of ₹ 41.87

lakh was levied.

We found that due to the following reasons the valuation should have been at residential rates:

- part of the same plot was sold earlier at residential rates (12 deeds)
- plots were declared as residential in the circle rates (10 deeds)
- part of the same plot was valued at different rates on the same day (8 deeds)
- part of the same plot was sold at residential rate on the same day/next day (5 deeds)
- plots were surrounded by residential plots owners (2 deeds)
- the plot was being sold in seven smaller plots (2 deeds).

⁴ SR-I Agra, SR-IV Agra, SR Etmadpur Agra, SR- II Aligarh, SR -I Allahabad, SR Karchhana Allahabad, SR Mahesi Bahraich, SR Rasra Ballia, SR Sadar Ballia, SR Sadar Banda, SR Haidargarh Barabanki, SR Sadar Chandauli, SR Tundla Firozabad, SR Chakar Nagar Etawah, SR Sadar Ghazipur, SR Bansaon Gorakhpur, SR Sewayajpur Hardoi, SR- I Jhansi, SR-II Jhansi, SR-II Lucknow, SR-V Lucknow, SR Sambhal Moradabad, SR-I Muzaffar Nagar and SR-II Varanasi.

The correct valuation of property at residential rate comes to ₹ 28.09 crore on which stamp duty of ₹ 1.81 crore was leviable. Thus incorrect valuation of property resulted in short levy of stamp duty of ₹ 1.39 crore as shown in **Appendix-XV**.

We reported the matter to the Department and the Government between January 2010 and August 2011.

The Department and the Government while accepting the audit observations replied that six cases⁵ have been decided by the different courts and ₹ 4.75 lakh has been recovered in four cases⁶ while in two cases⁷ recovery certificates have been issued. The remaining cases are pending in various courts.

5.9.2 On scrutiny of the records of Sub-Registrar-I, Ghaziabad in July 2010, we noticed that one deed of conveyance relating to commercial land/property was registered for valuation for ₹ 6.12 crore at residential rate and stamp duty of ₹ 42.88 lakh was levied. The property is surrounded by commercial organisations on three sides and is on the National Highway and it was being sold by a commercial organisation⁸ to another commercial organisation⁹. Hence the correct valuation of the property should be at commercial rates which comes to ₹ 23.20 crore. On this stamp duty of ₹ 1.62 crore was leviable. The incorrect valuation of the property resulted in short levy of stamp duty of ₹ 1.20 crore.

We reported the matter to the Department and the Government between October 2010 and August 2011.

The Department and the Government replied (September and October 2011) that the case has been referred to the Assistant Commissioner (Stamps) and is still pending in the Court.

5.9.3 On scrutiny of the records of eight Sub-Registrars¹⁰ between August 2010 and February 2011, we noticed that 12 deeds of conveyance pertaining to land purchased/sold by the Avas Samiti/Developers/Builders were registered for the purpose of providing residential plots/buildings. The valuation of land mentioned in these deeds was ₹ 2.91 crore at agricultural rates instead of the prescribed non-agricultural rates of ₹ 17.36 crore keeping in view the purpose of land. Accordingly, stamp duty of ₹ 1.07 crore was chargeable whereas stamp duty of ₹ 18.91 lakh only was paid. Thus, under valuation of land resulted in short levy of stamp duty of ₹ 88.08 lakh as shown in **Appendix-XVI**.

We reported the matters to the Department and the Government between September 2010 and August 2011.

The Department and the Government replied between September and October 2011 that in Sl. No. 5, out of ₹ 3.17 lakh stamp duty of ₹ 64,470 has been levied and realised. The other cases are pending in different Courts.

⁵ Sl. No. 3, 20 (1st deed), 12, 17, 10 and 14.

⁶ Sl. No. 3, 12, 10 & 14.

⁷ Sl. No. 20 (1st deed) and No. 17.

⁸ M/s Telus Trading Company.

⁹ M/s Institute of Management.

¹⁰ SR Sadar Fatehpur, SR Sadar Firozabad, SR Sadar Lalitpur, SR-III Lucknow, SR-I Kanpur, SR- II Kanpur, SR- III Kanpur and SR Sadar Unnao.

5.9.4 On scrutiny of the records of Sub-Registrar, Phulpur, Allahabad we noticed (June 2010) that two deeds of conveyance with sold area of land¹¹ measuring 9,392 sq. mt. situated at Andawan were registered in October 2009. For the levy of stamp duty, valuation was done at agricultural rate for ₹ 1.12 crore and stamp duty of ₹ 7.87 lakh levied. The applicable rate was ₹ 7,000 per sq.m. for non-agricultural land, which worked out to ₹ 6.57 crore on which stamp duty of ₹ 46.02 lakh was leviable. Thus, incorrect valuation of the land resulted in short levy of stamp duty of ₹ 38.15 lakh as mentioned below:

(₹ in lakh)

