

CHAPTER-V
OTHER TAX RECIEPTS

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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.

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), 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.

5.2 Results of audit

During the year 2013-14, audit of records of 101 units out of 612 auditable units relating to Land Revenue and 38 units out of 140 auditable units relating to Stamps and Registration Fees revealed non/short realisation of revenue and other irregularities involving ₹ 51.81 crore in 1,018 cases which fall under the following categories as mentioned in **Table 5.1**.

Table- 5.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
A: Land Revenue			
1.	Non/short realisation of Stamp Duty & Registration Fees on executed deeds of <i>Sairat</i>	23	0.33
2.	Non-levy of revenue due to non-execution of fresh lease under <i>Khas Mahal</i> Policy, 2011	8	0.06
3.	Others	841	40.14
Total		872	40.53

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

B: Stamps and Registration Fees			
1.	Blocking of Government revenue due to non-disposal of referred cases	32	4.98
2.	Non-levy of Stamp duty and Registration Fees on leased documents	7	2.07
3.	Non-realisation of Government revenue from finalised referred cases	16	1.25
4.	Misclassification of category of land	1	0.03
5.	Others	90	2.95
Total		146	11.28
Grand total		1,018	51.81

(A) During the year 2013-14, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 1.33 crore in 53 cases, out of which 16 cases involving ₹ 48.57 lakh were pointed out during the course of the year and the rest during the earlier years.

(B) During the year 2013-14, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 2.91 crore in 16 cases which were pointed out during the earlier years. An amount of ₹ 0.18 lakh was recovered in one case which was audited in 2012-13.

A few illustrative cases involving tax effect of ₹ 1.23 crore are mentioned in the following paragraphs.

5.3 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 Acts/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

5.4 Non/short realisation of Stamp duty and Registration fees on settlement of *Sairat*

As per the Notices inviting for settlement of *Sairat*², 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* (five *percent* with effect from 15 February 2013) 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 in three Circle Offices³ and Office of Additional Collector, Kishanganj for the year 2010-11 to 2013-14, we found between August 2013 and February 2014 that the *Sairat* were settled for the years 2010-11 to 2013-14 at ₹ 2.27 crore. But no agreement was entered into between the settlee and the concerned circle officer in pursuance of the settlement of *sairat*. Thus, failure of the concerned authority to execute the agreement and to get it registered before issue of *parvana* to the bidder as provided in the Notices inviting for settlement resulted in non/short realisation of Government revenue of ₹ 11.13 lakh in shape of Stamp duty and Registration fees.

After we pointed this out, the concerned Authority, accepted the facts and stated between August 2013 and March 2014 that action would be taken to realise the Government revenue.

B: STAMPS AND REGISTRATION FEES

5.5 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 (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 four registering authorities⁴ (District Sub Registrars/Sub Registrars) between October 2013 and February 2014, we observed that 238 cases were referred to the IRO/AIG, Patna for determination of market value of property under Section 47(A) of the Act *ibid* during the period between

² *Sairat* means the income derived by leasing out fisheries, hats, Melas, Toddy Mahals and ferry rights etc.

³ Daudnagar (Aurangabad), Kadwa (Katihar) and Patepur (Vaishali).

⁴ District Sub Registrar (DSR): Jamui, Sheohar and Sitamarhi; Sub Registrar (SR): Parihar (Sitamarhi).

August 2008 and May 2013 for the years 2008-09 to 2013-14. Out of which 170 cases were disposed off and remaining 68 cases, where valuation of property was determined by the DSR as ₹ 6.36 crore against the valuation mentioned in the instruments of ₹ 1.88 crore, were still pending for disposal. Thus there was blocking of Government revenue of ₹ 29.19 lakh in shape of stamp duty.

After this was pointed out, the Department replied (August 2014) that the concerned AIG had been instructed to expeditiously dispose of the referred cases and would be monitored in monthly review meeting at the Secretary level.

5.6 Non-realisation of Government revenue from finalised referred cases

Section 48 of the IS Act provides that all duties, penalties and other sums required to be paid under the Act may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for recovery of arrears of land revenue.

Further, as per instruction issued (January 2007) by the Secretary-cum-Inspector General of Registration to the Collector-cum-District Registrar/IRO/DSR, if the parties do not pay the stamp duty in finalised referred cases, a notice may be served and after 30 days cases would be instituted under Public Demand Recovery Act, 1914 (PDR Act) after publishing their names in local newspaper for the realisation of stamp duty and registration fees.

During scrutiny of the register of referred cases and information made available by two registering authorities (District Sub Registrars, Patna and Siwan) between October 2013 and February 2014, we observed that 73 cases referred to the IRO for determination of market value of property under Section 47(A) were finalised between the period October 2011 and September 2013 and a sum of ₹ 51.28 lakh was to be realised as deficit stamp duty. We further observed that in 24 cases notices of demand were issued between May 2012 and December 2013 but no further action was initiated to realise the dues as per aforesaid provision. This omission resulted in non-initiation of Revenue Recovery Certificate Cases under the PDR Act and non-realisation of Government dues of ₹ 51.28 lakh⁵ in shape of stamp duty.

