

## EXECUTIVE SUMMARY – CHAPTER -IV

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<b>Very low recovery by the Department</b>	During the last four years, Audit pointed out undervaluation of documents, short remission of stamp duty etc. with revenue implication of ₹ 64.89 crore in 973 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 6.40 crore but recovered only ₹ 0.13 crore.
<b>Results of audit</b>	<p>In 2011-12 the records of 160 units relating to the Registration Department were test checked and irregularities involving ₹ 3.31 crore were detected in 160 cases.</p> <p>The Department accepted undervaluation and other deficiencies of ₹ 2.35 crore in 90 cases, of which 13 cases involving ₹ 0.10 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 0.07 crore was realised in 76 cases during the year of which four cases involving ₹ 0.01 crore pertained to 2011-12.</p>
<b>What is highlighted in this Chapter</b>	<p>A few illustrative cases involving ₹ 94.16 lakh selected from observations noticed during our test check of records relating to levy and collection of stamp duty and registration fees have been included in this Chapter.</p> <p>It was noticed that the Department did not have an effective system either to dispose of large number of undervaluation cases or monitor the cases reported as undervalued.</p>
<b>Conclusion</b>	The Department needs to initiate immediate action to recover stamp duty and registration fees relating to undervaluation of documents, pointed out by us, more so in cases where it has accepted our contention.

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## CHAPTER - IV : STAMP DUTY AND REGISTRATION FEES

### 4.1 Tax administration

The Registration Department is under the control of the Secretary to the Government, Taxes at the Government level and the Inspector General of Registration is the head of the Department. Instruments affecting immovable property are to be presented for registration in the office of Sub-Registrar within whose jurisdiction the whole or some portion of the property is situated. The Registration Department administers the Acts and Rules relating to Stamp Duty and Registration Fees.

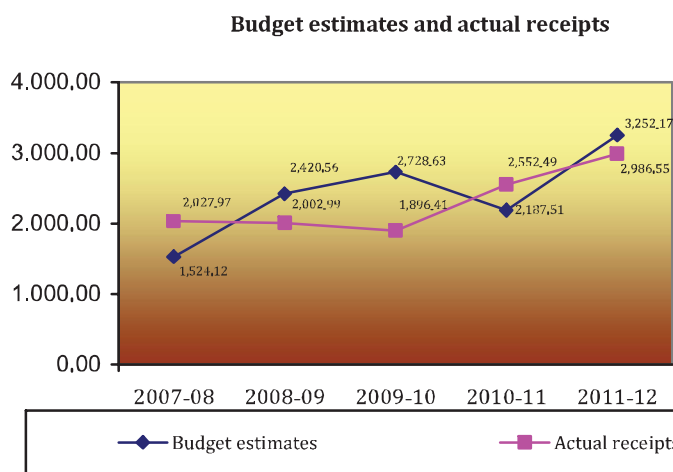
Non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent of the value of one hundred rupees and upwards, to or in immovable property and other instruments mentioned under Section 17 of the Registration Act 1908 are to be registered compulsorily and the registration of documents mentioned under Section 18 is optional.

### 4.2 Trend of receipts

Actual receipts from stamp duty and registration fees during the last five years (2007-08 to 2011-12) along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth rate over actual receipts
2007-08	1,524.12	2,027.97	(+) 503.85	(+) 33.06	13,668.95	14.84	33.42
2008-09	2,420.56	2,002.99	(-) 417.57	(-) 17.25	15,990.18	12.53	(-) 1.23
2009-10	2,728.63	1,896.41	(-) 832.22	(-) 30.50	17,625.02	10.76	(-) 5.32
2010-11	2,187.51	2,552.49	(+) 364.98	(+) 16.68	21,721.69	11.75	34.59
2011-12	3,252.17	2,986.55	(-) 265.62	(-) 8.17	25,718.60	11.61	17.01



It is appreciable to note that there is an increasing trend in the revenue collection during past two years.

### 4.3 Cost of collection

The gross collection of revenue receipts under the head Stamps and Registration fees, expenditure incurred on collection and the percentage of expenditure to gross collection during 2007-08 to 2011-12 alongwith the All India average percentage of expenditure on collection to gross collection for relevant years are mentioned below :

Year	Collection*	Expenditure on collection of revenue*	Percentage of expenditure to gross collection	All India average percentage over the previous year
	₹ in crore)			
2007-08	1,946.08	77.64	3.99	2.33
2008-09	1,931.75	82.97	4.30	2.09
2009-10	1,812.89	100.70	5.55	2.77
2010-11	2,477.19	101.56	4.09	2.47
2011-12	2,906.89	144.85	4.98	1.60

\* (Source: Finance Accounts and Departmental figures)

It was noticed that the expenditure on collection was throughout higher than the All India Average. However, the revenue collection registered an increase of 17.35 per cent in 2011-12 over the previous year, whereas the expenditure on collection of revenue was much higher with 42.63 per cent for the said period.

