

CHAPTER III: STAMPS AND REGISTRATION FEES

3.1 Tax administration

Levy and collection of Stamp Duty and Registration Fees is administered at the Government level by the Secretary, Commercial Tax (Registration) Department. The Inspector General of Registration cum Superintendent of Stamps (IGR) is the head of the Registration Department who is assisted by two Deputy IsGR, 16 District Registrars cum Collector of Stamps (DR), and 88 Sub Registrars (SR).

The receipts of Stamp Duty and Registration fee are administered under the provisions of:

- Indian Stamp Act, 1899;
- Registration Act, 1908;
- Indian Stamp Rules, 1975 and
- Chhattisgarh preparation and revision of market value Guidelines Rules, 2000.

3.2 Results of Audit

We conducted test check of the records in the offices of 11SRs out of 105 units relating to Registration Department in 2014-15. We found non/short levy of stamp duty and registration fees due to undervaluation of properties, misclassification of instruments and other irregularities involving ₹ 5.79 crore in 244 cases, which fall under the categories as mentioned in **Table-3.1** :

Table-3.1

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Non/short levy of stamp duty and registration fees due to undervaluation of properties, misclassification of instruments, etc.	161	3.29
2	Inordinate delay in disposal of cases	57	0.24
3	Other irregularities	26	2.26
Total		244	5.79

The Department accepted underassessment of ₹ 2.45 lakh in 50 cases pointed out during 2014-15.

Few illustrative cases involving financial impact of ₹ 1.28 crore are discussed in the following paragraphs.

3.3 Misclassification of instruments

While registering the instruments, the SR classified them on the basis of their titles instead of the recitals. This resulted in misclassification of the instruments and consequently there was short realisation of Stamp Duty and Registration Fee (SD & RF) amounting to ₹ 41.29 lakh.

During test check of 2,390 out of 37,783 instruments registered by SR, Raipur, we noticed (February 2015) that in two instruments consecutively registered in March 2014, diverted lands admeasuring 2,540 sq. m. and 6,711 sq. m. valuing ₹ 5.90 crore (as per guidelines) were leased by a person in favour of an educational society. Clause six of the instruments mention that “Lessee is authorized to assign to sell, improve, develop, exchange, lease mortgage, dispose off, turn to account or otherwise deal with all or any part of the land and the property”. The recitals of the above clause clarify that the vendor has transferred all his rights relating to the land in favour of vendee.

As per Section 3 of Indian Stamp (IS) Act, 1899, the executants' description of an instrument in it by a particular name is not the sole and indeed an essential guide in determining the true nature of the document; the question has to be decided primarily with reference to its contents and to the intention of the parties as may be gathered therefrom.

Thus, in accordance with Section 3, the instrument ceases to be a lease deed and amounts to conveyance deed for transfer of property for which SD & RF amounting to ₹ 41.32 lakh was leviable. However, while registering the instruments, the SR overlooked the above recitals and registered them as leases on the basis of title only and levied SD & RF amounting to ₹ 3,388. Thus, misclassification of instruments resulted in short levy of SD & RF amounting to ₹ 41.29 lakh.

After this was pointed out in audit, the Department replied (August 2015) that cases had been forwarded to DR and action was being taken. Further progress in the cases is awaited (November 2015).

3.4 Undervaluation of properties in sale of land of more than one seller in a single document

Properties of more than one seller were clubbed together to make it more than 0.243 hectares and valued at the hectare rates instead of slab rates. This resulted in short realisation of SD & RF amounting to ₹ 27.35 lakh.

During test check of 2,390 out of 37,783 instruments registered by SR, Raipur, we noticed (February 2015) that in one instrument, 0.25 hectare land was sold by three sellers having different *khasras* and *Rin Pustikas* to one purchaser. As per clause one of Form I of Chhattisgarh market value guidelines for valuation of properties for the year 2013-14, the market value of the agricultural lands in urban areas shall be calculated on slab basis if the area of land is equal to or less than 0.243 hectares. Lands having areas above 0.243 hectares shall be valued at the hectare rates. As such, the SR determined the market value of the properties at hectare rates treating as one property and calculated the value of

land as ₹ 87.50 lakh and levied SD & RF amounting to ₹ 4.55 lakh and ₹ 70,000 respectively.

During further scrutiny of the case, we noticed that of the three sellers, two belonged to the same family and their land was 0.238 hectares. The third seller was the husband of the purchaser whose land was 0.012 hectare. This clearly indicates that the land of the purchaser's husband was added intentionally in the transaction to make the total land under consideration more than 0.243 hectares and avoid valuation of land on slab basis.

As per the guidelines, the market value of property on slab basis was ₹ 5.43 crore, upon which SD & RF amounting to ₹ 28.26 lakh and ₹ 4.34 lakh were leviable respectively. However, the SR, while registering the document, did not take that in account. Thus, extension of undue benefit to the executants by the SR led to undervaluation of properties by ₹ 4.56 crore which resulted in short levy of SD & RF amounting to ₹ 27.35 lakh (SD ₹ 23.71 lakh and RF ₹ 3.64 lakh).

