

CHAPTER - V
OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present few illustrative cases of ₹ 8.64 crore selected from observations noticed during our test-check of records relating to non/short levy, non/short realisation etc., where we found that the provisions of the Acts/Rules/Government notifications were not observed.</p> <p>It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past years, but the departments did not take corrective action till we pointed out in audit.</p>
Trend of receipts	<p>Though there was increasing trend in the collection of tax revenue over the previous years, the percentage of contribution of receipts from land revenue in the total tax receipts of the State was gradually decreasing from 1.65 <i>per cent</i> to 1.26 <i>per cent</i> during 2008-09 to 2012-13. Further, the receipts from Stamps and Registration Fees increased from ₹ 716.19 crore in 2008-09 to ₹ 2,173.02 crore in 2012-13 and also the percentage of actual receipts from Stamps and Registration Fees to the total tax receipts is showing an increasing trend from the year 2011-12.</p>
Impact of audit conducted by us during 2012-13	<p>In the course of audit of the records of 83 units relating to Land Revenue during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 219.50 crore in 629 cases, whereas in case of 39 audited entities relating to Stamps and Registration Fees, we found non/short realisation of revenue and other irregularities involving ₹ 10.76 crore in 108 cases.</p>
Our conclusion	<p>The concerned departments need to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.</p>

CHAPTER-V: OTHER TAX RECEIPTS**A: LAND REVENUE****5.1 Tax administration**

The levy and collection of Land Revenue is governed under the Acts and Rules¹ and administered by the Revenue and Land Reforms Department in the State. At the apex level the Principal Secretary-cum-Commissioner is the administrative head and assisted by Divisional Commissioners, Collectors, Additional Collectors, Deputy Collectors and Circle Officers in the field. The circle offices are the primary units which are responsible for levy and collection of land revenue.

5.2 Trend of receipts

The variation between budget estimates and actual receipts from Land Revenue during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned below:

Table- 5.1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	74.72	101.74	(+) 27.02	(+) 36.16	6,172.74	1.65
2009-10	76.22	123.96	(+) 47.74	(+) 62.63	8,089.67	1.53
2010-11	112.17	139.02	(+) 26.85	(+) 23.94	9,869.85	1.41
2011-12	125.20	167.49	(+) 42.29	(+) 33.78	12,612.10	1.33
2012-13	185.00	205.45	(+) 20.45	(+) 11.05	16,253.08	1.26

(Source: Revenue and Capital Receipt, (Detail): Finance Accounts, Government of Bihar)

The above table indicates that though the collection of land revenue had gradually increased from 2008-09 to 2012-13, the contribution of receipts from Land Revenue in the total tax receipts of the State was gradually decreasing from 1.65 per cent to 1.26 per cent during 2008-09 to 2012-13. The budget estimates had also been continuously less than the actual collection in last five financial years.

The Government/Department needs to take appropriate measures to enhance the contribution of receipts from land revenue in the total tax receipts of the State.

¹ The Bihar Tenancy Act, 1908; Bihar Public Land Encroachment Act, 1956; Bihar Government Estate (*Khas Mahal*) Manual, 1953.

5.3 Analysis of arrears of revenue

The arrears of revenue in respect of receipts from Land Revenue as on 31 March 2013 amounted to ₹ 107.21 crore. The following table depicts the position of arrears of revenue during the period 2008-09 to 2012-13.

Table- 5.2

(₹ in crore)

Year	Opening balance of arrears	Addition during the year	Total arrear	Amount collected during the year	Closing balance of arrears
2008-09	51.69	34.31	86.00	27.21	58.79
2009-10	58.79	40.72	99.51	20.33	79.18
2010-11	79.18	21.12	100.30	22.31	77.99
2011-12	77.99	45.64	123.63	43.76	79.87
2012-13	79.87	89.04	168.91	61.70	107.21

(Source: Information furnished by the Department)

The above table shows that there was lack of promptness in realising the arrears of revenue and it mounted upto more than twice at the end of 2012-13 as compared to the opening balance of arrears of 2008-09.

The Department needs to take effective steps in realising the arrears of revenue.

5.4 Working of internal audit wing

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. As informed by the Finance Department (July 2013), 16 requisitions for internal audit were received from the Revenue and Land Reforms Department during 2012-13 and the internal audit was conducted in all cases. The Finance Department further stated that 16 Inspection Reports containing 108 paragraphs involving ₹ 4.80 crore were issued against which only one paragraph had since been settled. However, letters/reminders were issued for settlement of outstanding Inspection Reports/paragraphs and also meeting was being organised.

