

3.1 Tax Administration

The Additional Chief Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department is in overall charge of the Stamps & Registration Department at the Government level. The Inspector General of Stamps & Registration is the administrative head of the Department. At the district level, the Registrars/Sub-registrars have been entrusted with the work of registration of all types of deeds and agreements and realise the stamp duty and registration fee thereon. The collection of tax is governed by the provisions of the Indian Stamps Act, 1899 and the Indian Stamps (Meghalaya Amendment) Act, 1993.

3.2 Internal audit

The Stamps & Registration Department has no separate Internal Audit Wing (IAW). Despite the same being pointed out in the Audit Reports for the Government of Meghalaya year after year, no action has been taken by the Department to create an IAW to monitor the working of the Department. In the absence of a separate IAW, the Department has no system in place to ensure a proper system of check on its functioning and solely relies upon the audit carried out by the Accountant General.

Recommendation: *The Department may urgently look into the possibility of creating an Internal Audit Wing to effectively monitor the functioning of the Department.*

3.3 Results of Audit

Test check of the records of four units under Stamps & Registration Department during 2013-14 revealed under-assessment of tax and other irregularities involving ₹ 1.30 crore in 10 cases all of which pertained to non/short realisation of stamp duty.

During the course of the year, the Department accepted under assessments of ₹ 0.87 crore in six cases. No recovery was intimated in any of the cases.

A few illustrative cases having financial impact of ₹ 0.35 crore in terms of under-assessments under the Acts are discussed in the paragraphs **3.4 to 3.6**.

3.4 Evasion of stamp duty – District Registrar, Shillong

Non-registration of a lease agreement with the District Registrar resulted in evasion of stamp duty amounting to ₹ 0.15 crore.

Under the Indian Stamp Act, 1899, 'lease' means a lease of an immovable property and includes undertaking in writing to cultivate, occupy or pay or

deliver rent for the immovable property. Under Section 35 of the Indian Stamps (Meghalaya Amendment) Act 1993, stamp duty on lease for a term exceeding twenty years but not exceeding thirty years shall be calculated at the rate of ₹ 99 for every ₹ 1000 for a consideration equal to three times the amount or value of the average annual rent reserved.

From the records of the Urban Affairs Department (UAD), Government of Meghalaya, Shillong it was observed that a lease agreement was executed between M/s Marbaniang Enterprise (lessee) and the UAD (lessor) in November 2010 under which the lessor transferred a plot measuring 41,167 square feet at Khyndailad, Shillong to the lessee for a period of 30 years at an annual lease rent of ₹ 0.40 crore with an escalation of 10 *per cent* every five years. Accordingly, the average annual lease rent for the purpose of stamp duty worked out to ₹ 0.52 crore for which stamp duty¹ of ₹ 0.15 crore was leviable. Cross check (September 2013) with the records of the District Registrar, Shillong, however, revealed that the aforesaid lease agreement was not registered. Thus, non-registration of lease agreement by the lessee with the District Registrar led to evasion of stamp duty of ₹ 0.15 crore.

The case was reported to the Excise, Registration, Taxation & Stamps (ERTS) Department, Government of Meghalaya (GOM) in October 2013; reply was awaited (November 2014).

3.5 Short levy of stamp duty - District Registrar, Shillong

There was short levy of stamp duty amounting to ₹ 0.11 crore on registration of conveyance deeds.

Under Section 23 of the Indian Stamp (Meghalaya Amendment) Act, 1993 stamp duty on conveyance, where the amount or value of the consideration exceeds ₹ 1.50 lakh, shall be calculated at the rate of ₹ 99 per ₹ 1000 of the value of the conveyance. In Meghalaya, any person belonging to the Scheduled Tribes/Castes is allowed exemption² of 50 *per cent* of the stamp duty payable for all instruments of conveyance executed by or in favour of members of Scheduled Tribes/Castes.

It was seen from the records of the District Registrar, East Khasi Hills District, Shillong that three conveyance deeds were registered with the District Registrar for purchase of land valuing ₹ 3.01 crore by three³ different

¹ Average annual rent = ₹ 0.52 crore

Stamp duty payable = $99/1000 \times (\text{₹ } 0.52 \text{ crore} \times 3) = \text{₹ } 0.15 \text{ crore}$.

² Vide a Government notification dated 11 July 1983.

³ (1) Shri Demann Nezar Jyrwa (2) Shri Donush Siangshai (3) Shri Rajkishore Prasad

purchasers on various dates between August 2012 and November 2012 on which stamp duty of ₹ 0.18 crore was payable, against which, stamp duty of ₹ 0.07 crore was levied, thereby resulting in short levy of stamp duty of ₹ 0.11 crore. The details are given in the following table:

Name of the purchaser	Status	Value of land (₹)	Stamp duty payable (₹)	Stamp duty paid (₹)	Short levy (₹)
Shri Demann Nezar Jyrwa	Scheduled Tribe (ST)	2200000	108900	16508	92392
Shri Donush Siangshai	ST	21883339	1083225	183300	899925
Shri Rajkishore Prasad	Non-ST	6000000	594000	473610	120390
Total		30083339	1786125	673418	1112707

On this being pointed out (November 2013), the District Registrar while accepting the audit observation (April 2014) stated that demand notices had been issued to the persons concerned for recovery of the short levy. A report on recovery was awaited from the ERTS Department, Government of Meghalaya (November 2014).

3.6 Non-registration of lease deeds-District registrar, Khliehriat

Non-registration of mining lease by a cement company resulted in non-realisation of stamp duty amounting to ₹ 0.09 crore.

Under Section 26 of the Indian Stamps act, 1899, in case of lease of a mine, the amount estimated to be payable to the Government by way of royalty is taken into consideration for the purpose of stamp duty. Further, Clause 35(a)(iv) of the Indian Stamps (Meghalaya Amendment) Act, 1993 stipulates that stamp duty on lease agreement for a term exceeding ten years but not exceeding twenty years shall be calculated at the rate of ₹ 99 per ₹ 1000 for a consideration equal to twice the amount or value of the average annual rent reserved.

It was noticed from the records of the Director of Mineral Resources, Meghalaya that a lease agreement was executed between the Government of Meghalaya and a cement company⁴ in June 2006 for a period of 20 years for extraction of limestone and sandstone over an area of 4.70 hectares in Jaintia Hills. The anticipated royalty on limestone from the leased area was

⁴ Cement Manufacturing Co. Ltd (CMCL)

calculated at ₹ 0.45 crore per year, against which, stamp duty⁵ of ₹ 0.09 crore was realisable. However, cross-check with the records of the District Registrar, Khliehriat revealed that the aforesaid lease agreement was not registered, thereby leading to non-realisation of stamp duty amounting to ₹ 0.09 crore.

The case was reported to the ERTS Department, Government of Meghalaya in October 2013; reply was awaited (November 2014).

⁵ Stamp duty = $99/1000 \times (\text{₹ } 0.45 \text{ crore} \times 2) = \text{₹ } 0.09 \text{ crore}$.