

CHAPTER III

STAMP DUTY AND REGISTRATION FEE

3.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899 (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Maharashtra and are administered at the Government level by the Principal Secretary, Relief & Rehabilitation. The Inspector General of Registration (IGR) is the head of the Stamp Duty & Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by Additional Controller of Stamps, Mumbai (ACOS), 10 Deputy Inspector General (DIGs), nine Assistant Inspector General of Registration, six Collector of Stamps (COS) at Mumbai and Mumbai Suburban District (MSD), 34 Joint Director of Registration and COS and 507 Sub-Registrar on District and Taluka levels.

3.2 Internal audit

An effective internal audit wing always acts as a deterrent to the occurrence of any major irregularity. IGR issued guidelines for internal audit through a circular in June 2001. According to these guidelines, the internal audit wing of IGRO consisting of two wings (Desk-10 and Desk-11) was given monthly target to conduct audit of three offices and every DIG of the division has to conduct audit of two offices each in every month. However, no specific target of auditing COS office by IGRO was set. The details of audit conducted by the internal audit wings of IGR are as detailed in **Table 3.2**.

Table 3.2

Year	Target total	Offices Audited			
		Dy. IGR	COS + SOS	Joint SR/SR	Total
2010	72	Nil	Nil	7	7
2011	72	Nil	1	28	29
2012	72	1	11	32	44
2013	72	Nil	4	32	36
2014	72	Nil	2	11	13
Total	360	1	18	110	129

Source: Information obtained from IGR

Thus, the facts indicate that:

- During the year 2010-14, audit was carried out in 129 offices whereas the target set out was 360.
- Percentage of inspection of Dy. IGR and COS+SOS are very less as compared to Joint SR/SR.

3.3 Results of audit

In 2014-15, test check of the records of 211 units of the Stamp Duty and Registration Fees Department, showed non/short levy of stamp duty and registration fees etc. and other irregularities amounting to ₹ 139.38 crore in 699 observations, which fall under the categories given in **Table 3.3**.

Table 3.3

(₹ in crore)			
Sr. No.	Category	No. of observations	Amount
1	Performance Audit on “Integrated Stamps And Registration Information Technology Application (iSARITA)”	1	0.00
2	Short levy due to undervaluation of property	547	127.35
3	Short levy due to misclassification of documents	38	7.39
4	Incorrect grant of exemption of stamp duty and registration fees	85	2.72
5	Non-levy of stamp duty and registration fee	20	1.03
6	Other Irregularities	8	0.89
Total		699	139.38

In response to the observations made in the local audit through Inspection Reports during the year 2014-15 as well as during earlier years, the Department accepted short levy and other deficiencies and recovered in 166 observations involving ₹ 3.72 crore, of which 18 observations involving ₹ 20 lakh were pointed out during 2014-15 and rest during earlier years.

Draft paragraphs on short levy of stamp duty of ₹ 11.19 lakh due to undervaluation of documents in the Offices of the Sub Registrar-III, Akola and Sub Registrar-IV, Haveli, Pune, was forwarded to Department in May 2015. The Department recovered the entire amount (September 2015).

A Performance Audit on “**Integrated Stamps and Registration Information Technology Application (iSARITA)**” and a few illustrative observations involving ₹ 27.69 crore are discussed in the succeeding paragraphs.

3.4 Performance Audit on “Integrated Stamps and Registration Information Technology Application (iSARITA)”

Highlights

Although the Vendor Management System (VMS) was introduced in August 2012, it has deficiencies regarding time tags and logics. Therefore, the VMS was unable to give correct results for levy of penalty as well as failed to monitor the activities of BOT agencies.

(Paragraph 3.4.2.3)

Absence of necessary validation checks resulted in 15,977 documents where e-payment of ₹ 214.73 crore was made, the corresponding e-challans were not defaced. However, all these documents were registered.

(Paragraph 3.4.2.4)

The Annual Schedule of Rates (ASR) which was the backbone for the valuation module was not updated timely in the system. This has resulted into manual valuation of property for the purpose of levy of stamp duty.

(Paragraph 3.4.2.5)

The application lacked necessary control to ensure complete capture of data, resulted into non-storing of stamp duty details in respect of 19,960 documents involving ₹ 40.64 crore in database.

(Paragraph 3.4.3.1)

The application lacked necessary input validation controls that resulted into:

- Storing of multiple entries of same transaction relating to stamp duty paid resulted into reporting of inflated figures to the tune of ₹ 2.91 crore.

(Paragraph 3.4.3.2)

- The application accepts any range of stamp duty which has resulted into reporting of inflated figure of revenue collection to the tune of ₹ 2,950.15 crore.

(Paragraph 3.4.3.3)

- The application was prone to risk of capturing the different PAN number for same person.

(Paragraph 3.4.3.4)

- The application is capturing duplicate/incorrect/blank Government Reference Number.

(Paragraph 3.4.3.5)

- In 93,263 documents of 296 SRs involving registration fees of ₹ 49.24 crore were misclassified as Document Handling Charges.

(Paragraph 3.4.3.6)

The application lacked necessary processing controls that resulted into:

- The system failed to maintain the sequence of registration process as envisaged in documentation of application.

(Paragraph 3.4.3.7)

- The application is prone to risk of registering the documents without proper authority and defeated very purpose of having biometric and digital data.

(Paragraph 3.4.3.8)

- The application failed to maintain reliable and complete data in respect of scanned images of the documents, digital photographs and biometric data of thumb impression of parties and witnesses concerned with the document and non accounting of document handling charges. We noticed that in 47,962 manually registered documents in 222 SRs, though document handling charges amounting to ₹ 2.35 crore were recovered, these were not accounted for in the data base.

(Paragraph 3.4.3.9)

- Refund of stamp duty module is in partially operation due to some lacunas like order of refund is incorrectly generated.

(Paragraph 3.4.3.10)

Though the NIC was providing the software support to the Department at the rate of ₹ 60 lakh per annum as the maintenance cost, no Service Level Agreement (SLA) was entered with the agency.

(Paragraph 3.4.4.1)

Although the application was developed by NIC, Pune, no system documentation and source code was obtained by Department from NIC.

(Paragraph 3.4.4.2)

Due to weak logical security control:

- The operator has got un-authorized privileges to capture data in respect of other SRs.

(Paragraph 3.4.5.1)

- The system was susceptible to the risk of suspected backend changes with no audit trail to locate the event through security logs.

(Paragraph 3.4.5.2)

- The developer of application using live database for testing purpose and stored the test data in the same database.

(Paragraph 3.4.5.3)

- Though the warranty period of hardware procured in 2011 has lapsed, the Department has not taken any efforts to appoint an agency for maintenance of hardware. Thus, the hardware were susceptible to the risk of damage thereby disruption in the working.

(Paragraph 3.4.5.4)

Though there was condition in the contract for execution of the data entry work in the office of the JDR, the volumes of Index-II were allowed to be shifted outside the office premises which resulted in permanent loss of 265 original Index-II records of important documents.

(Paragraph 3.4.6.1)

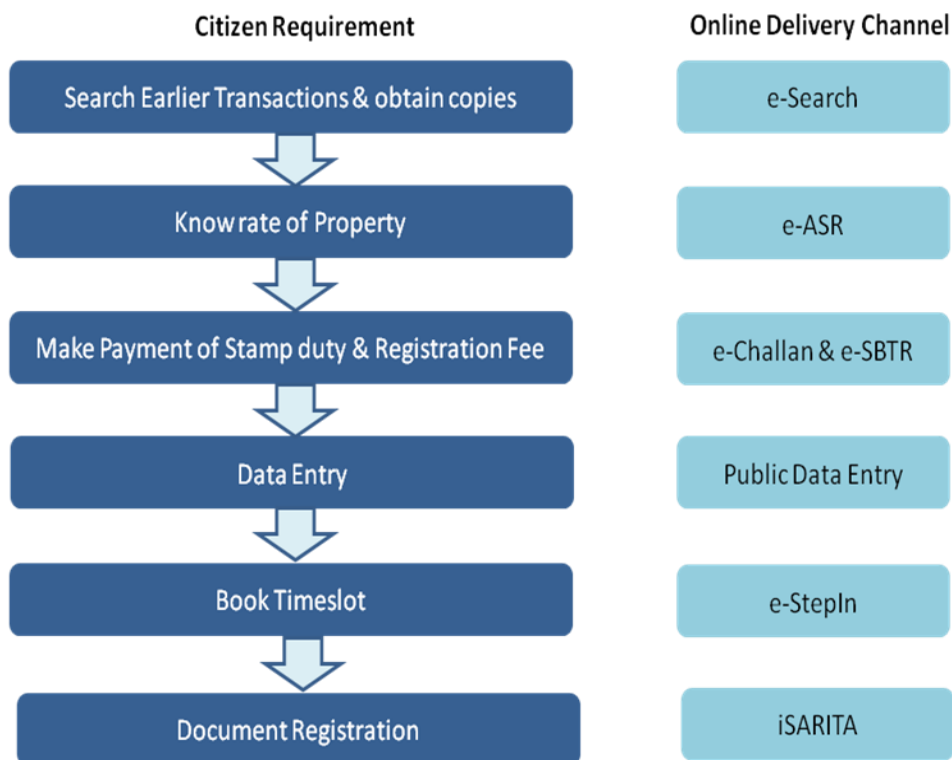
3.4.1 Introduction

Stamp Duty and Registration Fee is the second largest tax revenue of the State. The levy and collection of stamp duty is governed by the Maharashtra Stamp Act, 1958 (MS Act) and Indian Stamp Act 1899 as applicable to the State. The rates of stamp duty leviable on the instruments executed under the Act are mentioned in the Schedule-I of the MS Act. Apart from this, the Department has to store/preserve the registered documents and make them available as and when requested by the public. The Department has repository of such registered documents since 1908.