After this was pointed out in audit, the Department replied (August 2015) that case had been forwarded to DR and action was being taken. Further progress in the cases is awaited (November 2015).

3.5 Undervaluation of the properties situated on main roads

The properties situated on the main roads were valued as situated off road. This resulted in undervaluation of properties and subsequent short realisation of SD & RF amounting to ₹ 24.96 lakh.

During test check of 3,412 out of 45,809 instruments registered in the office of SR, Bilaspur, Raipur and Sakti, we noticed (between October 2014 and February 2015) that as per the recitals of the instruments as well as documents attached with them such as map, *khasra*, *Rin pustika* etc. in 18 instruments (registered between March 2011 and March 2014), the properties transacted were located on the main road of the respective areas or on the road for which separate rates were given in the guidelines. But the SR valued them as situated off road.

As per the provisions of the guidelines, market value of these properties was ₹ 10.26 crore being situated on main roads. However, the SRs worked out the market value of the properties to ₹ 6.53 crore considering the properties situated off road. Thus, valuation of properties situated on main road as situated off road resulted in undervaluation of properties by ₹ 3.73 crore and subsequent short levy of SD & RF amounting to ₹ 24.96 lakh (SD ₹ 22.05 lakh and RF ₹ 2.91 lakh).

After this was pointed out in audit, the Department replied (August 2015) that recovery of ₹ 12,945 had been made in one case. In remaining cases, action was being taken. Further progress is awaited (November 2015).

3.6 Undervaluation of agricultural properties sold in the Municipal areas

The provisions of guidelines for determining the market value of agricultural properties situated in Nagar Nigam/ Nagar Palika/ Nagar Panchayat areas were not adhered to, which resulted in short realisation of SD & RF amounting to ₹ 17.42 lakh.

During test check of 3,308 out of 44,310 documents registered in the office of the SR, Raipur (February 2015) and SR, Sakti (October 2014), we noticed that in eight documents (registered between March 2011 and March 2014), the market value of the properties were not set forth in consonance with the provisions of guidelines as detailed herein below:

3.6.1 As per Clause one of Form I read with clause five of Form III of the Guidelines, agricultural land sold below 0.243 hectare in Nagar Nigam/ Nagar Palika areas shall be valued at the hectare rates if the land had been purchased for agricultural purposes and is adjacent to the purchaser's land as certified by the Patwari and supported by the document. Otherwise, the valuation of property shall be done on the slab basis at plot rates. Note below clause five of Form III provides that such benefit shall not be extended for the lands situated in the midst of cities.

We noticed during test check of instruments of SR, Raipur that in four instruments, the areas of land were below 0.243 hectare. Neither the certificate of the Patwari nor any other documentary evidence was found attached regarding the adjacency of land with that of purchaser's land. Further, in one case pertaining to SR, Raipur, the land was situated in midst of the city. As such, the valuation was to be made on plot rates. But, the SR valued them at the hectare rates. Thus non-compliance of the provisions of the guidelines for agricultural land in Nagar Nigam/ Nagar Palika resulted in short levy of SD & RF amounting to ₹15.31 lakh.

3.6.2 As per clause four of Form I of the Guidelines, agricultural land sold below 0.202 hectare in Nagar Panchayat areas shall be valued at the hectare rates if the land had been purchased for agricultural purposes and is adjacent to the purchaser's land as certified by the Patwari and supported by the document. Otherwise, the valuation of property shall be done on the slab basis at plot rates.

We noticed during test check of instruments of SR, Sakti that in three instruments, areas of properties were below 0.202 hectare and they were under Nagar Panchayats Baradwar and Sakti. Also, as per instruments, they are not adjacent to the purchaser's land. As such, the valuation was to be made on plot rates. But, the SR valued them at the hectare rates. Thus non-compliance of the provisions of the guidelines for agricultural land in Nagar Panchayat resulted in short levy of SD & RF amounting to ₹ 2.11 lakh.

Thus, non-observance of the provisions of the Guidelines for valuation of agricultural properties sold in the municipal areas resulted in short realisation of SD & RF amounting to ₹ 17.42 lakh.

After this was pointed out in audit, the Department replied (August 2015) that action was being taken. Further progress in the remaining cases is awaited (November 2015).

3.7 Undervaluation of properties

3.7.1 Non-observance of provisions of guidelines

The SRs did not observe the provisions of guidelines while determining the market value of the properties which resulted in short realisation of SD & RF amounting to ₹ 12.23 lakh.

During test check of 4,797 out of 45,485 instruments registered in the office of SR, Raipur and Tilda, we noticed (between October 2014 and February 2015) that the provisions of Market value guidelines were not observed by the SRs in eight instruments (registered between December 2012 and March 2014) while valuing the properties for registration as detailed herein below:

3.7.1.1 As per clause two and nine of Form I, off road diverted land sold below 0.405 ha. in urban areas for commercial or industrial purpose shall be valued at the plot rates after increasing it by 25 per cent.

We noticed in a case in SR, Raipur that 1.425 ha. land of 12 surveys in Birgaon Nagar Palika was transacted out of which 0.180 ha. land of one survey was diverted. Also, the land was purchased for industrial purpose. Thus, as per the provisions of guidelines, valuation of 0.180 ha land should have been done on plot rates after increasing the same by 25 per cent. However, the SR valued the land at hectare rates. This resulted in short levy of SD & RF amounting to ₹ 3.99 lakh.