5.5 Impact of audit

5.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the years between 2007-08 and 2011-12, we have pointed out non/short levy, non/short realisation of revenue etc., involving ₹ 366.66 crore in respect of receipts from Land Revenue through our Audit Reports. The Department/Government accepted cases involving ₹ 228.86 crore, of which no recovery was effected till 31 March 2013 as mentioned below:

Table- 5.3

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	204.72	204.72	Nil
2008-09	23.88	23.88	Nil
2009-10	Nil	Nil	Nil
2010-11	Nil	Nil	Nil
2011-12	138.06	0.26	Nil
Total	366.66	228.86	Nil

The above table indicates that no recovery in respect of the accepted cases were made, which shows the lack of promptness on the part of the Department in realising the Government dues even in the accepted cases.

5.5.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out through our inspection reports, non/short levy, non/short realisation of revenue etc., with revenue implication of ₹ 579.30 crore in 1,004 cases in respect of receipts from Land Revenue. The Department/Government had accepted audit observations in 735 cases involving ₹ 158.37 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 0.18 crore in 11 cases. The details are shown in the following table:

Table- 5.4

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	27	275	254.97	264	49.69	3	0.04
2008-09	59	145	83.08	140	57.37	Nil	Nil
2009-10	61	319	47.85	285	45.50	7	0.14
2010-11	46	125	49.26	1	0.0032	Nil	Nil
2011-12	29	140	144.14	45	5.81	1	0.0005
Total	222	1,004	579.30	735	158.37	11	0.18

The negligible recovery of ₹ 0.18 crore (0.11 per cent) even against the accepted cases indicates lack of promptness in recovery of the Government money.

The Government needs to take necessary steps for prompt recovery of the amounts involved, at least in the accepted cases.

B: STAMPS AND REGISTRATION FEES

5.6 Tax administration

The levy and collection of Stamps and Registration Fees in the State is governed by the provisions of the Indian Stamp Act, 1899; the Registration Act, 1908; the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Under-valuation of Instruments) Rules, 1995. It is administered by the Registration, Excise and Prohibition (Registration) Department headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department who is the chief revenue controlling authority. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub Registrars (DSRs) and 83 Sub Registrars (SRs) and 26 Joint Sub Registrars (JSRs) at the districts/primary units are responsible for levy and collection of stamp duty and registration fees.

5.7 Trend of receipts

The variation between budget estimates and actual receipts from Stamps and Registration Fees during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned below:

Table- 5.5

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	581.02	716.19	(+) 135.17	(+) 23.26	6,172.74	11.60
2009-10	750.00	997.90	(+) 247.90	(+) 33.05	8,089.67	12.34
2010-11	1,215.00	1,098.68	(-) 116.32	(-) 9.57	9,869.85	11.13
2011-12	1,600.00	1,480.07	(-) 119.93	(-) 7.50	12,612.10	11.74
2012-13	1,906.00	2,173.02	(+) 267.02	(+) 14.01	16,253.08	13.37

(Source: Revenue and Capital Receipt,(Detail): Finance Accounts, Government of Bihar)

The above table indicates that the receipts from Stamps and Registration Fees increased from ₹ 716.19 crore in 2008-09 to ₹ 2,173.02 crore in 2012-13 and also the percentage of actual receipts from Stamps and Registration Fees to the total tax receipts is showing an increasing trend from the year 2011-12.

5.8 Cost of collection

The gross collection under Stamps and Registration Fees, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 along with the all-India average

percentage of cost of collection for previous years are mentioned in the following table:

Table- 5.6

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	716.19	37.68	5.26	2.09
2009-10	997.90	45.90	4.60	2.77
2010-11	1,098.68	46.58	4.24	2.47
2011-12	1,480.07	43.10	2.91	1.60
2012-13	2,173.02	45.50	2.09	1.89

The above table indicates that during the year 2008-09 to 2012-13, the percentage of expenditure on collection in respect of Stamps and Registration Fees was higher than the all-India average percentage for the previous year.

The Government needs to take appropriate measures to keep the percentage of expenditure on collection below the all-India average percentage in the coming years.