The Department initiated its e-governance project in 2002 with development of a software application named SARITA (Stamps and Registration Information Technology Application). During the period between 2006 and 2012, SARITA was updated periodically¹ and finally a web based application iSARITA (integrated SARITA) was implemented (July 2012). The iSARITA was developed by National Informatics Center (NIC), Pune. The database server located at Data Center (DC) of Government of Maharashtra, Mantralaya, Mumbai (with disaster recovery (DR) sites at BSNL Mumbai and at NIC Pune) which caters to the citizen's requirement through various modules. Except for Document Registration module, all other modules of iSARITA are accessible to public through internet². The Document Registration module is accessible only to the offices of Registration Department across the State through Virtual Private Network (VPN). Various modules developed by NIC are as detailed below.

¹ implemented SARITA-2 (June 2007) and SARITA-3 (March 2011) application on pilot basis only in five SRs. SARITA-2 in SRO Mumbai-3 and SRO Borivali-7. SARITA-3 in SRO Haveli-8, SRO Haveli-19 and SRO Dhule-1

² URL <http://igrmaharashtra.gov.in>



The operating system used for the server is RED HAT Linux and back end database tool is “PostGres SQL 9.2”. Visual Basic Dot Net (Microsoft) technology is used as front end. The Department appointed two³ agencies on Built-Operate & Transfer (BOT) basis for providing manpower to assist Sub-Registrar in registration process and providing consumables like toner for printers, Compact Disks (CDs) and stationery, along with providing and maintaining lease lines for VPN.

The Process

The workflow of registration process is as detailed in **Table 3.4.1**.

³ M/s. S.M. Computers Pvt. Ltd. (Consortium), Ahmednagar and M/s. Vakrangee Software Ltd., Mumbai

Table 3.4.1

Process of Registration of Documents		
Presentation	The operator captures document related details such as Party details, witnesses, property details etc.	Stamp1 (Presentationdatetime)
Payment of Fees	The operator enters the Stamp duty and Registration fee details. After stamp2, the application generates summary 1 and Receipt of payment made and Document serial number is allotted to document.	Stamp2 (Stamp2datetime)
Admission	The operator captures the photographs and biometric thumb impression of the parties.	Stamp3 (Stamp3datetime)
Identification	The operator captures the photographs and biometric thumb impression of the witnesses. After stamp4, the application generates Summary-2.	Stamp4 (Stamp4datetime)
Final Registration	The SRO authorizes the transaction with his thumb impression (biometric).	Stamp5 (Stamp5datetime)

(Source: Documentation of iSARITA)

The documents registered are identified by a unique document number⁴ wherein the serial numbers of the documents are reset in each calendar year.

Objectives of iSARITA

The objectives of iSARITA as envisaged by the Department were as detailed below:

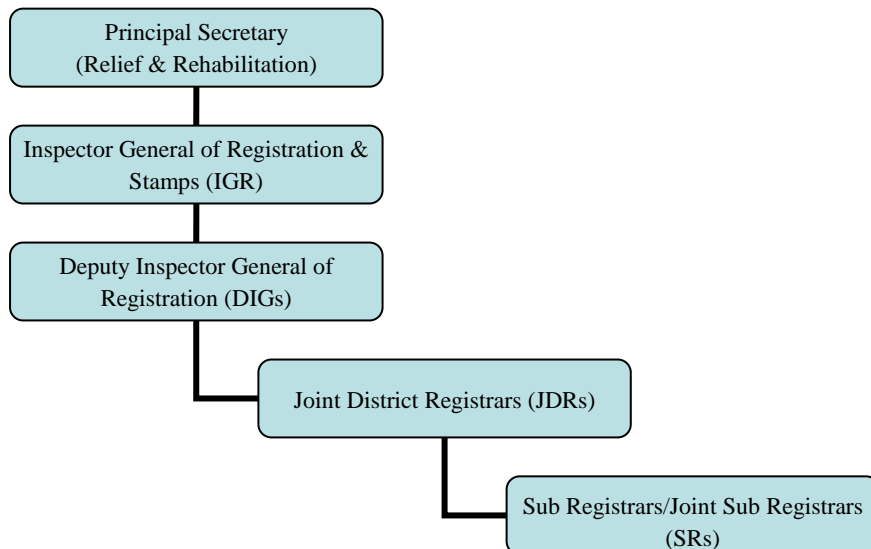
- Centralized data collection for better analysis and other administrative offices decision making;
- Completing the registration process within 20 minutes;
- Centralized e-Storage of data;
- Online payment of the stamp duty and registration fees;
- Online valuation of the property;
- Providing transactional history of the property at the click of the button to prevent frauds;
- To increase transparency;
- Empowering citizen by providing data entry into government records through web portal;
- To prevent public lands being transacted without government permission with the help of negative list;
- To enable identity verification through UID and

⁴ Comprising of Serial number of the document, year of registration and sub registrar office number in which it as registered.

- Linking up/Integration with land records for accurate data transfer and protection of rights.

Organisational setup

The organisational setup of the Department is as below:



Audit Objectives

The audit objectives were to evaluate whether:

- The application achieved its intended objectives, supported the business process and ensured compliance with applicable rules and regulations;
- Necessary organisational controls and system security were in place for effective implementation;
- The input, process and output controls (Application controls) were adequate to ensure data integrity and that it complied with the prescribed rules and procedures; and
- The system provided the checks to be carried out by internal audit wings.

Audit scope and methodology

We analysed the data of iSARITA pertaining to the period June 2012 to December 2014 using SQL queries. Exception reports were cross checked with records available at selected Joint Sub Registrars/Sub Registrars offices and controls were evaluated. Audit sample included four⁵ out of 8 DIGs, six⁶ out of 20 JDRs and 25 out of 103 SRs selected using multistage random sampling method. In addition, the records of Relief and Rehabilitation Department, Government of Maharashtra, Mantralaya, Mumbai and Office of the IGR and Controller of Stamps, Maharashtra State, Pune were also scrutinised. Audit was conducted between January 2015 and June 2015.

⁵ Pune, Mumbai, Latur and Nagpur

⁶ Pune, Kolhapur, Mumbai Suburban, Latur, Nagpur and Nagpur Gramin

The Entry conference was held on 23 December 2014 with Secretary, Relief and Rehabilitation Department (Secretary) and Inspector General of Registration and Stamps, Maharashtra State (IGR) in which the objective, scope and methodology of audit were discussed. The draft Performance Audit Report was forwarded to the Government and IGR in August 2015. The Exit Conference was held on 28 October 2015. The Secretary (R&R), IGR and other senior officers from IGR offices and NICs representatives attended the meeting. The replies given during the exit conference and at the other points of time have been appropriately included.

Audit Criteria

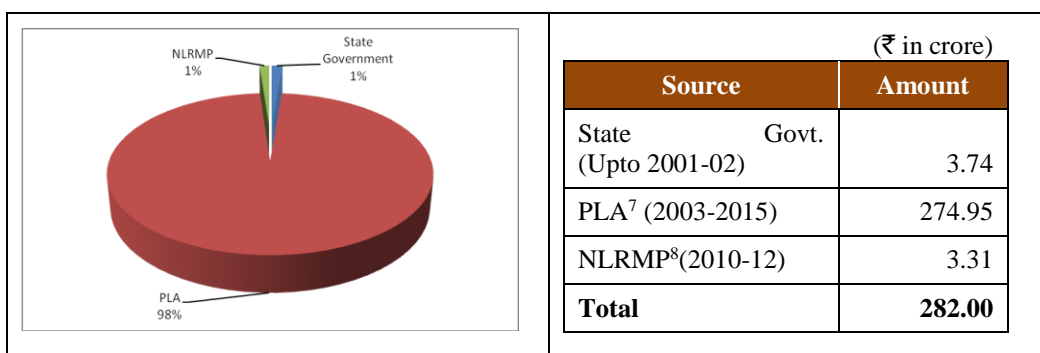
The planning and implementation of iSARITA, data management and monitoring were examined with reference to:

- Service Level Agreement made with the Agencies;
- Departmental Manual and information brochure issued by department;
- The Indian Registration Act 1908;
- The Maharashtra Stamp Act 1958;
- GR's & Circular issued by Government from time to time;
- Generally accepted best IT practices.

