

## CHAPTER-IV Stamp Duty

### 4.1 Tax administration

The State Government exercises control over the registration of instruments through the Inspector General of Registration who is assisted by the Deputy Commissioners (Collectors), Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars(SRs) and Joint Sub-Registrars(JSRs) respectively. The Registrar exercises superintendence and control over the SRs and JSRs of the district. For the purpose of levy and collection of stamp duty and registration fee, the State has been divided into five divisions and 22 districts having 22 Registrars, 82 SRs and 87 JSRs.

### 4.2 Results of audit

Test check of the records of 135 units relating to stamp duty and registration fee during 2015-16 revealed irregularities involving ₹ 110.36 crore in 4,283 cases which have been categorized as in **Table 4.1** below.

**Table 4.1: Results of audit**

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Non/short levy of stamp duty and registration fee due to misclassification/undervaluation of instruments	671	17.42
2.	Irregular exemption/remission of stamp duty and registration fee	148	11.39
3.	Non levy of social infrastructure cess (SIC)/additional stamp duty (ASD)	2,969	5.21
4.	Other irregularities	494	4.29
5.	<i>Performance Audit (PA) titled "Levy and Collection of Stamp Duty and Registration Fee"</i>	1	72.05
	<b>Total</b>	<b>4,283</b>	<b>110.36</b>

In 2015-16, the Department accepted and recovered an amount of ₹ 9.22 crore in 6,031 cases out of which ₹ 0.50 lakh involved in 69 cases were pointed out in 2015-16 and rest in the earlier years.

### 4.3 Performance Audit on “Levy and Collection of Stamp Duty and Registration Fee”

A performance audit of the Levy and Collection of Stamp Duty and Registration Fee for the period 2010-15 brought out both systemic and implementational deficiencies that led to loss and leakage of revenues. Some of the significant findings are as follows.

- **The Department had to forgo revenue of ₹11.92 crore as it did not evolve a mechanism to ensure that instruments lying in custody of Government offices and banks had been charged with applicable stamp duty and registration fee.**

(Paragraph 4.3.7)

- **There was loss of revenue of ₹ 1.83 crore on account of non levy of additional stamp duty for Social Security Fund due to non-specifying of the villages falling within 5 km from the outer limit of Municipal Corporation. In addition, delay in circulation of notifications resulted in non-levy of Registration Fee and Social Infrastructure Cess of ₹ 13.76 crore.**

[Paragraph 4.3.9(a, b)]

- **Non-registration of instruments relating to mutation of properties resulted in revenue loss of ₹ 19.79 crore on account of Stamp Duty and Registration Fee.**

(Paragraph 4.3.10)

- **Irregular remission of stamp duty, additional stamp duty, social infrastructure cess and registration fee on deeds involving mega projects, land acquisition and charitable institutions resulted in loss of ₹ 6.99 crore.**

(Paragraph 4.3.11)

- **Misclassification and undervaluation of properties resulted in short levy of stamp duty and registration fee of ₹ 17.16 crore.**

(Paragraphs 4.3.12)

#### 4.3.1 Introduction

Stamp Duty (SD) and Registration Fee (RF) are major sources of revenue of the State. During 2010-11 to 2014-15, its contribution to State's tax receipts ranged between nine to 16 *per cent*. The levy and collection of SD on various types of instruments such as conveyance, mortgage, exchange, lease, etc. is governed by the Indian Stamp Act, 1899 (IS Act) and the rules framed thereunder. The levy and collection of RF on the instruments presented for registration is governed by the Registration Act, 1908 (IR Act).

### 4.3.2 Organizational set up

The Principal Secretary to the Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management is the administrative head at the Government level who has also been vested with the power of the Financial Commissioner. The Inspector General of Registration (IGR) is the Head of the Department who is empowered with the task of superintendence and administration of registration work and assisted by Deputy Commissioners who act as Registrars. Registrars are further assisted by Sub-Registrars at Tehsil level and Joint Sub-Registrars at Sub-Tehsil level.

### 4.3.3 Audit Objectives

A performance audit of the levy and collection of stamp duty and registration fees was conducted to assess whether:

- the provisions of the IS Act 1899, IR Act 1908, Rules made thereunder, notifications of the Government of Punjab and departmental instructions and circulars were being implemented effectively to ensure correct levy and collection of SD and RF;
- remissions were allowed as per the provisions of the Act/Rules; and
- internal controls were adequate and effective.