Sl. No.	Name of Unit	Khand and Deed No.	Month of Registration (Month of Audit)	Area of land in Sq.mt.	Property valued by department	Stamp duty levied	Valuation @ ₹ 7000 per sq. mt. (At which stamp duty leviable)	Stamp duty leviable	Stamp Duty Short levied
1.	S.R. Phulpur Allahabad	2975 4074	3.10.2009 (June 2010)	Gata No. 694 Area 0.5492 hectare out of 3.7590 hectare i.e. 5492 Sq.mt.	65.00	4.55	384.44	26.91	22.36
		2975 4075	3.10.2009 (June 2010)	Gata No. 694 Area sold 0.3900 hectare out of 3.7950 hectare i.e. 3900 Sq.mt.	47.50	3.32	273.00	19.11	15.79
Total					112.50	7.87	657.44	46.02	38.15

We reported the matter to the Department and the Government between November 2010 and August 2011.

The Department and the Government replied (September and October 2011) that both the cases were referred to Assistant Commissioner (Stamp) for adjudication, and are still pending in the Court.

5.9.5 On scrutiny of the records of Sub-Registrar Hardoi we noticed (September 2010) that three deeds of conveyance relating to an industrial property of area 21640 sq. mt. were registered on 26 October 2009/27 October 2009 at the rate applicable for agricultural land used for commercial purposes for a consideration of ₹ 70.95 lakh and stamp duty of ₹ 5 lakh levied. As per recital of the deeds the said property was an industrial property. Hence the correct valuation should have been at the rate of 1.5 times of the residential rate of that area at ₹ 3.98 crore on which stamp duty of ₹ 27.89 lakh was leviable. Thus, the under valuation of the property resulted in short levy of stamp duty of ₹ 22.89 lakh as shown in the following table:-

(₹ in lakh)

Sl. No.	Deed No. Date of Registration	Area (In sq.mt)	Valuation (as per deed)	Market value leviable (as per rate list)	Stamp duty		
					Leviable	Levied	Short levy
1.	10625 October 2009	10560	23.09	174.27	12.20	1.65	10.55
2.	10624 October 2009	7580	18.44	126.96	8.89	1.29	7.60
3.	10591 October 2009	3500	29.42	97.12	6.80	2.06	4.74
Total		21640	70.95	398.35	27.89	5.00	22.89

¹¹ Khasra No 694 at Andawan between main gate of Trivenipuram, Allahabad Development Authority & Jain Mandir on Allahabad Varanasi Road (GT Road).

After we pointed this out the Department replied in March 2011 that in case of Sl. No. 3 additional stamp duty of ₹ 6.45 lakh including interest has been recovered in February 2011. However, the maximum penalty equivalent to four times of deficient portion amounting to ₹ 18.96 lakh (4.74 x 4) has not been charged by the Department.

We reported the matter to the Department and the Government between November 2010 and August 2011.

The Department and the Government replied between September and October 2011, that all the three cases have been referred to the ADM for adjudication. The other two cases are still pending in the Court of the ADM.

5.9.6 On scrutiny of the records of four Sub-Registrars¹² between July 2010 and January 2011, we noticed that four deeds of conveyance pertaining to land purchased by educational institutions were registered with valuation at agricultural rates of ₹ 55.53 lakh instead of ₹ 2.73 crore valued at the rates prescribed for non-agricultural land. Our conclusion is based on the fact that these plots had educational institutions on their boundaries and these were purchased for the purpose of running educational institutions and related activities as mentioned in the deeds. Hence stamp duty of ₹ 17.55 lakh was chargeable whereas stamp duty of only ₹ 4.15 lakh was paid. This under valuation of land resulted in short levy of stamp duty of ₹ 13.40 lakh as shown in the following table:

(₹ in lakh)

Sl. No	Name of unit	Deed No. (Date of registration)	Surroundings	Area (sq.mt.)	Valuation as per deed	Market value leviable (as per list)	Stamp duty and registration fee		
							Leviable	Levied	Short levy
1.	S.R. Gabhana Alligarh	1876 (March 2010)	North -GT Road and South – Educatioal Institution.	3735.00	7.72	112.05	7.84	0.92	6.92
2.	S.R. Sadar Ballia	4489/10 (September 2010)	North - Jamuan Ram Degree College.	4120.80	6.06	53.58	2.68	0.30	2.38
3.	S.R. Baberu Banda	6586 (November 2009)	North- Land of Vidya Mandir.	2620.00	1.25	26.20	1.36	0.09	1.27
4.	S.R. Sadar Mau	3289 (September 2010)	North- Land of Sukhram Inter College.	4050.00	40.50	81.00	5.67	2.84	2.83
Total		4 deeds			55.53	272.83	17.55	4.15	13.40

We reported the matter to the Department and the Government between September 2010 and August 2011.

The Department and the Government replied that in the case of Sl. No. 3 the Assistant Commissioner (Stamp) declared the instruments as duly stamped. We suggest that the Department may refer it to the Chief Controlling Revenue Authority. Other cases are pending in different Courts.

¹² SRs- Gabhana Aligarh, Sadar Ballia, Baberu Banda and Mau.