Acknowledgement

We acknowledge the co-operation of Principal Secretary, Relief and Rehabilitation Department, IGR and other selected offices in providing the necessary information and records to audit.

Funding of iSARITA project



⁷ The Personal Ledger Account (PLA) was opened in 2001 for computerization of Registration Department.

⁸ ₹ 330.87 lakh spent from funds of the National Land Record Modernisation Program meant for integration of Registration offices with Revenue offices.

Audit findings

3.4.2 Deficiencies in development of iSARITA

3.4.2.1 Inadequate development of Management Information System (MIS) application

We noticed that the following MIS reports envisaged in the application were giving incorrect output. It resulted into no/partial use of application for report generation.

Table 3.4.2.1(A) - MIS Reports for SRs/JDRs/DIGs

Sr. No.	Level	Name of Report	Purpose of Report	Reason for non using
1	SR	Monthly ZP/MC statement	Collection of Zilla Parishad/Municipal Council cess report	Report is generated with error due to village code not properly defined and mapped with report. Also the percentage of cess is calculated incorrectly.
2.	JDR/DIG	Adjudicated documents	The details of adjudicated documents registered.	The adjudication module is not in operation by JDR/DIG offices, because incorrect reports are generated.
3.	JDR/DIG	Refund of Stamp duty	There is error in sanction order generated by the system. The amount to be deducted in case of e-SBTR/e-challans is incorrectly shown. Report also shows incorrect office details.	

Similarly, following MIS were not developed.

Table 3.4.2.1(B)

Sr. No.	Name of Report	Purpose of Report
1	Book-2	Recording the reason for refusal to register the documents
2	Book-3	Register of wills and authorities to adopt
3	Book-4	Miscellaneous Register
4	Memorandum/certification	Intimation of the documents which are registered for the property located in other SR/JDRs jurisdiction.

Hence, the application could not be utilised to its full potential. In exit conference, the Secretary accepted the audit observation and agreed to carry out the necessary modification in the application.

3.4.2.2 Non-development of Modules for Joint District Registrar Offices

JDR being the controlling officer is responsible for assigning login/access rights to SRs under his control, monitoring the number of documents registered, revenue collected, refused cases, adjudication etc., co-ordinate and resolve the hardware maintenance issues noticed in SRs.

However, we observed that no district level reports were available from the system to JDRs. As such, the JDRs were required to compile the reports manually. The JDR, Kolhapur and Mumbai Suburban confirmed the facts.

In the exit conference, the Secretary agreed to carry out the necessary modification in the application.

3.4.2.3 Non-monitoring activities of BOT agencies

As per Service Level Agreement (SLA) executed between IGR and the agencies appointed on BOT basis, the registration process is to be completed within 16 minutes in case of the data entry is done by the general public and 21 minutes in case of data entry is done by the operator of BOT agency. In case of delay in completion of registration process, the agency will be penalised at the rate of five *per cent* per document per minute of delay. If the delay exceeds 20 minutes, no payment will be made to the agency for that document registered. It was further envisaged in the SLA that to monitor the activities and to assess the penalty to be imposed on the agency, a Vendor Management System (VMS) will be developed by NIC, Pune.

We observed that as of April 2015, although the VMS was introduced in August 2012, it has deficiencies regarding time tags and logics. Therefore the VMS was unable to give correct results for levy of penalty. During data analysis, in 13 *per cent* of the registration cases delay was observed.

Further, the Scope of Work defined in SLA included activities like completion of stamp1 to stamp5 process, scanning of documents, burning of CD for the documents scanned, taking out two thumbnail printouts and uploading of the data on server. VMS was also required to monitor these activities. Analysis of the database revealed that in one to 74 *per cent* of the cases, registration process was incomplete i.e. CD not burned, thumbnail printout not taken and image file of document was not uploaded on server.

In the exit conference, the Secretary accepted the facts and assured to carry out the necessary modification in VMS module.

3.4.2.4 Non-defacement of e-challan

The process of e-payment is shown in **Appendix-1**. All e-challans are verified from Government Receipt Accounting System (GRAS) through the facility available in iSARITA application and are defaced. The deface number and the date of defacement gets stored in iSARITA database. The status of e-challan also gets changed to 'defaced' in the database. Data analysis revealed that in 15,977 documents where e-payment of ₹ 214.73 crore was made, the corresponding e-challans were not defaced. However, all these documents were registered. A further scrutiny in 14 SRs revealed that though the e-challans were not defaced in the database, the receipts for payment of stamp duty/registration fees were generated through iSARITA. We observed the following in the iSARITA relating to non-defacement of e-challans:

- The documents were manually registered and the data was uploaded in the database afterwards.
- The system was allowing registration of documents without defacing the e-challans.

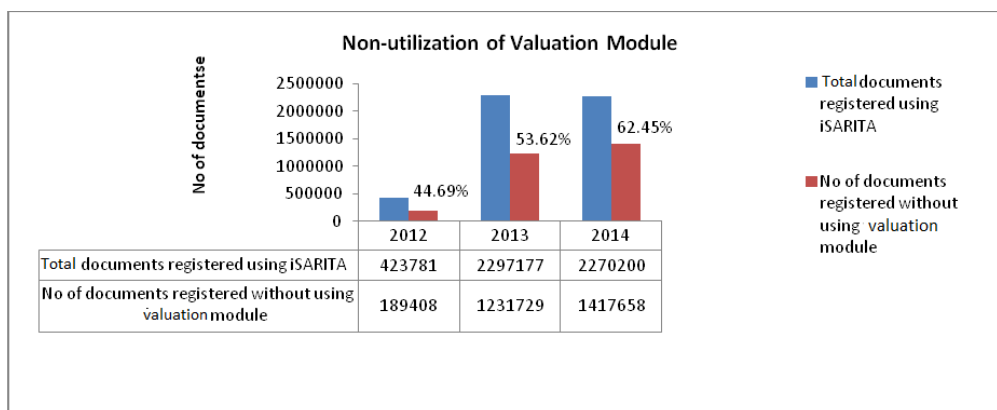
- There were data entry errors in capturing of Government Reference Number (GRN) number of the e-challan.

In the exit conference, the Secretary agreed to rectify lapses in the system of defacement.

3.4.2.5 Online valuation of land/property

The valuation of property for the purpose of levy of stamp duty was done manually.

We observed that though a module was inbuilt in iSARITA for online valuation of the property, the same was not used by the SRs in most of the cases. The graphical presentation of documents registered without using valuation module is detailed below:



Note: Figures of 2012 pertains to the period July 2012 to December 2012

The percentage of non-utilisation of valuation module showed an increasing trend during the period 2012-14.

The reasons analysed by audit for non-utilisation of valuation module are as below:

- The valuation module was not mandatory and was not made a part of the iSARITA registration module. It was kept as a separate module in iSARITA. The SRs therefore have the discretion to bypass the valuation module;
- The Annual Schedule of Rates (ASR) which was the backbone for the valuation module was not updated timely in the system. For instance ASR for the year 2015 was updated in the month of March 2015 instead of 1st January 2015.

Thus, the very purpose of valuation module was defeated.

In the exit conference, the IGR stated that the responsibility of uploading of ASR every year is assigned to NIC which is to be uploaded by 1st January every year. However, as the module required to be updated according to the altered/change guidelines of valuation, it took some time to release the updated module by NIC and therefore Department is now taking steps to make the guidelines available to NIC in advance to reduce the delay from January 2016.

3.4.2.6 Lack of awareness of SRs about capturing the negative list of properties

It was one of the objectives of the iSARITA to prevent the registration of the Public Utility lands and Government lands without the Government permission and transactions of properties prohibited by Income Tax Department, Enforcement Department and Courts. The facility was available in iSARITA for capturing the negative list of such properties.

We observed that SRs were unaware of the facility and were maintaining a separate manual register to record all such properties which were prohibited from registration. It rendered the system vulnerable to manual omission and error.

The IGR stated that the necessary training would be imparted to the staff.

3.4.2.7 Integration with data of land records

The National Land Record Modernisation Programme (NLRMP)⁹ provides for integration of data of Registration with the land records data. Accordingly, the SRs were required to forward online details to the concerned Revenue officer automatically on registration of any property. These details will include property details, registration number, date of registration and names of the parties which will be used by the revenue officer for mutation of the property.

We observed that NLRMP was launched in August 2008 and the Department identified Mulshi Taluka of Pune District for pilot project in 2011. As against the sanction of ₹ 7.13 crore, the Department spent ₹ five crore during the period 2010-15. The grants to the extent of ₹ 3.30 crore were utilised by the Department for procurement of storage devices and laptops under project iSARITA. The remaining amount was utilised for data entry for valuation details and Index-II. Thus, even after lapse of significant period, the very objective of integration could not be achieved.