5.9 Impact of audit

5.9.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the years between 2007-08 and 2011-12, we have pointed out non/short-levy, non/short-realisation of revenue etc., involving ₹ 3.25 crore in respect of receipts from Stamps and Registration Fees through our Audit Reports. The Department/Government accepted cases involving ₹ 1.43 crore, of which no recovery was effected till 31 March 2013 as mentioned below:

Table- 5.7

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	Nil	Nil	Nil
2008-09	1.09	1.09	Nil
2009-10	1.48	0.34	Nil
2010-11	Nil	Nil	Nil
2011-12	0.68	Nil	Nil
Total	3.25	1.43	Nil

The above table indicates that no recovery in respect of the accepted cases were made, which shows the lack of promptness on the part of the Department in realising the Government dues even in the accepted cases.

5.9.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out, through our inspection reports, non/short levy, non/short realisation of revenue etc., with revenue implication of ₹ 50.86 crore in 340 cases in respect of receipts from Stamps and Registration Fees. The Department/Government had accepted audit observations in 266 cases involving ₹ 51.72 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 0.10 crore in six cases. The details are shown in the following table:

Table- 5.8

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	20	11	0.17	4	0.01	1	0.02
2008-09	39	80	33.42	95	31.69	Nil	Nil
2009-10	31	91	5.40	86	5.33	4	0.08
2010-11	30	38	3.02	14	0.79	1	0.0033
2011-12	33	120	8.85	67	13.90 ²	Nil	Nil
Total	153	340	50.86	266	51.72	6	0.10

The negligible recovery of ₹ 0.10 crore (0.19 per cent) even against the accepted cases indicates lack of promptness in recovery of the Government money.

The Government needs to take necessary steps for prompt recovery of the amounts involved, at least in the accepted cases.

5.10 Status of compliance to Inspection Reports 2012-13

During the year 2012-13, audit of records of 83 units of Land Revenue and 39 units of Stamps and Registration Fees revealed non/short realisation of revenue and other irregularities involving ₹ 230.26 crore in 737 cases which fall under the following categories:

Table- 5.9

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A: Land Revenue			
1.	Non-settlement of <i>Sairat</i>	25	2.13
2.	Non-settlement of <i>Khas Mahal</i> Land	4	19.05
3.	Loss of revenue due to non-distribution of GM <i>Khas Mahal</i> Land	21	2.92
4.	Non-eviction/settlement of encroached public land	29	7.95
5.	Non-realisation of <i>Salami</i> and rent due to non-execution of fresh lease	6	134.55
6.	Others	544	52.90
TOTAL		629	219.50

² Out of ₹ 13.90 crore, a sum of ₹ 12.75 crore pertains to earlier years.

B: Stamps and Registration Fees			
1.	Short realisation of Stamp duty and Registration Fees on Development Agreements	1	4.44
2.	Blocking of Government revenue due to non-disposal of referred cases	23	2.96
3.	Blocking of Government revenue due to non-disposal/non-realisation of impounded cases	11	0.32
4.	Blocking of Government revenue due to non-realisation of Stamp fees from finalised referred cases	13	0.43
5.	Other cases	60	2.61
Total		108	10.76
Grand total		737	230.26

(A) During the year 2012-13, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 9.53 lakh in four cases, out of which two cases involving ₹ 5.40 lakh were pointed out during the course of the year and the rest during the earlier years.

(B) During the year 2012-13, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 2.35 crore in 25 cases, out of which 12 cases involving ₹ 1.31 crore were pointed out during the course of the year and the rest during the earlier years. An amount of ₹ 7.34 lakh was recovered in four cases which were audited between 2009-10 and 2012-13.

A few illustrative cases involving tax effect of ₹ 8.64 crore are mentioned in the following paragraphs.

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

Our scrutiny of the records of the offices of the Assistant/Deputy collectors, Land Revenue and District Registrars/Sub Registrars revealed several cases of non-compliance of the provisions of the Act/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and internal audit.

A: LAND REVENUE

5.12 Non-realisation of revenue due to non-renewal/settlement of *Khas Mahal* land

With the enactment of New *Khas Mahal* Policy, 2011 in Bihar, if a lessee of *Khas Mahal* land fails to renew the lease and discontinue the payment of annual rent for the lease under clause 2(a) of the said policy or violates the terms and conditions of the lease or deviates the purpose of the lease under clause 5(a), he shall be presumed as trespasser and the Government shall give him an offer to make a fresh lease within a stipulated period of 90 days on new terms and conditions with an evidence of notice served to him, failing which the trespasser shall be evicted and the Government shall resume the land and resettle through auction. Further, the period of fresh lease shall be of 30 years and the lessee shall be liable to pay the *salami* equivalent to the current market value of land in addition to annual rent of 2 and 5 *per cent* of *salami* for residential and commercial use of the land respectively. In case of discontinuance/non-payment of annual rent of lease, the lessee shall be liable to pay double of old annual rent along with interest thereon at the rate of 10 *per cent* per annum for the period of default.