### 4.3.4 Scope and Methodology of Audit

The performance audit was conducted between April 2015 and May 2016 covering the period from 2010-11 to 2014-15. The process consisted of examination of records of 52<sup>1</sup> out of 169 SRs/JSRs selected on the basis of probability proportional to size (PPS) method on the basis of revenue collection. This PA also contains cases which came to notice during compliance audit of selected SRs/JSRs for the period 2010-11 to 2014-15 and cases which came to notice during compliance audit of other than selected SRs/JSRs during 2015-16. An entry conference was held on 19 October 2015 wherein the objectives, scope, methodology and criteria of audit were discussed. The exit conference was held on 27 July 2016 and the replies furnished by the Department have been appropriately incorporated in the report.

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<sup>1</sup> Adampur, Ajnala, Amritsar-I, Amritsar-II, Baba Bakala, Balachaur, Banga, Banur, Barnala, Bathinda, Bhogpur, Bholath, Derabassi, Fatehgarh Sahib, Fatehgarh Churian, Goraya, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Koomkalan, Lopoke, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Majitha, Majri, Mansa, Moga, Mohali, Mullanpur Dakha, Nabha, Nakodar, Nawanshahar, Noormahal, Pathankot, Patiala, Payal, Phagwara, Phillaur, Qadian, Raikot, Rupnagar, Sahnewal, Samrala, Sidwanbet, Sultanpur Lodhi.

#### 4.3.5 Audit Criteria

The audit criteria were derived from the following sources:

- The Indian Stamp Act, 1899, the Registration Act, 1908 and Rules made thereunder;
- The Transfer of Property Act 1882;
- The Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983;
- The Punjab Registration Manual; and
- The notifications of the Government of Punjab and departmental instructions and circulars on levy and collection of SD and RF.

#### 4.3.6 Trend of receipts

Actual receipts *vis-à-vis* budget estimates for receipt of SD and RF and its contribution to the total receipts of Punjab during the period 2010-11 to 2015-16 is as detailed in **Table 4.2** below.

**Table 4.2: Revenue realised vis-à-vis Budget Estimates**

(₹ in crore)

Year	Budget estimate	Actual Receipt	Variation excess (+)/ Shortfall (-)	Percentage of Variation	Total tax receipt of State	Percentage of actual receipt of SD and RF to total tax Receipt of the State
2010-11	2,395.00	2,318.46	(-)76.54	(-) 3.20	16,828.18	13.78
2011-12	2,900.00	3,079.13	(+)179.13	(+) 6.18	18,841.01	16.34
2012-13	3,375.00	2,920.49	(-)454.51	(-) 13.47	22,587.56	12.93
2013-14	3,450.00	2,499.50	(-)950.50	(-) 27.55	24,079.19	10.38
2014-15	2,760.00	2,474.55	(-)285.45	(-) 10.34	25,570.20	9.68
2015-16	2,700.00	2,448.98	(-)251.02	(-)9.30	26,690.49	9.18

Source: Annual Financial Statements and Finance Accounts of the Government of Punjab.

As brought out above, the actual receipts remained less than the budget estimates except in the year 2011-12. The shortfall in actual receipts ranged between three to 27 per cent of budget estimates. The percentage of actual receipt of SD and RF to total receipt of the State came down from 16 per cent in 2011-12 to nine per cent in 2015-16. The Department attributed this shortfall to overall slowdown in the property market besides remissions allowed on various instruments from time to time but did not explain as to why these factors could not be kept in view while preparing budget estimates.

**Audit Findings****System Deficiencies****4.3.7 Absence of mechanism to secure due stamp duty and registration fee on instruments lying in custody of other Government offices and banks**

Section 73 of IS Act provides that every public officer having in his custody any records, documents and proceedings, the inspection whereof may tend to secure any duty or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall permit any person authorised by the Collector to inspect for such purpose the records, documents and proceedings.

Audit scrutiny revealed that no system had been evolved by the Department for periodical collection of information/reports from various offices/banks to ensure that instruments lying in their custody were charged with due SD and RF and were duly registered, if required. In order to ascertain whether due stamp duties were secured by various Government offices/Banks while executing instruments, audit obtained information from PWD/Fishery/Mining Department and banks pertaining to instruments lying in their custody and value of stamps affixed thereon which revealed short/non-payment of SD and RF of ₹ 11.92 crore as tabulated in **Table 4.3** below.