In the exit conference, the IGR stated that 222 SR offices are linked with Land Record server. However, this linkage has not been activated as all Tahsil offices of land record have not gone online.

The fact remains that due to non linkage between the registration and land records department, the very objective of NLRMP to have an online mutation of property could not be achieved.

3.4.2.8 Details of delay condoned orders were not stored in the database

Registration Act, 1908 deals with condoning of the cases where the document is presented for registration after expiration of the time limit prescribed in the Registration Act by levying a fine prescribed in compendium of Registration Act 1908.

⁹ The Department of Land Resources in the Government of India is implementing the National Land Records Modernisation programme (NLRMP) involving survey/resurvey of land using modern technology, computerization of land records, digitization of maps, computerization of registration and mutation system and integration of all these into a seamless system with the ultimate goal of ushering in the system of conclusive title with title guarantee.

Analysis of database revealed that there were 3,090 cases in 170 SRs where the fine was levied for the delay in presentation of the documents. However, the condonation orders were not stored though there was a provision for the same in the application. This indicated that the system was prone to risk of registration of the documents without condonation orders from Joint District Registrar.

In the exit conference, IGR stated that the necessary controls would be built in the system.

3.4.3 Application Controls

The application controls consist of input, processing and output controls and help to ensure rule mapping, proper authorisation, completeness, accuracy and validity of transaction.

Input Controls

Input controls ensure that the data entered is complete and accurate. Weaknesses in the input controls noticed in audit are discussed below:

3.4.3.1 Missing details of the Stamp duty paid in database

Stamp duty is being paid using various modes *viz.*, e-challans, e-SBTR, Stamp papers of different denominations and through Franking. The application has provision to capture the total amount of stamp duty paid for registering a document and details of such payment in two separate tables. As such, the total stamp duty paid for registering the document stored should match with the details of transactions stored.

Analysis of the database revealed that the stamp duty details in respect of 19,960 documents involving ₹ 40.64 crore were not stored. In the selected SRs, it was observed that there were 1,125 documents involving ₹ 3.86 crore in which stamp duty details were missing. We further verified the details in respect of 118 out of 1,125 documents which confirmed the fact.

Thus, the application lacked necessary controls to ensure complete capture of data.

In the exit conference, the Secretary agreed to build necessary controls in the system.

3.4.3.2 Multiple entry of Stamp duty paid

Analysis of transaction data revealed that there were multiple entries of same transaction relating to stamp duty paid. We also observed that this transaction data is being used for generation of monthly statistics of stamp duty paid and the report was submitted by the SRs to JDR/DIG/IGR. This has resulted into reporting of inflated figures to the tune of ₹ 2.91 crore as shown in **Table 3.4.3.2.**

Table 3.4.3.2

(Amount in ₹)				
No. of multiple entries	Number of Sub Registrar offices	Actual Stamp duty	Stamp duty amount as per the table	Inflated amount shown in the table and in Monthly Statement
Double	158	2,66,17,430	5,32,34,860	2,66,17,430
Triple	11	11,77,130	35,31,390	23,54,260
Quadruple	1	3,500	14,000	10,500
Five Times	3	10,300	51,500	41,200
Six Times	3	19,000	1,14,000	95,000
Seven Times	1	100	700	600
Total		2,78,27,460	5,69,46,450	2,91,18,990

Similarly, the receipts given to the parties towards payment of stamp duty (Summary-1) were also generated using the above data. We analysed the actual receipts generated in 29 cases and confirmed the fact of generation of receipt with inflated amount.

In the exit conference, the Department stated that in initial version of iSARITA there was no provision to restrict duplicate entries, now the application has been updated.

The reply is not tenable because we observed that there are cases of multiple entries in data pertaining to year 2014 and 2015 also.

3.4.3.3 System accepts any range of stamp duty

To have reliable data entry, there must be a system of issue of alerts/warning by the application to the user at the time of input of exceptionally high values. We observed that the exceptionally high stamp duty paid amount stored in the database against a single document as shown in Table 3.4.3.3.

Table 3.4.3.3

Sr. No.	Name of SRs	No. of cases	Incorrect Amount (₹)	Correct Amount (₹)	Inflated figure (₹)
1	Joint S.R. Haveli 6	5	2900,50,42,783	8,91,800	2900,14,50,983
2	S.R. Ramtek	1	50,00,55,600	5,550	50,00,50,150
Total					2950,15,01,133

It was also observed that these figures were also used by the system to generate monthly stamp duty receipts. This has resulted into showing of inflated figure of revenue collection to the tune of ₹ 2,950.15 crore in only these two test checked SRs.

In the exit conference, the Secretary accepted the audit observation and agreed to carry out necessary updation in application.

3.4.3.4 Invalid PAN number

As per Section 285BA of Income tax Act, 1961, a statement of properties registered above ₹ five lakh is to be submitted to Income Tax Department by every SRO. The SRs were preparing and submitting this return based on the

information generated through iSARITA. In response to a return filed by Sub Registrar No. 3, Nagpur and Joint Sub Registrar, Kurla 1 for the year 2013-14, the Income Tax Department reported that the PAN number reported in 137¹⁰ cases pertaining to these two SRs were not found in their database (PAN master). We further observed that iSARITA database captured different PAN number for the same person. This indicated that the system had insufficient validation control.

In the exit conference, the IGR stated that the PAN data was not being made available to them by the Income Tax Department and necessary persuasion would be made in this connection with income tax department.

3.4.3.5 Lack of control to prevent entry of duplicate/incorrect/blank Government Reference Number

A unique Government Reference Number (GRN) is allotted by GRAS for any online payment of Stamp Duty or Registration Fee. The system should therefore have control to accept unique GRN only. Analysis of database revealed that there were 87 GRNs which were used as payment for multiple documents which ranged between 2 and 30 documents and the total documents involved were 238. We verified 14 GRNs out of 87 GRNs with the actual document and observed that this was due to data entry errors. We analysed the reasons for such erroneous GRNs getting stored in the database which are detailed below:

- There is no validation at the time of entry of GRN in the Public Data Entry module. The application allowed any alphanumeric figure irrespective of its length without verification/validation of the data from GRAS. Further, at the time of registration, the GRN was also not verified/validated by the concerned SRs. This resulted in capturing of incorrect GRN. Some of the dummy GRN numbers used and found in the database were shown in **Table 3.4.3.5 (A)**.

Table 3.4.3.5 (A)

Dummy GRN No.	No. of times used
MH0000000000000000E	18
MH0000000000000000M	30
MH00000000000201314E	4
MH00000000000201415E	2
MH9999999999999999X	4

- Though the field for capturing GRN is of 18 digit alphanumeric, it was observed that in 1,111 records the GRN was stored with incorrect GRN number as shown in **Table 3.4.3.5 (B)**.

¹⁰ SR 3 Nagpur – 26 cases, SR Kurla 1 – 111 cases

Table 3.4.3.5 (B)

Year	With 1 digit	2 digits	3 digits	4 digits	More than 4 digits but less than 18 digits	Total
2012	7	0	0	0	8	15
2013	661	20	0	116	294	1,091
2014	1	0	0	0	4	5
Total	669	20	0	116	306	1,111

This indicated that the necessary validation checks to prevent entry of duplicate/incorrect/blank records were not present in the system.

- We observed that there is no validation check by the Sub Registrar for the data entry done by the agency for registration of document. We observed in the following two cases that there was variation in the GRN number entered resulting in different amounts of stamp duty shown against these documents. The details of the same are shown in **Table 3.4.3.5 (C)**.

Table 3.4.3.5 (C)

Name of SR	Document number and Year	Actual GRN	GRN entered in the database	Actual Amount of stamp duty paid ₹	Amount of stamp duty as per database ₹
S.R., Thane-7	738 of 2014	MH001349284201314M	MH001355265201314S	3,500	1,68,000
S.R. Kalyan-5	2374 of 2014	MH000067284201415S	MH002037643201314S	2,41,120	2,51,620

- In the registration module, while making the data entry, the operation has the facility of selecting the GRN from pick-list. We observed that, the operator was picking up the GRN on the basis of amount from the pick-list. Thus, incorrect GRN was selected. This also led to use of GRN related to other documents. Analysis of the database revealed 40,571 records showing “already used GRN”.

In the exit conference, IGR stated that earlier, no such control was available in the application and now the controls have been built in the system. He further agreed to review the cases.

3.4.3.6 Misclassified Registration Fees

The Department levies “Document Handling Charges (DHC)” at the rate of ₹ 20 per page of the document registered in addition to the stamp duty and registration fees. The amount collected towards DHC was credited into PLA account and was utilized by the Department for iSARITA. The stamp duty and registration fees are credited into Government account. In the iSARITA, there is no provision for storing the DHC and registration fees separately. The DHC and registration fee recovered are stored in same table. In the table, if the

status of a prescribed field is 'True', then the amount refers to DHC otherwise (if 'False') refers to registration fees.