During test-check of the physical survey report conducted in May-June 2012 and relevant case records of leases relating to *Khas Mahal* land in the office of the Additional Collector (AC), Motihari, we observed in October 2012 that out of 77 leases of Gandhi Nagar area, nine leases expired in 1992 and in one case of Belbanwa (Petrol Pump) lease expired in 1957. Further we found that the lessees of Gandhi Nagar area had either sold the land or transferred the rights without obtaining prior permission from the competent authority thereby violating the terms and conditions of lease. Similarly, the lessee of Petrol pump had

applied for renewal of the lease in December 2010. Despite the clear instructions of the Government, neither the leases were renewed nor the defaulting occupiers could be evicted from the *Khas Mahal* land and also the land was not settled with the present occupiers. Thus, the failure of the Department to renew the leases or to evict the trespassers followed by notices for execution of fresh lease resulted in non-realisation of *salami*³ and rent to the tune of ₹ 1.55 crore. Besides, penal rent and interest was also leviable. Further, the Department had not maintained the complete database of the current and expired leases which could have been the important tool for not only to watch over the illegal possession of *Khas Mahal* land but also in safeguarding the Government revenue. This indicates towards the weak internal control mechanism in the Department.

After we pointed this out, the AC Motihari stated (June 2013) that notices were issued to lessees of Gandhi Nagar area in August 2012 and again in June 2013 for fresh lease and in case of petrol pump the notice was issued in June

³ *Salami* denotes current market value of the land.

2013 to resettle the land. Further AC Motihari reported (October 2013) that no leases are renewed/fresh lease made by the lessees and further action would be taken after renewal/fresh lease by the lessees. The reply is not in consonance with the provisions of the clause 2(a) and 5(a) of new Khas *Mahal* policy, 2011, where it is clearly mentioned that land should have been immediately freed after lapse of stipulated period of 90 days and action for a fresh lease/renewal was to be initiated instead of issuing another notice in June 2013, which led to undue benefit to the lessees.

Similar issue was pointed out in Para 5.6 of the Audit Report (Revenue Sector) for the year ended March 2012 but no corrective action was taken by the Department/Government.

The matter was reported to the Government/Department in July 2013; their reply has not been received (November 2013).

5.13 Short realisation of bid amount of *Sairat*

As per the departmental circular dated 27 September 1967 under the Bihar Estate (*Khas Mahal*) Manual, 1953, 50 per cent of bid amount of *Sairat* shall be realised at the time of settlement and another 50 per cent shall be realised in two installments prior to two months before the end of the *Sairat* period. If the settlee fails to do so, the action for resettlement of *Sairat* shall be taken through fresh bid.

During scrutiny of *Sairat*⁴ Register and related files relating to *Sairat* for *hat/bazaars* and *ghats* maintained in the office of the AC, Gopalganj for the year 2002-03 to 2011-12, we found in January 2013 that settlees of all 41 *Sairats* which were settled during the years 2009-10 to 2011-12 had paid a sum of ₹ 59.14 lakh only against the bid amount of ₹ 1.16 crore. Neither any efforts were taken for resettlement of *Sairat* nor the balance amount of ₹ 57.07 lakh were realised from the

settlee. Thus due to slackness of the concerned authority towards the implementation of departmental circular resulted in short realisation of ₹ 57.07 lakh. Non-realisation of the balance amount within the stipulated period indicates that the department lacks the monitoring mechanism towards the realisation of Government dues.

After we pointed this out, the Collector, Gopalganj accepted the facts and stated (January 2013) that necessary action for realisation of dues would be taken after updating the records of settled *Sairats*. Further the AC, Gopalganj reported (October 2013) that a sum of ₹ 32.96 lakh was recovered fully/partially from 28 cases. We await recovery in the remaining cases.

The matter was reported to the Government/Department in June 2013; their reply has not been received (November 2013).

⁴ *Sairat* means the income derived by leasing out Fisheries, Hats, Melas, Toddy Mahals, Ferry rights etc.