**Table 4.3: Non-levy of SD and RF on instruments executed by other departments/banks**

Sl.No.	Provision involved	Nature of deficiency/deviation	Revenue Impact	
			SD (₹ in lakh)	RF (₹ in lakh)
1.	Section 2(16) of IS Act provides that 'lease' means a lease of immovable property and includes any instrument by which tolls of any description are let. Lease agreements attracts levy of SD as per Section 35 of the Act. Moreover, Section 29(c) of the Act provides that SD will be payable by the lessee.  Section 17 of the IR Act provides that agreement of lease of immovable property for any term exceeding one year is compulsorily registrable.	(i) During 2010-11 to 2013-14, three agreements were executed by the Government of Punjab with private parties for construction of toll ways under Design, Build, Finance, Operate and Transfer (DBFOT). In lieu of cost of construction of ₹ 356.15 crore, the parties were given sole and exclusive right to collect and appropriate toll fees from the users of the toll way for periods ranging between 15 and 16½ years.  Thus, the agreements constituted instrument of lease on which SD of ₹ 10.68 crore (three per cent) was payable by the lessee (private parties) and the agreements were also required to be registered on which RF of ₹ 4.30 lakh was payable. However, these agreements were executed without levying SD and were also not presented for registration as instruments of lease.	1,068.00	4.30
2		(ii) The Fishery Department executed 51 lease agreements during 2010-11 to 2014-15 for	32.92	0.31

Sl.No.	Provision involved	Nature of deficiency/deviation	Revenue Impact	
			SD (₹ in lakh)	RF (₹ in lakh)
		₹ 8.23 crore to lease out fishing rights to private parties. Out of these, 44 lease agreements for ₹ 7.92 crore were executed for one year period and the remaining seven for five years. However, the department did not levy SD of ₹ 32.92 lakh (four <i>per cent</i> ) on the consideration amount/average annual rent and also did not present the seven agreements for registration which were for five years periods, which deprived the Government of RF of ₹ 0.31 lakh.		
3		(iii) The General Managers-cum-Mining Officers (GM) of SAS Nagar (Mohali) and Pathankot executed 18 lease agreements for a total consideration of ₹ 20.81 crore to lease out mining rights for exploitation of minerals. Out of this, the periods of two lease deeds with consideration of ₹ 18.30 crore were less than one year and those of the remaining 16 deeds with consideration of ₹ 2.51 crore were more than one year. SD of ₹ 54.90 lakh instead of ₹ 73.20 lakh was levied on two agreements. Moreover, in the 16 lease agreements executed for more than one year period, SD was charged correctly but the same were not presented for registration even when these were compulsorily registrable which resulted in non-realisation of RF of ₹ 2.36 lakh.	18.30	2.36
4	Entry 6 (2) of Schedule I-A of IS Act provides for levy of SD at the rates (₹ 25 <i>per</i> ten thousand) mentioned therein on any instrument evidencing an agreement relating to the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt.	28,890 instruments were executed during 2013-14 to 2014-15 by various branches of two banks situated in Punjab for grant of loan of ₹ 380.37 crore against pledge of gold. However, stamp papers of ₹ 28.89 lakh instead of required ₹ 95.09 lakh were charged in those instruments which resulted in short realisation of SD of ₹ 66.20 lakh.	66.20	-
<b>Total</b>			<b>1,185.42</b>	<b>6.97</b>

**4.3.8 Non-compliance of mechanism for ascertaining the genuineness of stamp papers valued at ₹ 1.96 crore**

Rule 35 of the Punjab Stamp Rules, 1935, provides for periodical inspection by the Tehsildar/Naib Tehsildar and Stamp Auditor of the records of the stamp vendors and cross verification of the their records with the stamp issuing officer (Treasury Officer). Further, Government of Punjab instructed (August 2002) the District Collectors to satisfy themselves that the quantum of stamps purchased by the concerned stamp vendor matches the number of stamps issued by them. The State Government further instructed (September 2004) all SRs/JSRs in the State to record serial numbers of stamp papers in copies of deeds retained by them for record to verify genuineness of stamp paper and issuing vendor.