Analysis of the database revealed that in respect of 93,263 documents of 296 SRs involving registration fees of ₹ 49.24 crore was misclassified as DHC by marking the status as 'True'.

In the exit conference, the NIC representative stated that for storing of the registration fees in addition to 'receipt details' tables, separate table is provided in the database, which is used to record the registration fees.

It indicates that registration fees details are stored in more than one table and result into data redundancy. The Department may consider modifying the system design to ensure data consistency.

Processing Controls

Process controls inbuilt in the system must ensure that process was complete and accurate and processed data was updated in the relevant files. Data analysis revealed the following weaknesses:

3.4.3.7 Application failed to observe the workflow of registration process

The system which was designed to follow the five stamp process was found to be compromised. As discussed in para 3.4.2, registration process involves stages from Stamp1 to Stamp5 and for each stage the application puts time stamp. Audit observations on the analysis of database to determine the correct sequence of five stamp process revealed that:

- Application allowed registration of documents before presentation;
- Stamp2 process i.e. allotment of document number and payment receipt generation was done before the Stamp1 process i.e. before capturing the party details. Thus, there was a risk of placing of document in back date;
- The photographs and biometric thumb nail identification of witnesses were captured before the capturing the photographs and biometric thumb nail identification of parties. The time lag between these two processes was ranging between a minute to 27 days. Thus, the reliability of registered documents and reliability of database is defeated;
- The time recorded for Stamp5 process was found prior to Stamp3 process i.e. before the parties appeared for registration.

This led to failure of application to maintain the sequence of registration process.

In the exit conference, it was stated that this is due to un-synchronized application-servers which has been rectified now.

However, the fact remains that, the system failed to maintain the sequence of registration process in the database for 2015 even after rectification.

3.4.3.8 Registration of document bypassing biometric thumb verification of SRs

The application is designed in such a way that the logon is ensured/authenticated with the biometric thumb identification of the concerned SR. Similarly, each document registered is approved by the concerned SR by biometric thumb impression which is verified by the system. After verification is authenticated, the verification flag is changed to true or otherwise. Analysis of the database revealed that in 99,695 documents in the selected SRs the verification flag was found to be false. We observed that the application also provided for bypassing the biometric thumbnail impression of SR. Thus, the application was prone to risk of registering the documents without proper authority and defeated very purpose of having biometric and digital data.

In the exit conference, the Secretary agreed to take necessary steps to ensure mandatory compliance of biometric thumb verification.

3.4.3.9 Application failed to maintain reliable and complete data

Unless the document is kept pending or rejected, complete data of registered document should be captured as envisaged in the registration process relating to the documents registered. The application retained the flags for rejection of document and for pending of documents. The application generates Summary-1 and Summary-2 for every registered document. Summary-1 contains the details of SD and RF paid, Document handling charges with newly allotted document number. Summary-2 contains party's photographs and biometric thumb impressions, witnesses' photographs and thumb impressions.

Analysis of database revealed incomplete data and other deficiencies which are detailed below:

- i) In the selected SRs, the scanned images of 271 documents registered were missing in the database. This indicated that there is no procedure in place to ensure the completeness of the scan images.
- ii) The iSARITA application provides the facility for uploading of manual registration data afterwards in case online registration could not be done due to disruption of connectivity with the centralized server.

Analysis of database revealed that in 47,962 manually registered documents in 222 SRs, document handling charges amounting to ₹ 2.35 crore were recovered but the same were not accounted for in the database.

We confirmed the above facts in four SRs in respect of 827 manually registered documents in which an amount of ₹ 4.98 lakh, recovered as document handling charges, was not accounted for in the database. The details are as shown in **Table 3.4.3.9**.

Table 3.4.3.9

Sr. No.	Name of SRs	No. of manually registered documents	Amount (₹)
1	Joint S.R. Haveli 5	309	1,44,260
2	Joint S.R. Nagpur 3	86	40,200
3	Sub Registrar, Mauda	298	2,48,760
4	S.R. Bhudargad	134	64,300
Total		827	4,97,520

- iii) In respect of manual registration, the application has no facility to locally store the digital photo images and thumb impressions of the parties and witnesses and then upload it in the database. This led to incomplete data in respect of manually registered documents in the database and defeating very purpose of having biometric and digital data.
- iv) Similarly in respect of online registration, though the application provides for capturing the photo image and biometric thumb impression of the parties and witnesses concerned, the same were found missing in the database. This led to generation of Summary-1 and Summary-2 without photos and biometric thumb impression images. In the selected SRs, 5,578 cases were found with missing photo images and biometric thumb impressions in the database of which Summary-1 and Summary-2 of 71 cases were actually verified by audit and confirmed the facts. Further, it was observed that the reason for above omission was application interface allowing registration of document by bypassing the capturing of digital photographs and biometric thumb impression.
- v) As per power delegated under Section 68(2) of Indian Registration Act 1908, the JDR is empowered to make correction in the Index-2 of registered documents. We observed that the Index-2 of the documents in respect of which correction orders were issued by the JDR, Mumbai Suburban, Mumbai, were found to be unaltered. The concerned SRs stated that there were difficulties in the application to make alteration in the database. This has resulted into incorrect/incomplete data in the database.

In the exit conference, IGR stated that the scanned document may not have been uploaded due to disconnection between application and server.

As regards to un-accounted Document Handling charges in respect of manually registered document, the IGR stated the necessary modification would be done in the application.

As regards to non availability of photo-images and biometric thumb-impression in respect of manually registered documents it was stated that the Department would think on using local application in case of connectivity failure.

3.4.3.10 Refund of stamp duty module is partially used

Refund of stamp duty module is in partially operation due to some lacunas like order of refund is incorrectly generated. For example, in case of refund of payment made through e-SBTR, e-challan etc. there should be reduction of one *per cent* only. However, refund order generated with 10 *per cent* deduction.

On this being pointed out the JDR, Kolhapur stated that the module was not being used and also the staffs were not trained.

In the exit conference, IGR accepted that the module was not being used effectively by the concerned officers and necessary modification would be made in the module to generate correct reports.

3.4.4 Management of Third Party Services

3.4.4.1 Non-execution of service level agreement with NIC, Pune

The roll of System Administrator and Database Administrator is carried out by the NIC. The NIC is also providing the software support to the Department at the rate of ₹ 60 lakh per annum as the maintenance cost. We observed that no Service Level Agreement (SLA) was entered with the agency. The Department had paid ₹ 6.80 crore up to November 2014 towards development and maintenance of iSARITA. Absence of SLA resulted in the risk of accountability against the agency in the event of non-performance.

In the exit conference, the Department stated that the NIC being government organization and depending on other organization for providing services, they are reluctant to execute the SLA.

3.4.4.2 Non-submission of System Design documentation and lack of policy on ownership of source code

NIC Pune, has not submitted any System Design documentations showing module wise flow of data, table constraints and entity relationship to the Department. These documentations are required for further modification/development in the system.

Similarly, the Department did not have any policy for ownership of the source code. Even though different versions of SARITA to iSARITA were implemented by department, the source code of none of the applications was obtained from the concerned agencies.

In the exit conference, IGR stated that since the application is undergoing many changes for the enhancement of features, linkage with other software and new requirements, the updated SRS and SDD were not made available. However, the same would be obtained from the NIC.

3.4.4.3 Inadequate help desk management

The contract with the BOT agencies envisaged establishment of a State Call Centre and a District Control Centre (DCC) to monitor and assist the difficulties faced by field offices in the implementation of iSARITA. The DCC was required to be established at each JDR and would facilitate the data

accumulation, patch management, attending to the complaints and other related works. We observed that in two¹¹ out of six districts test-checked the help desk was not established while in other four¹² districts information was not made available to audit. Consequently, the issues raised by SRs remained unresolved. It was noticed that the SRs were carrying out manual correction in the system generated reports and the same were recorded by them in their minute books. However, as there were no proper instructions/procedures in place from the system administrator/help desk, the corrections so effected remained unchanged in the database resulting in inconsistencies in the data.

In the exit conference, IGR stated that these cases were due to error in operation or incorrect data entry. It was also stated that the Department would carry out a drive to resolve such issues.

3.4.5 Information System Security

An effective IT Security Policy is important for protection of the information, assets created and maintained by an organization.

3.4.5.1 The operator has un-authorized privileges to capture data in respect of other SRs

We observed (April 2015) that after logging the application (iSARITA) with biometric thumbnail authorization of the concerned SRs, the operator of the agency has access to all the privileges and thereby can logon to various modules of iSARITA in respect of other SRs also. In one of such instance we observed that in SR, Andheri-1 receipts (Numbers 440 to 444) were generated pertaining to SR, Andheri-5 due to above deficiency in the system. SR, Andheri-1, had made correction manually on such receipts and issued to parties concerned. Thus, there was weak logical security control which led to getting access to the functionalities of other SRs.