5.14 Non-realisation of Stamp duty and Registration fees on executed deeds of *Sairat*

As per the Notices inviting for settlement of *Sairat* of Rajgir *Malmas Mela* and sanction order issued by the Revenue and Land Reforms Department, Bihar, the executed deeds shall be registered and Stamp duty at the rate of three *per cent* and Registration fee at the rate of four *per cent* on the value of settlement of *Sairat* shall be levied and collected accordingly from the settlees. Further as per the condition of the Notices inviting for settlement, the agreement should be registered before issue of *Parvana* to the highest bidder at his own cost.

During scrutiny of *Sairat* Register and related files of different *Sairat* of the office of the Circle Officer, Rajgir (Nalanda) for the year 2004-05 to 2011-12, we found in March 2013 that the *Sairat* of Rajgir *Malmas Mela*⁵ were settled for the years 2007-08 and 2010-11 at ₹ 59.25 lakh and ₹ 1.26 crore respectively. But the executed deed of *Sairats* were neither registered nor the Stamp duty and Registration fees leviable on the value of *Sairats* could be realised from the settlee. Thus, failure of the concerned authority to get the executed deeds registered before issue of *parvana* to the bidder as provided in the notices inviting for settlement

resulted in non-realisation of Government revenue of ₹ 12.93 lakh⁶ in shape of Stamp duty and Registration fees.

After we pointed this out, the Circle Officer, Rajgir (Nalanda) accepted the facts and stated in October 2013 that appropriate action would be taken to realise the Stamp duty and Registration fees.

The matter was reported to the Government/Department in July 2013; their reply has not been received (November 2013).

⁵ This is organised in every third year.

⁶ Calculation:

(Amount in ₹)				
Year	Bid Amount	Stamp duty leviable at the rate of 3 per cent	Registration fees leviable at the rate of 4 per cent	Amount not realised
2007-08	59,25,000	1,77,750	2,37,000	4,14,750
2010-11	1,25,51,000	3,76,530	5,02,040	8,78,570
Total	1,84,76,000	5,54,280	7,39,040	12,93,320

B: STAMPS AND REGISTRATION FEES

5.15 Short realisation of Stamp duty and Registration fees on Development Agreements

Article 5(b) of Schedule 1A of the Indian Stamp (IS) Act, 1899 provides for levy of Stamp duty at the rate of two rupees for every one hundred rupees (two *per cent*) or part thereof on the market value of the land/land with building as the case may be, provided that the duty paid at the time of such agreement or Memorandum of an Agreement may be set off against the duty to be paid at the time of the sale of such immovable property to the said party, if it is related to the construction of a house or building including a multi-unit house or building or unit of apartment/flat/portion of a multi-storied building or for development/sale of any other immovable property.

Further, according to the rates prescribed for 'Sale of Property' by Registration, Excise and Prohibition Department, Government of Bihar, six *per cent* of the value of property as Stamp duty is to be levied and an additional stamp duty at the rate of two *per cent* is also leviable in municipal area. Besides, Registration fee at the rate of two *per cent* is also leviable.

As per information furnished by the Registration, Excise and Prohibition Department, a total of 3,163 development agreements⁷ for construction activities were registered during the period from 2007-08 to 2011-12 in the cities of the State. Out of which 1,757 development agreements were executed between the land owners and developers in Patna.

During the period between May and July 2013, we test-checked 540 development agreements executed during the period 2007-08 to 2011-12 between the land owners and developers in Patna district and observed that in 77 cases the owners of the land had transferred the ownership of the land to the developers for a

consideration in the form of cash and a portion of the developed property and only Stamp duty at the rate of two *per cent* of total valuation of the property were being levied by the District Sub Registrars (DSRs). Though, on transfer of ownership of land from the land owners to the developers for a pre-determined consideration, the developers became the rightful owner of the property and the transaction was a "Sale of property". Thus, such transactions require Stamp duty at the rate of eight *per cent* and six *per cent* of the value of portion of land to be shared by the developer in urban and rural areas respectively as prescribed for sale of property. Besides, Registration fee at the rate of two *per cent* was also leviable. This resulted in short realisation of ₹ 4.44 crore in shape of Stamp duty and Registration fee in development agreements.

After we pointed this out between May and July 2013, the Government stated (September 2013) that the developer/promoter got the right to transfer his

⁷ Figure provided by Registration, Excise and Prohibition Department, Government of Bihar.

share of units in a multi-storied building/apartment under the provision of section 5(1) of the Bihar Apartment Ownership Act, 2006 and for levy of the duty of conveyance on development agreements would be considered after examining all the relevant facts. Further the Department accepted the facts (November 2013) and stated that enhancing of Stamp duty on development agreement was under process.