⁵ Calculation:

(Amount in ₹)					
Sl. No.	DSR	Period	No. of cases disposed	Period in which cases were disposed off	Amount of deficit Stamp Duty involved
1	Patna	2011-12	4	Between December 2012 and August 2013	10,34,550
		2012-13	41	Between January 2013 and September 2013	15,96,530
2	Siwan	2010	3	December 2012	36,060
		2011	9	Between October 2011 and December 2012	3,40,490
		2012	16	Between October 2012 and January 2013	21,20,120
Total			73		51,27,750

After this was pointed out, the Department replied (August 2014) that Revenue Recovery Certificate Cases had been instituted under PDR Act in many cases.

5.7 Non-levy of Stamp duty on lease agreements entered into between the Mobile companies and land owners

Under Section 73 of Indian Stamp Act, 1899, every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings.

The Secretary, Registration, Excise and Prohibition (Registration) Department instructed (September 2012) all the Collectors-cum-District Registrars to nominate inspecting officers to verify the payment of stamp duty on the agreements for installing mobile towers. Further, AIG reminded (December 2012) to nominate all the District Sub Registrars and Sub Registrars as inspecting officers.

During scrutiny of records of four Districts Registrars⁶ and information made available by the Executive Officer of concerned Nagar Nigam/Parishad, we found between January and March 2014 that 115 agreements were entered into between mobile companies and land owners during March 2004 to March 2013 for erection of mobile towers for the lease period of nine to 21 years. These agreements came under the category of lease documents as the lease period was more than one year which attracts stamp duty. But we observed that in none of the case stamp duty was levied in spite of the instruction of the Secretary of the Department to nominate the inspecting officer under the Act *ibid* to realise the Government revenue. This resulted in non-levy of stamp duty of ₹ 18.34 lakh⁷.

After this was pointed out, the Department replied (August 2014) that Stamp duty was realisable only when the instrument has been presented to the Public Officer and in the instant case these were not presented to the concerned Registration offices. The reply is not in consonance with the instruction of the Secretary (September 2012) to verify the payment of stamp duty on the agreements for installing mobile towers.

5.8 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

⁶ Katihar, Madhepura, Siwan and West Champaran (Bettiah).

⁷ At the rate of 15 *per cent* of the actual value of land in the cases where leases for the period more than 10 years and 5 *per cent* of the actual value of land in the cases where lease for the period up to 10 years.

determine the market value of the property as provided under Section 47(A) (2) of the Act *ibid*.

During scrutiny of referred cases finalised by the AIG, Patna we observed (December 2013) that one case of undervaluation of land in Chenari Circle of Sasaram district was referred (December 2012) to AIG Patna by the District Sub Registrar (DSR) Sasaram for determining the market value of the land. Further, we observed that the AIG disposed (March 2013) the case as 'Irrigated' land and determined the market value of the land as ₹ 10.85 lakh on the basis of the site verification conducted by the official of DSR Sasaram and accordingly a sum of ₹ 86,800 was realised as stamp duty and registration fees. However as per another site verification report conducted by another official of DSR Sasaram, the said land was shown as 'Residential'. As there were two different sets of report regarding nature of land, the AIG should have conducted the site verification himself or obtained the site verification report from the concerned Circle Officer. But no report regarding site verification by the AIG or Circle Officer was found on record. Had the case been finalised as residential land, the market value of the land would have come to ₹ 1.75 crore and leviable stamp duty and registration fees would have been ₹ 14.00 lakh. Thus there was a short levy of stamp duty and registration fees of ₹13.13 lakh⁸.

After we pointed this out, the AIG Patna conducted (June 2014) the site verification himself and found the land as 'Residential' in nature and accepted the audit observation and stated that the revised notice of demand would be issued. We await further development in the case.

The matter was reported to the Government/Department in July 2014, we are yet to receive their reply (August 2014).

5.9 Internal Audit

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 2014), nine requisitions from the Revenue and Land Reforms Department and three requisitions from the Registration, Excise and Prohibition (Registration) Department for internal audit were received during 2013-14 and the internal audit was conducted in all cases. The Finance Department further stated that Inspection Reports containing 86 and 26 paragraphs respectively were issued and letters/reminders were issued for settlement of outstanding Inspection Reports/paragraphs and also meeting was being organised.

⁸ Calculation:

(Amount in ₹)						
Area	Rate per decimal as per MVR	Value of land as per MVR	Rate per decimal decided by AIG	Value of land decided by AIG	Short valuation	Short levy of Stamp duty and Registration fee at the rate of 8 per cent
175 dec.	1,00,000	1,75,00,000	6,200	10,85,000	1,64,15,000	13,13,200