The SR, Andheri-1 stated that such cases were discussed with higher offices.

However, no corrective measures were taken by Department till date and the data in system remains un-altered.

In the exit conference, IGR stated that apart from MAC and IP address security, the data entry operator thumb verification login with office grouping would be introduced.

3.4.5.2 The system was susceptible to risk of data manipulations

In SR, Kurla-1, we observed that a document, registered as 'Affidavit' was changed to 'Leave and Licenses'. The name of the executing party was also modified, the stamp duty paid changed to ₹ 2,000 from ₹ 100 and the market value of the property was also changed to ₹ 2,25,000 from 'zero'. Similarly, in another document registered as 'Gift deed' was change to 'Leave and Licenses'. In this case also, the name of the executing parties and the stamp duty paid were altered. The photographs on original document and in the database in both the cases, however, were found to be the same.

¹¹ Kolhapur and Mumbai Suburban

¹² Latur, Nagpur City, Nagpur Gramin and Pune

The SR Kurla-1 confirmed that no such modifications were carried out by his office and also there was no request from the parties to make such modifications.

Thus, the system was susceptible to the risk of suspected backend changes with no audit trail to locate the event through security logs.

In the exit conference, the IGR stated that necessary enquiry from the SR and JDR would be done.

3.4.5.3 Use of live database to store test data

As per IT best practices, the test environment is always kept isolated from the live database. Further, the roles and responsibilities of developer and administrator of the database needs to be segregated.

However, we observed that NIC had created a user-id “NICtest” and storing the test data in live database. Further, every transaction in database requires to be identified by recording user-id with date time stamp. However, we noticed that no such control was available.

In the exit conference, it was stated that the NIC test user was created for testing the data in live environment, because sometimes it was difficult to simulate the live environment for testing purpose.

However, fact remains that, test data could not be segregated from the live data. Also there was risk of alteration of data in the backend database without audit trail.

3.4.5.4 No Annual Maintenance contract despite expiry of warranty period

Adequate controls must be in place to ensure continuous working of the information assets without disruption. We observed that the hardware installed for iSARITA was procured in the year 2011 with three years warranty. Though the warranty period has lapsed, the Department has not taken any efforts to appoint an agency for maintenance of hardware. Thus, the hardware were susceptible to the risk of damage thereby disruption in the working.

In the exit conference, the IGR stated that the circulars/guidelines had been issued to field offices in this connection. However, fact remains that the hardware were not covered under Annual Maintenance Contract.

3.4.6 Miscellaneous observations

3.4.6.1 Loss of 265 number of original Index-II Volumes

In order to have an effective e-search facility, the Department decided to capture the Index-II of the documents registered between 1988 to December 2000. Accordingly, IGR, Pune issued (December 2000) work order for data entry of Index-II of the documents Maharashtra Small Scale Industrial Development Corporation, Pune (MSSIDC) at a contract cost of ₹ 1.50 crore. The MSSIDC sublet the contract to three¹³ agencies for entering data of 33 districts without the knowledge of the Department. As per the terms and

¹³ M&B Industrial Services (16 Districts), Puna Computer Bureau (12 Districts), Chetan Enterprises (5 districts)

conditions of the contract the work was to be completed by MSSIDC, Pune within four months from the date of work order. However, the work remained incomplete as of November 2014. Besides, MSSIDC, Pune failed to return 265 Volumes of original Index-II registers which were stated by the MSSIDC to the IGR as untraceable. In spite of the failure of MSSIDC, the Department released the payment of ₹ 80.61 lakh.

We observed that, though there was condition in the contract for execution of the data entry work in the office of the JDR, the volumes of Index-II were allowed to be shifted outside the office premises which resulted in permanent loss of important documents. Department stated that as the volume of Index-II was very large it was not possible to provide Xerox copies of the document.

The reply is not acceptable, as the Department failed to monitor the safe custody and security of original documents.

In the exit conference, IGR stated that the FIR was lodged and enquiry was in progress. However, the facts remained that the computerized Index-II was yet to be re-built.

3.4.6.2 Application failed to track principal documents

As per Section 4(1) of MS Act, where in case of any development agreement, sale, mortgage or settlement, several instruments are employed to complete the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule-I for conveyance, development agreement, mortgage or settlement and each of the other instruments shall be chargeable with a duty of one hundred instead of duty (if any) prescribed for it in that schedule.

The application has provision to capture the details of reference document number, year of registration and SR office where it was registered, at the time of registering subsequent document in continuation to the earlier document registered. However, iSARITA did not relate and verify the other details such as Seller, Purchaser and property details from the data captured. As the system did not have adequate validation controls, this led to capturing of incorrect reference document number thereby exposing the application to the risk of duty evasion.

In the exit conference, IGR agreed to review the cases.

3.4.7 Conclusion

Even after lapse of three years, the system has yet to achieve its intended objective. The MIS reports generated from the system were not complete. Defacement of e-receipt which is binding on the Department on providing the services to the payee was not done in many cases. In absence of error free Vendor Management System, activities of BOT agencies could not be monitored and quality of service could not be ensured. Due to weak logical security controls the system was vulnerable to the risk of data manipulation at the backend with no audit trail. Inadequate input and validation control had made data incomplete and inaccurate.

3.4.8 Recommendations

The Department may consider:

- Ensuring adequate logical access control so that the safety and security of data is not compromised;
- Creation of adequate audit trails to track the changes made in the data;
- Incorporating necessary controls and validation checks to ensure correctness and completeness of data;
- Analyse and review MIS reports to get better value and assurance from the functioning of the system.

3.5 Other audit observations

During scrutiny of records of the various registration offices, we noticed several cases of non-compliance of the provisions of the Bombay Stamp Act, 1958 and Government notifications and instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on our test check of records. The Government/Department needs to improve internal control mechanisms so that such cases can be avoided, detected and corrected.

3.5.1 Irregular grant of exemption in stamp duty on forged Letter of Intent

Variations in LOI's details such as in name and signature, name of the unit, purpose of the business and font style of the address resulted in irregular concession of stamp duty of ₹ 24.26 lakh

Government of Maharashtra, in Revenue and Forests Department, vide its Notification (June 2007), remits 75 per cent of the Stamp Duty on the instrument of Conveyance, executed by the Information Technology unit or the Bio-tech Unit for starting a new unit in the Information Technological (IT) Park under the package scheme of Incentives, 2007. The Joint Director of Industries, Government of Maharashtra had issued two 'Letters of Intent' in favour of M/s Meena Khetan for setting up and IT Service-Micro Scale Unit at Village Mohili, L-ward, Mumbai.

Scrutiny of documents/instruments of Joint Sub-Registrar, Kurla revealed (January 2012) that exemption from payment of stamp duty of ₹ 24.26 lakh was allowed in favour of Meena Khetan on the sale of office premises bearing No. 502 and 602. The two LOIs annexed with the documents were found to have been issued in favour of Meena Khetan. We cross verified the two LOIs issued by the Jt. Director of Industries with those annexed with the documents. It was found that in the LOIs annexed with the documents the name was changed i.e. M/s Meena Khetan was changed to Meena Khetan. In addition to this there were also certain variations between the two set-up of letters, such as variation in signature, name of the unit, purpose of the business, and font style of the address, which indicates that the LOIs were forged. The Joint Sub-Registrar, Kurla had omitted to detect the mistake and allowed the concession. The Department may consider reviewing such cases in the interest of revenue.

After we pointed this out (January 2013), the Inspector General of Registration, Maharashtra State, Pune accepted the omission (September 2014) and ordered recovery of stamp duty of ₹ 24.26 lakh stating that the firm with bad intention to fraud the State by avoiding its legitimate stamp duty, has committed the fraud and directed the concerned authority to take up the matter to the Police. The Department has further identified (December 2014) five more similar cases and action to recover stamp duty of ₹ 92.63 lakh in all seven cases was initiated. Report on recovery is still awaited (February 2016).

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).

3.5.2 Short levy of stamp duty due to undervaluation of property

Incorrect calculation of market value of property resulted in short levy of stamp duty of ₹ 3.73 crore in the following cases

As per the Section 2(na) of MS Act, “market value” in relation to any property which is the subject matter of an instrument means the price which such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument, whichever is higher. True market value is determined by considering the rates prescribed in the ASR.

3.5.2.1 Scrutiny of documents/instruments in the Joint Sub Registrar, Haveli XVIII, Pune, revealed (March 2014) that a Deed of Conveyance was executed (September 2011) between the Owner and Purchaser for a consideration of ₹ 35 crore. The area of construction was 18,477.44 sqm (at village Vadgaon Sheri, Pune) situated between the ground floor and the ninth floor consisting of shops and offices along with the parking area. The Department worked out the market value of the property as ₹ 85 crore, the basis of which was not found on record and levied stamp duty of ₹ 4.50 crore. However, as per ASR, the market value of the property should have been ₹ 125.42 crore involving stamp duty of ₹ 6.27 crore. This has resulted in short levy of stamp duty of ₹ 1.77 crore.