We recommend that Government may consider providing instructions to all DSRs that Stamp duty has to be charged on the basis of the recitals given in the documents and not on the basis of its title.

5.16 Blocking of Government revenue due to non-disposal of referred cases

Under Section 47(A) of Indian Stamp (IS) Act, 1899, where the registering authority has reason to believe that the market value of the property has not been rightly set forth in the instrument, he may refer the same to the Collector for determining its market value. Further, the Commissioner-cum-Secretary and Inspector General of Registration Department, Government of Bihar instructed on 20 May 2006 all Collectors to transfer the cases referred under Section 47(A) to the Inspector of Registration Offices (IRO), now renamed as Assistant Inspector General of Registration (AIG), concerned for speedy disposal within 90 days.

During scrutiny of the register of referred cases and information made available by three⁸ registering authorities (District Sub Registrar) between March 2012 and January 2013, we observed that 814 cases were referred to the IRO, Patna for determination of market value of property under Section 47(A) during the period between the calendar years 2009 and 2012. Further, we found that out of these referred cases, 539 cases involving ₹ 1.42 crore⁹ were still pending for disposal.

After we pointed this out between March 2012 and January 2013, the Government/Department stated (September 2013) that 180 cases had been disposed off in all three districts and an amount of ₹ 19.39 lakh was realised. We await report on realisation in the remaining cases.

Similar issues were raised in Paragraph 4.6 of the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Bihar for the year ended March 2011 and also in Paragraph 5.9 of the Report of the Comptroller and Auditor General of India (Revenue Sector), Government of

⁸ Begusarai, Buxar and Patna.

⁹ Calculation:

Sl. No.	District	No. of cases referred	No. of cases disposed	No. of cases pending	Amount involved in pending cases (Amount in ₹)
1	Begusarai	466	92	374	45,78,589
2	Buxar	163	87	76	47,04,893
3	Patna	185	96	89	49,49,799
Total		814	275	539	1,42,33,281

Bihar for the year ended March 2012. In spite of this no corrective action was taken by the Department, which indicates slackness on the part of IRO/AIG in implementing the instruction of the Commissioner-cum-Secretary.

5.17 Misclassification of category of land

Under Section 47(A) (1) of the IS Act, 1899, where the registering authority has reason to believe that the market value of the property has not been rightly set-forth in the instrument, he may refer the same to the Collector for determining its market value and the collector shall after holding an enquiry determine the market value of the property as provided under Section 47(A) (2) of the Act *ibid*.

Further Rule 13 of the Bihar Stamp (Under-valuation) Rules, 1995 provides for appeal against the order of the Collector in referred case and Rule 16 of Rules *ibid* stipulates that after considering all the evidences adduced and representation made on behalf of the appellant and the Collector and examining the records of the case, the appellate authority shall decide whether or not the market value of the properties as determined in the order of the collector under sub-section (2) is correct.

Under Section 56(1) of Indian Stamp Act 1899, the power exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to Section 26 shall in all cases be subject to the control of the Chief Controlling Revenue Authority.

During scrutiny of the register of referred cases and information made available by the registering authority (District Sub Registrar, Bhojpur, Ara) between January and October 2012, we observed that in 24 cases of undervaluation of land in the Ara town municipal area, which were referred to IRO Patna between February 2009 and May 2010 for determining the market value of the land, the IRO disposed these cases between January 2010 and January 2011 as 'Irrigated' land either by conducting the site verification of land or on the basis of report of the Circle Officer. Though as per Guideline register (MVR), there was only two categories of land i.e. 'Residential' and 'Commercial' in the Municipal area of Ara, the lands in the municipal area in the aforesaid cases were misclassified as 'Irrigated land'. Moreover, no report

regarding site verification by the IRO or report of the Circle Officer was found on record. This fact of non-availability of site verification report was also confirmed (July 2013) by the DSR at the behest of the Collector. Once the cases were disposed against the Government revenue, the DSR should have gone to appeal but the DSR failed to make appeal against the order of IRO and thus inaction on the part of the DSR resulted into under-valuation of land by ₹ 5.37 crore and consequent short realisation of revenue of ₹ 53.74 lakh in shape of Stamp duty and Registration fees as detailed in **Annexure - XIII**.

After we pointed this out, the Government accepted the audit observation and stated in September 2013 that appeal before the Chief Revenue Controlling Authority under Section 56 (1) of the Indian Stamp Act, 1899 had been filed in all the 24 cases in December 2012 and June 2013.