3.7.1.2 As per clause one of Form I and clause five of Form III read with special provision of Guideline, agricultural land sold below 0.150 ha. in Banrasi village for agricultural purpose shall be valued at the hectare rates if the land had been purchased for agricultural purposes and is adjacent to the purchasers' land as certified by the Patwari and supported by the document. Otherwise, valuation of the properties shall be done at plot rates on slab basis.

We noticed in two cases in SR, Raipur that the properties were adjacent to the purchasers' lands but purchased for the residential purposes. Thus, the properties should have been valued at plot rates on slab basis. But, the SR valued the properties at hectare rates which resulted in short levy of SD & RF amounting to ₹ 2.77 lakh.

3.7.1.3 As per clause seven of Form I of the Guidelines, if more than one person not belonging to the same family purchase the agricultural land together and share of each comes up to 0.243 ha. in Municipal areas/ 0.202 ha. in Nagar Panchayat areas, the valuation of the land be made at the plot rates on slab basis for share of each purchaser as given in clause one/ four of Form I of the Guidelines.

We noticed in a case in SR, Raipur that the land was purchased by two persons not belonging to the same family having share of 0.142 ha of each purchaser and was to be valued on slab basis. But the SR valued the land at the hectare rates taking it as above 0.243 ha. and stated that a part of the same land

measuring 0.243 ha. has been sold on the same date making it 0.526 ha. This resulted in short realisation of SD & RF amounting to ₹ 4.07 lakh.

3.7.1.4 As per clause 11 of Form III, Agriculture land purchased by the industries shall be valued at the rates of ₹ six lakh, ₹ eight lakh and ₹ 10 lakh per acre in cases of *Padat*, non-irrigated and irrigated lands respectively. However, if the market value of the land as per guidelines or the transaction value is higher than the value calculated above, the highest value shall be considered for the purpose of calculation of SD & RF.

We noticed in four cases pertaining to SR, Tilda that the properties were purchased for industrial purposes. However, the valuation was done at the rates for agricultural lands mentioned in guidelines without taking into account the above clause. This resulted in short levy of SD & RF amounting to ₹ 1.40 lakh.

Thus, non-observance of the rates and provisions of the Guidelines as well as overlooking the documents attached with the instruments resulted in short realisation of SD & RF amounting to ₹ 12.23 lakh.

After this was pointed out in audit, the Department replied (August 2015) that recovery of ₹ 1.11 lakh had been made in three cases pertaining to SR, Tilda. In remaining cases, action was being taken. Further progress in the remaining cases is awaited (November 2015).

3.7.2 Application of incorrect rates due to overlooking of facts mentioned in the instruments/ supporting documents

The SRs overlooked the facts mentioned in the instruments/ supporting documents annexed with the instruments and applied incorrect rates for determination of market value of the property which resulted in short realisation of SD & RF amounting to ₹ 4.68 lakh.

During test check of 5,124 out of 68,369 documents registered in the office of SR, Durg, Raipur and Sakti, we noticed (between September 2014 and February 2015) that in case of nine instruments (registered between March 2012 and March 2014), the SRs applied incorrect rates and did not take into account the records attached with the instruments while valuing the properties for registration as detailed herein below:

3.7.2.1 As per the revenue records attached with three instruments pertaining to SR, Raipur, the properties were irrigated lands. However, the valuation was done at the rates of un-irrigated lands which resulted in short realisation of SD & RF amounting to ₹ 1.31 lakh

3.7.2.2 During scrutiny of instruments pertaining to SR, Sakti, we noticed that there was calculation error in three cases. In one case, as per maintenance *khasra* attached with the document, a *pucca* house was there on the land which was not found accounted for during valuation. Physical verification report of the case was also not provided by the SR. In another instrument, two purchasers, not belonging to same family purchased the land together. Thus, as per clause four and seven of Form I of the guidelines, share of each should have been valued separately. However, the SR valued the property jointly

which resulted in under valuation. The above resulted in short levy of SD & RF amounting to ₹ 1.97 lakh.

3.7.2.3 In one instrument pertaining to SR, Durg, as per the Power of Attorney attached with the document, three shops have been built on the land without mentioning their area. As such, the documents were executed suppressing the facts and the SR overlooked the Power of Attorney while determining the market value of the properties. This resulted in short levy of SD & RF amounting to ₹ 1.40 lakh.

Thus, non-observance of the rates and provisions of the Guidelines as well as overlooking the documents attached with the instruments resulted in undervaluation of properties by ₹ 65.26 lakh and consequent short realisation of SD & RF amounting to ₹ 4.68 lakh.

After this was pointed out in audit, the Department replied (August 2015) that action was being taken in the cases. Further progress in the cases is awaited (November 2015).

3.8 Internal Audit

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

As per the information provided by the Department, there are two sanctioned posts of Assistant Audit Officers in IAW but both the posts are vacant as a result of which no internal audit could have been conducted during the year 2014-15.