#### 4.4 Impact of audit

During the last four years, undervaluation of documents, short levy of stamp duty etc. with revenue implication of ₹ 64.89 crore were pointed out in 973 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 6.40 crore and recovered ₹ 0.13 crore. The details are shown in the following table:

(₹ in crore)

Year	Paragraphs included in the LAR		Paragraphs accepted during the year		Amount recovered during the year	
	No.	Amount	No.	Amount	No.	Amount
2007-08	245	1.59	118	0.25	6	0.02
2008-09	235	7.02	54	0.38	52	0.03
2009-10	258	9.04	176	3.02	54	0.03
2010-11	235	47.24	87	2.75	74	0.05
<b>Total</b>	<b>973</b>	<b>64.89</b>	<b>435</b>	<b>6.40</b>	<b>186</b>	<b>0.13</b>

It is seen from the table that the Department has recovered only 2.03 per cent of the total amount accepted during the four years.

#### 4.5 Working of Internal Audit Wing

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) and team conduct audit in the district. The SROs are audited annually. The total number of staff deputed for the internal audit work in this Department is sixty two. The team leader is the DR (Audit) who is assisted by his subordinates. There is neither an Internal Audit Manual nor a centralised training system for the audit wing. During 2011-12, IAW audited 256 units out of 312 units planned for audit.

**It is recommended that the IAW may be strengthened by imparting training to the persons deployed for audit and by preparing an Internal Audit Manual.**

#### 4.6 Results of audit

In 2011-12 the records of 160 units relating to the Registration Department were test checked and underassessment of tax and other irregularities involving ₹ 3.31 crore were detected in 160 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Undervaluation of documents	145	3.09
2	Other lapses	15	0.22
	<b>Total</b>	<b>160</b>	<b>3.31</b>

The Department accepted undervaluation and other deficiencies of ₹ 2.35 crore in 90 cases, of which 13 cases involving ₹ 0.10 crore were pointed out in audit

during the year 2011-12 and the rest in earlier years. An amount of ₹ 0.07 crore was realised in 76 cases during the year of which four cases involving ₹ 0.01 crore pertained to 2011-12.

A few illustrative cases involving money value of ₹ 94.16 lakh are discussed in the succeeding paragraphs.

#### 4.7 Other audit observations

The records of various registration offices were scrutinised and several cases of non-compliance of the provisions of the Indian Stamp Act, 1899 and the Kerala Stamp Act, 1959 (KS Act) and other cases as mentioned in the succeeding paragraphs in this chapter were noticed. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Sub-Registrars (SRs) are pointed out each year. Not only do the irregularities persist, but also remain undetected till another audit is conducted. There is need for the Government to improve the internal control system including strengthening of the internal audit.

#### 4.8 Non-compliance of provisions of Act/Rules

The provisions of the KS Act and Registration Rules require:-

- i) initiating action in cases where documents were undervalued and
- ii) correct classification of documents.

We noticed that the SRs did not observe some of the above provisions at the time of registration of the documents. This resulted in short levy/evasion of stamp duty of ₹ 94.16 lakh as mentioned in the succeeding paragraphs.

##### 4.8.1 Splitting up of land to evade stamp duty and registration fee

- (SRO, Ambalappuzha)

Section 45 B of Kerala Stamp Act, 1959 stipulates that if the registering authority has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument transferring any property brought before him for registration, he may after registering the document, refer the same to the Collector for determination of the value or consideration and the proper duty payable thereon. In terms of SRO No. 1514/86 read with Act 16 of 1991, District Registrars are empowered to act as Collectors for this purpose.

It was noticed (November 2011) from the "Register of Non-Testamentary Documents"<sup>1</sup> relating to immovable property that 272.1 ares<sup>2</sup> of land was transferred by the same executant to the same person through two sale deeds registered on the same day by which 40.47 ares and 231.63 ares were sold for ₹ one crore each. Land was split up before the transactions in such a way that major portion of land was without road facility and it was registered at a lower value. The

case was not reported as a suspected case of undervaluation to the Registrar for initiating action under Section 45 B(2) of the Act. This resulted in undervaluation of the second document to the tune of

<sup>1</sup> Containing details of all documents relating to immovable property other than 'Will' like conveyance, partition, release, mortgage etc.

<sup>2</sup> One Are = 100 sq.metres.

₹ 4.72 crore and consequent short levy of stamp duty and registration fee of ₹ 56.68 lakh.

The matter was pointed out to the Department (November 2011) and reported to Government (February 2012); their reply has not been received (December 2012).