(a) Audit scrutiny of the records of JSR Shri Hargobindpur (Gurdaspur) for the period 2013-15 revealed that six instruments were registered by affixing stamp papers of ₹ 8.21 lakh purchased from Treasury Office (TO) Batala. However, denomination wise details of stamp paper were not mentioned on these deeds; only serial numbers of stamp paper sale register of the TO were mentioned. Cross verification with TO revealed that stamp papers of only ₹ 5.81 lakh were sold against those serial numbers. Thus, the remaining stamp papers that were used in these instruments were suspected to be false which resulted in loss of revenue of ₹ 2.40 lakh (₹ 8.21 lakh - ₹ 5.81 lakh) to the Government.

On being pointed out, the JSR intimated (May 2016) that full recovery of ₹ 2.40 lakh was made and matter had been referred to higher authorities for legal action against the person responsible for using false stamp papers. Non-observance of provisions/instructions facilitated the use of false stamp papers.

(b) Audit further noticed that 12 instruments were registered by affixing stamp papers of ₹ 2.50 lakh. In all these instruments, the stamp papers were shown to have been purchased from a particular stamp vendor. When record of that stamp vendor was called for cross verification, the stamp vendor intimated that he did not have any record for the period 2013-15 as he did not work during this period. Thus, the veracity of the stamp papers used in these instruments was doubtful.

The JSR replied (May and July 2016) that recovery of ₹ 0.29 lakh had been made. Further, the stamp vendor had purchased stamp papers of ₹ 1.15 lakh during the period 2013-15 and stamp papers had actually been sold by him but he had lost his stamp register and lodged Daily Diary Register with the Police. Thus, no recovery was required to be made in this regard. However, the difference of ₹ 1.06 lakh remain unexplained. Moreover, serial numbers of

stamp papers were not recorded in copies of the deeds retained in the office. Hence, genuineness of stamp papers of ₹ 1.06 lakh could not be verified.

(c) Audit scrutiny of the records of five SRs<sup>2</sup> revealed that SD of ₹ 1.93 crore was realised in respect of 862 instruments registered during 2010-11 to 2014-15 by means of stamp papers but serial numbers of stamp papers were not recorded on copies of the deeds retained for record. Even the names of stamp vendors were not mentioned on the deeds. In the absence of these details, possibility of use of false stamp papers could not be ruled out.

The matter was reported to the Government/Department (July 2016); their replies were awaited (October 2016).

#### **4.3.9 Delay in implementation of notification**

##### **(a) *Non-specifying of the villages for the purpose of levying additional stamp duty for Social Security Fund***

As per Section 3(C) of IS Act, additional stamp duty at the rate of three *per cent* was leviable for social security fund on every instrument mentioned in Entry 23 of Schedule I-A, if such an instrument was for transfer of properties situated within the jurisdiction of a Municipality/Corporation or within the area of five kilometers from the outer limit of Municipality/Corporation as may be specified by the Collector.

During the period 2010-11 to 2014-15, the Department of Local Government, Punjab, upgraded four<sup>3</sup> municipalities to Corporations and also extended their boundaries. Consequent upon this up-gradation, the concerned Collectors were required to specify villages for the purpose of levy of additional stamp duty as per instructions issued by the Punjab Government (April 2005). However, the Collectors did not do so even after the lapse of periods ranging between five and 29 months (up to 31 March 2015) due to which four<sup>4</sup>SRs could not charge additional stamp duty of ₹ 1.83 crore in 224 cases.

##### **(b) *Delay in circulation of the notifications***

The Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management (Department) enhanced the ceiling of RF from ₹ 30,000 to ₹ 2 lakh from 23 October 2012 onwards. Further, the Government of Punjab imposed Social Infrastructure Cess (SIC) on 06 February 2013 by inserting Section 3-D in the IS Act in its application to the State of Punjab.

Audit scrutiny revealed that the Department circulated the notifications *ibid* to the Divisional Commissioners, Deputy Commissioners and Inspector General of Registration on 10 November 2012 and 04 April 2013 respectively viz. after a delay ranging between 18 and 57 days respectively. As a result of this,

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<sup>2</sup> Amritsar-I, Barnala, Ludhiana (Central), Ludhiana (East) and Ludhiana (West).