After we pointed this out, the Joint Sub Registrar, Haveli-XVIII, Pune (March 2014) accepted the audit observation and stated that the action for recovery would be initiated. Report on recovery is still awaited (February 2016).

3.5.2.2 Scrutiny of documents/instruments in the Office of Sub Registrar-V, Thane (December 2013), revealed that a Conveyance Deed was executed on 30 April 2012 between the Owner and Purchaser for sale of property consisting of land admeasuring 24,482.68 sqm and buildings and structures standing thereon bearing Gat numbers – 16, 17 and 19 situated at *mouze* Chitalsar, Manpada Thane. The Department determined the market value of the land as ₹ 45.77 crore and levied stamp duty of ₹ 2.29 crore.

Recitals of the valuation document revealed that the Department erroneously considered the area of property 22,510 sqm as against 24,482.68 sqm for valuation omitting the area of 1,972.68 sqm. Further, Department has done valuation of land by giving bulk land benefit in terms of instruction 17 of ASR which was not admissible as structures were standing on the property. The correct market value of the property works out to ₹ 63.74 crore on which

stamp duty at ₹ 3.19 crore was leviable. Thus, there was a short levy of stamp duty of ₹ 89.85 lakh.

After we pointed this out, the Joint District Registrar-I, Thane (City) accepted (September 2015) the facts and initiated action for recovery. Report on recovery is still awaited (February 2016).

3.5.2.3 The IGR, Pune vide its circular in March 2011 (effective from 1st April 2011) adopted a uniform policy for determination of market value of bulk land. The market value was required to be calculated in accordance with the slabs mentioned in the circular.

Scrutiny of documents/instruments registered in the SR-IV, Thane, revealed (March 2013) that a Deed of Conveyances was executed (December 2011, April 2011) between 'Owners' and 'Purchasers'. The basis on which the Department determined the market value of the property and levied stamp duty was not found on record or made available to audit. However, we worked out the market value of the property in accordance with circular *ibid*, and found that there was short levy of stamp duty of ₹ 68.33 lakh as shown in **Table 3.5.2.3**.

Table 3.5.2.3

(₹ in lakh)						
Doc. No./Date of execution	Area of land (in sqm)	MV / Consideration determined by the Department	MV determined by the Audit as per the circular of IGR	SD levied	SD leviable @ 6%	Short levy of SD
9846 / 26.12.2011	21,650	332.06	1,312.79	19.93	78.77	58.84
7871 / 11.04.2011	9,051	186.00	279.43	11.16	16.77	5.61
3499 / 26.04.2011	6,800	151.50	216.40	9.10	12.98	3.88
Total				40.19	108.52	68.33

After we pointed this out (March 2013), the Joint District Registrar (JDR), Thane (City) (August 2013/October 2014) accepted the observation. Further progress of recovery has not been received (February 2016).

3.5.2.4 Scrutiny of documents/instruments in the Office of the Joint Sub Registrar, Borivali-VI, Mumbai, revealed (June 2010) that a Conveyance Deed was executed (February 2007) between the Owner and Purchaser for a sale of an area admeasuring 6,278.50 sqm with a constructed area of 3,725.70 sqm from Malad, Taluka Borivali in Greater Mumbai for a consideration of ₹ 4.60 crore. The Department had levied stamp duty of ₹ 23.15 lakh on the market value of ₹ 4.63 crore. The basis on which the Department determined the market value of the property and levied stamp duty was not found on record or made available to audit.

The correct market value of the property as per the existing records was ₹ 12.30¹⁴ crore involving stamp duty of ₹ 61.49 lakh. This resulted in short levy of stamp duty of ₹ 38.34 lakh.

After we pointed this out (June 2010), the Sub Registrar and Administrative Officer, Suburban District, Mumbai accepted (June 2014) the audit observation. A report on recovery is awaited (February 2016).

We reported the above cases to the Government in June 2015; their reply has not been received (February 2016).

3.5.3 Short levy of stamp duty due to non-consideration of revenue sharing aspect mentioned in the recitals of the document for valuation

Non-considering of revenue sharing between Owner and Purchaser for calculating the market value, resulted in short levy of stamp duty of ₹ 17.68 crore

As per provision contained in Article 5 (g-a) (i) of Maharashtra Stamp Act, if immovable property is given to a Developer or Builder for development, construction, sale or transfer then stamp duty is as leviable as per conveyance under Article 25 (b) under the said Act. Also, for the purpose of determining consideration that passed on by the developer to the owner, in the form of revenue share after selling of the constructed unit, then the rate of residential unit as per ready reckoner would be considered (i.e. unit rate).

Scrutiny of documents/instruments in the Offices of 13¹⁵ Sub Registrar between August 2013 and January 2015, revealed that in 31 cases the Development Agreements were executed between “Owners” and “Developers” for development of land. The Department levied stamp duty of ₹ 6.42 crore on market value/consideration of ₹ 138.67 crore in these 31 cases. Recitals of the documents revealed that the owner and developers had agreed to develop the properties on the basis of revenue sharing¹⁶. The revenue sharing between owner and the developers ranged between 20:80 and 55:45 *per cent*. Based on the revenue sharing, the market value in the form of consideration passed on by the developer to the owner worked out to ₹ 548.73 crore against ₹ 138.67 crore mentioned in the document. This resulted in undervaluation of ₹ 410.06 crore involving stamp duty of ₹ 24.10 crore and short levy of stamp duty of ₹ 17.68 crore.

After we pointed this out (August 2013 to January 2015), the Department accepted the audit observations in 13 cases involving revenue of ₹ 8.26 crore.

¹⁴ Total plot area : 6,278.50 sqm, Construction area : 3,725.70 sqm (Temple : 58.71 sqm, Shop : 88 sqm, Residential flat : 3,578.99 sqm), Open space : 2,552.80 sqm (6,278.50 - 3,725.70)

A) Market value of constructed area of the property : Total = ₹ 7,80,22,957/-

B) Market value of open area of the property = ₹ 4,49,51,816/-

Total Market Value of the property = ₹ 12,29,74,773/- i.e. ₹ 12,29,75,000/- (A+B)

¹⁵ 1) SR-V, Aurangabad, 2) SR-XI, Haveli, Pune, 3) SR-IX, Haveli, Pune, 4) SR-XV, Haveli, Pune, 5) SR-XIII, Haveli, Pune, 6) SR-XII, Haveli, Pune, 7) SR-II, Haveli, Pune, 8) SR-IV, Haveli, Pune, 9) SR-IV, Nashik, 10) SR Palghar, Thane, 11) SR-II, Nanded, 12) SR Bhiwandi-I, Thane, 13) SR-I, Pandharpur.

¹⁶ revenue realized from selling of constructed units in open market.

Replies in the remaining 18¹⁷ cases and reports on recovery in accepted cases have not been received (February 2016) from the department.

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).

3.5.4 Short levy of stamp duty due to inadmissible concession granted in valuation of properties

Irregular concession of 30 per cent in stamp duty due to incorrect valuation of property resulted in short levy of stamp duty of ₹ 2.96 crore

As per instruction 18 of ASR, 30 per cent concession in rates prescribed in ASR for zones pertaining to main road (as per the sanctioned layout) is admissible to those properties which are situated beyond 50 meters from the main road of that zone.

Cross verification of the survey maps obtained from Town Planning Department with the property description mentioned in the documents executed in the Office of the Joint Sub Registrar-VII, Thane at Bhayander, revealed that in 25 cases though the property were located within 50 meters from main road the executants claimed and were allowed benefit of 30 per cent concession of the ASR value during 2011-2012. The correct market value of the properties worked out to ₹ 175.99 crore against ₹ 123.81 crore mentioned in the documents. This resulted in undervaluation of properties by ₹ 52.18 crore involving stamp duty of ₹ 2.96 crore.

After we pointed this out (April 2013), Collector of Stamps, Thane (City) in 24 cases, accepted the observation (June 2014) and ordered Joint Sub Registrar-VII, Thane to recover the deficit stamp duty. Reply in the remaining one case has not received and report on recovery is awaited (February 2016).

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).

3.5.5 Short levy of stamp duty due to misclassification of document

Levying stamp duty at the concessional rate of one per cent due to misclassification of document resulted in short levy of stamp duty of ₹ 1.55 crore

As per Article 25 of Schedule-I of Maharashtra Stamp Act, stamp duty at the rate of five per cent is leviable on the conveyance deeds while stamp duty on development agreements is levied at the rate of one per cent upto 4 June 2008 under Article 5 (g-a) of the Act.

¹⁷ Cases in which replies from Department are awaited.