- (SRO, Nileswaram)

It was noticed (December 2010) that 21.04 ares of land was transferred by the same executant to the same two persons through two sale deeds executed within four days (6 August 2009 and 10 August 2009) by which 1.11 ares and 19.93 ares were sold for ₹ 4.68 lakh and ₹ 3.50 lakh respectively. Land was split up before the transactions in such a way that major portion of land was without road facility and it was registered at a lower value. This resulted in undervaluation of the second document to the tune of ₹ 80.44 lakh and consequent short levy of stamp duty and registration fee of ₹ 9.65 lakh.

The matter was pointed out to the Department (December 2010) and the Department stated (December 2011) that *suo motu* action was being taken on the document.

The case was reported to Government (February 2012); their remarks have not been received (December 2012).

#### **4.8.2 Short levy of stamp duty and registration fee due to undervaluation**

- (SRO, Agali)

Section 45 B of Kerala Stamp Act, 1959 stipulates that if the registering authority has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument transferring any property brought before him for registration, he may after registering the document, refer the same to the Collector for determination of the value or consideration and the proper duty payable thereon. The Collector may, *suo motu*, within two years from the date of registration of any instrument not already referred to him, call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value and the duty payable thereon and may determine the value and duty. For this purpose power of Collector has been delegated to the District Registrar.

It was noticed (May 2008) that 34 sale deeds were registered, whereby 122.365 acres<sup>3</sup> of land was sold to a company, the previous documents of which were registered within a period of one to six months prior to the registration of the present documents. The values shown in the previous documents were considerably lower than the subsequent documents resulting in undervaluation of previous documents to the extent of ₹ 1.26 crore.

<sup>3</sup> 1 acre = 40.47 ares

122.365 acres = 4951.94 ares.

This resulted in short levy of stamp duty and registration fees of ₹ 15.15 lakh.

The Government formed a committee (May 2010) which was entrusted the work of enquiring into these audit observations also. The committee confirmed (October 2010) that there had been undervaluation in sale deeds presented for registration at SRO Agali. However, further report on action taken has not been received (December 2012).

- (SRO, Vadakkencherry)

Verification (November 2011) of Book 1 and register of undervaluation revealed that while registering the conveyance deeds, conveyance transfer of two properties of 243.03 ares and 113.72 ares in Kizhakkencherry *Panchayat* in April and May 2008 for ₹ 7 lakh and ₹ 4.90 lakh respectively, the registering authority estimated the value of these properties as ₹ 48.29 lakh and ₹ 36 lakh respectively and referred the deeds to District Registrar as suspected cases of undervaluation. The values estimated by the registering authority with available details were recorded in the register of undervaluation maintained in the sub registry office. Subsequently, notices were issued to the parties for settling the cases under compounding scheme and the first case was settled under compounding scheme while the second case remained unsettled. Meanwhile, these properties were sold again in October and November 2009 for consideration of ₹ 11.60 lakh and ₹ 8 lakh respectively. Though the details of undervaluation of the property and the value estimated and reported to District Registrar were available in the undervaluation register of the said office, the registering authority did not report the subsequent transactions to the District Registrar as undervaluation cases. This resulted in short levy of stamp duty and registration fee of ₹ 7.76 lakh.

We pointed out the matter to the Department (November 2011) and reported to the Government (February 2012). We have not received any further remarks (December 2012).

- (SRO, Wadakkancherry)

It was noticed (December 2011) that a property of 155.01 ares of land sold for ₹ 7.66 lakh in July 2009 was resold after 18 days without any improvement for a consideration of ₹ 29 lakh. However, the registering authority did not report the first sale to the District Registrar as undervaluation. This resulted in short levy of stamp duty and registration fee of ₹ 2.56 lakh.

The matter was pointed out to the Department (December 2011) and reported to the Government (February 2012); their remarks have not been received (December 2012).

- (SRO, Kozhencherry)

From verification (October 2011) of Book 1 and register of undervaluation it was noticed that the registering authority referred to the District Registrar four conveyance deeds registered between January and September 2008 as suspected cases of undervaluation estimating their values at ₹ 12.74 lakh, ₹ 10.80 lakh,



₹ 5.06 lakh and ₹ 2.50 lakh respectively. The values estimated by the registering authority with available details were recorded in the register of undervaluation maintained in the sub registry office. The cases are pending disposal by the District Registrar. Meanwhile, these properties were sold between October 2009 and January 2010 for ₹ 2.60 lakh, ₹ 5 lakh, ₹ 3 lakh and ₹ 0.80 lakh respectively. Though the details of undervaluation of the properties and the values estimated and reported to the District Registrar were available in the undervaluation register of the said office, the registering authority did not refer the register and report the subsequent transactions to the District Registrar as undervaluation cases. This resulted in short levy of stamp duty and registration fee of ₹ 2.36 lakh.

The matter was pointed out to the Department (November 2011) and reported to the Government (February 2012); their remarks have not been received (December 2012).