Name of SR	No. of cases	Name of SR	No. of cases
SR-V, Aurangabad	02	SR, Haveli XII, Pune	03
SR, Haveli IV, Pune	01	SR, Haveli XIII, Pune	01
SR, Haveli IX, Pune	07	SR, Haveli XV, Pune	03
SR, Haveli XI, Pune	01	Total cases	18

During scrutiny of documents/instruments in the Office of the Joint Sub Registrar, Panvel-II, Raigarh (September 2011), we noticed that a 'Deed of Confirmation' (DoC) was executed (November 2009) between the Developer and the Owner for confirmation of Development Agreement executed (May 2008) of plot admeasuring 6,80,000 sqm situated at Village Adivali and Kirnavali, Tahsil Panvel, District Raigad for a consideration of ₹ 18 crore. Collector of Stamps, Alibag determined the market value of the property at ₹ 38.84 crore on which stamp duty at the rate of one *per cent* ₹ 38.84 lakh under Article 5 (g-a) of MS Act was recovered (October 2009).

The recital of the agreement revealed that the purchaser was given the absolute right of the property, the owner had renounced (right, interest and title) and had received ₹ 18.00 crore as consideration money of the property. Thus, document was required to be treated as 'Conveyance Deed' and not as a 'Development Agreement'. Misclassification of the document resulted in short levy of stamp duty of ₹ 1.55 crore.

After we pointed this out (September 2011) the Department accepted the observation (February 2014) and an encumbrance of ₹ 1.55 crore was recorded (February 2014) on the 7/12¹⁸ extract as revenue recovery certificate. Report on recovery is awaited (August 2015) and IGR has taken up the matter under Section 53A and order thereof is still awaited (February 2016).

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).

3.5.6 Short levy of stamp duty due to non-application of instruction contained in ASR issued by IGR, Pune

Incorrect consideration of market value and mistake in working out the area occupied by tenant resulted in short levy of stamp duty of ₹ 62.18 lakh

As per instruction No. 1 contained in the Annual Statement of Rates (ASR) in case of tenant occupied old building at the time of redevelopment of the property the valuation should be done in accordance with the formula viz. $(XY - Z)^{19} \times (\text{Land rate as per ASR}) + (112 \times B^{20})$.

Scrutiny of documents/instruments in the Office of Joint Sub Registrar (City)-I (SR), Mumbai (November 2007) revealed that a Deed of Assignment was executed between Owner and Purchaser for joint development of a land admeasuring 19,542.565 sqm of Byculla Division of Mumbai for a consideration amount of ₹ 12.00 crore. The instrument was adjudicated (September 2006) by Collector of Stamps (CoS), Mumbai and market value was worked to ₹ 12.20 crore involving stamp duty of ₹ 61.02 lakh. We noticed mistakes in working out the areas occupied by the tenant. The areas occupied by the tenant were 8,527.90 sqm against which 22,475.50 sqm were deducted. Accordingly the market value of property worked out to ₹ 24.64 crore

¹⁸ 7/12 are two forms, prescribed by Revenue Department for classification of land, name of holder, area and purpose of use of land. (i.e. agriculture, non-agriculture)

¹⁹ X = Total area of property, Y = Permitted Floor Space Index, Z = Area occupied by tenants

²⁰ B = Total monthly rent receivable from tenant.

involving stamp duty of ₹ 1.23 crore. The omission resulted in short levy of stamp duty of ₹ 62.18 lakh.

After we pointed this out (November 2007), the IGR accepted (December 2013) the objection and passed an order under Section 53A of MS Act for recovery of short levy of stamp duty of ₹ 71.57 lakh by revising the calculation. A report on recovery is awaited (February 2016).

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).

3.5.7 Short levy of stamp duty due to non-application of instruction contained in ASR

Incorrect deduction of cost of construction area and allowing 20 per cent concession to the tenant while calculating market value resulted in short levy of stamp duty of ₹ 47.36 lakh

During the scrutiny of documents/instruments in the Office of the Joint Sub Registrar III, Mumbai City, it was noticed (December 2013) that Joint Venture Agreement deed executed (December 2012) between 'Existing Vendors' and 'Incoming Vendors' for joint development of land admeasuring 3,241.66 sqm along with tenanted cessed²¹ buildings situated at Lower Parel Division of Mumbai for a consideration of ₹ four crore. The document was adjudicated (December 2012) by Collector of Stamps, Mumbai City and stamp duty of ₹ 62.93 lakh levied on market value worked out at ₹ 12.59 crore. The Department had erroneously deducted the cost of construction of area to be provided to tenant from the calculation of market value and also given 20 per cent concession for providing temporary arrangement for tenants. The correct market value in accordance with instruction no. 1 of ASR 2012 worked out to ₹ 22.06 crore as against ₹ 12.59 crore worked out by department. The stamp duty of ₹ 1.10 crore was leviable on ₹ 22.06 crore. Thus, there was a short levy of stamp duty of ₹ 47.36 lakh.

After we pointed this out (December 2013 and January 2015), the IGR, Pune stated that the document has been taken up for revision under Section 53A of MS Act (February 2016).

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).

²¹ Mumbai Building Repairs and Reconstruction Board formed under MHADA Act 1976 surveys the old buildings of Mumbai Island city and levies a cess for repairs and reconstruction of the building as per its category based on its age, such properties are called cessed buildings.

3.5.8 Short levy of stamp duty due to incorrect application of exemption

Incorrect consideration of area as slum resulted in short levy stamp duty of ₹ 31.61 lakh

As per Article-25(b)(i) of Schedule-I of Maharashtra Stamp Act, stamp duty at the rate of five *per cent* is leviable. Government of Maharashtra vide notification dated 19 December 1997 reduced the stamp duty to ₹ 100, chargeable under Article 25 in the schedule appended to the Maharashtra Stamp Act (MS Act), on the instruments executed for the purpose of rehabilitation of slum dwellers as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 in respect of properties situated within the city of Mumbai District and Mumbai Suburban District.

Scrutiny of documents/instruments in Joint Sub Registrar, Andheri-3 revealed (November 2009), that a Conveyance Deed was executed on 21 March 2007 for sale of a land admeasuring 2,921.20 sqm bearing CST No. 252 and 252/1 to 29 situated in village Gundewali, Andheri which was declared as slum area. The Department considering the slum area, levied stamp duty of ₹ 100 on consideration of ₹ 25 lakh. Recital of the instrument did not indicate that either any transfer took place in pursuance of Slum Rehabilitation Scheme or was there any mention of rehabilitation of slum dwellers. As such the instrument did not fall under the notification of December 1997, *ibid* and stamp duty at the rate five *per cent* is leviable. This has resulted in short levy of stamp duty of ₹ 31.61 lakh on the market value of ₹ 6.32²² crore of the property.

After we pointed this out (November 2009), the Sub Registrar and Administrative Officer, Mumbai Suburban District, accepted (December 2013) the observation. Report on recovery is awaited (February 2016).

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).

3.5.9 Short levy of stamp duty due to non-considering the unearned income amount in consideration

Non-consideration of unearned income amount in consideration resulted in short levy of Stamp Duty

As per Government Resolution (GR) of 9th July, 2002 issued by Revenue and Forest Department, on granting permission to sell government land, the occupant of land shall pay unearned income at 50 *per cent* of market value of

²² Total area of land = 2,921.2 sqm, Rate of land = 16,000/-

i) $2,000 \times ₹ 16,000 = ₹ 3,20,00,000/-$. $921.2 \times ₹ 16,000 \times 0.85 = ₹ 1,25,28,320/-$ Total = ₹ 4,45,28,320...(A)

ii) 40% TDR valuation (As per instruction no. 3 of ASR 2007) $2,921.2 \times ₹ 16,000 \times 40\% = ₹ 1,86,95,680...$ (B)

Total Market Value = ₹ 6,32,24,000/- (4,45,28,320 + 1,86,95,680)

land as on date of order granting such permission or price realized by way of sale whichever is higher.

During scrutiny of documents/instruments in Joint Sub Registrar (SR), Nashik (August 2013), we noticed that an Agreement to Sale of land admeasuring 14,800 sqm situated at village Vihitgaon, Taluka & District Nashik bearing survey no. 4/2, 5/4 & 5/23 was executed (December 2011) between Owner and Purchaser. The SR levied stamp duty of ₹ 26.70 lakh on market value of ₹ 5.34 crore. The recital of a document executed in December 2011 indicated that Purchaser has agreed to pay the unearned income amount of ₹ 2.87 crore due to be paid to the Government in addition to the market value of the property involving stamp duty of ₹ 36.27 lakh. However, Joint Sub Registrar has not considered the unearned income amount as consideration and levied stamp duty of ₹ 26.70 lakh instead of ₹ 36.27 lakh which has resulted into short levy of stamp duty of ₹ 9.57 lakh.

After we pointed this out (August 2013 and May 2015), the Joint District Registrar, Class-I and Collector of Stamps, Nashik accepted the observation (December 2013) and instructed Sub Registrar, Nashik-1 to recover the deficit stamp duty. Report on recovery has not been received (February 2016).

We reported the matter to the Government in June 2015; their reply has not been received (February 2016).