<sup>3</sup> Phagwara (Jalandhar) in October 2012, Moga in November 2013, SAS Nagar (Mohali) in January 2014 and Pathankot in October 2014.

<sup>4</sup> Moga, Mohali, Pathankot and Phagwara.

46 SRs/JSRs<sup>5</sup> kept on registering the instruments by levying pre-revised rates of RF and without levying SIC which resulted in short-realization of RF and SIC of ₹ 13.76 crore<sup>6</sup> in 12,765 cases. Out of this, ₹ 0.89 crore<sup>7</sup> have since been recovered.

The Department stated that the circulation of notifications could not be made in time due to procedural delay. It added that recovery in cases pointed out by audit would be expedited.

#### **4.3.10 Non-registration of instruments of mutation of properties in rural areas**

Section 118 of the Transfer of Property (ToP) Act provides that when two persons mutually transfer the ownership of one thing for the ownership of another, the transaction is called an "exchange". Further, Section 17(1) of IR Act provides list of documents which are compulsorily registrable and includes instruments which purports or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest of the value of one hundred rupees and upwards to or in immovable property.

Audit scrutiny (between April 2015 and May 2016) of the records of 23<sup>8</sup> Tehsildars/Naib-Tehsildars pertaining to the period 2010-11 to 2014-15 revealed that mutations in 8,889 cases were made on the basis of unregistered exchange in respect of properties falling in rural areas. Since, exchange created right or title in immovable properties, these mutations of properties should have been registered in terms of Section 17(1) of the Act cited above alongwith payment of applicable stamp duty and registration fee. Non-registration of these instruments resulted in loss of revenue of ₹ 19.79 crore on account of stamp duty and registration fee.

### **Compliance Deficiencies**

#### **4.3.11 Irregular remission of stamp duty, additional stamp duty and registration fee**

As per Entry 23 of Schedule I-A of IS Act, conveyance for sale of immovable property is chargeable to duty at the rates prescribed therein. Further, Section 9 of IS Act empowers the Government to reduce or remit SD in respect of any instrument.

<sup>5</sup> Ajnala, Amritsar-I, Amritsar-II, Baba Bakala, Balachaur, Banga, Banur, Barnala, Bathinda, Bhogpur, Bholath, Derabassi, Fatehgarh Sahib, Goraya, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Koomkalan, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Majitha, Majri, Mansa, Moga, Mohali, Mullanpur Dakha, Nabha, Nakodar, Nawanshahar, Pathankot, Patiala, Phagwara, Phillaur, Qadian, Rupnagar, Sahnewal, Samrala, Sidhwanbet and Sultasput Lodhi.

<sup>6</sup> SIC: ₹12.50 crore in 12391 deeds, RF: ₹1.26 crore in 374 deeds.

<sup>7</sup> SIC: ₹0.74 crore and RF: ₹0.15 crore.

<sup>8</sup> Banga, Bhogpur, Bholath, Fatehgarh Churian, Goraya, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Ludhiana(West), Majri, Moga, Mohali, Nabha, Nakodar, Noormahal, Pathankot, Patiala, Phagwara, Raikot, Samrala, Sidhwanbet and Sultanpur Lodhi.

Audit scrutiny (between April 2011 and February 2016) revealed that irregular remission of stamp duty and registration fee of ₹ 5.29 crore was allowed on deeds involving mega projects, land acquisition and charitable institutions. Moreover, additional stamp duty (ASD) and SIC of ₹ 1.70 crore were also inadmissibly remitted as detailed in **Table 4.4** below.

**Table 4.4: Irregular remission of SD, ASD, SIC and RF**

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD,ASD and SIC (₹ in lakh)	RF (₹ in lakh)
1.	The Government of Punjab remitted (June 2010) SD on the instruments specified in Schedule I-A of IS Act, when executed by or in favour of any person, purchasing land for setting up a Mega Project. These projects were also exempt from payment of RF. The remission was subject to approval of the Mega Project by Empowered Committee (EC) constituted by the State Government. Further, the Government of Punjab had clarified (May 2005) that ASD and SIC was not exempt even in the cases where SD had been remitted.	In JSR Majri, eight instruments were registered during 2014-15 for transfer of land in six villages <sup>9</sup> without charging SD of ₹ 57.74 lakh and RF of ₹ 9.33 lakh whereas these villages were not part of the said Mega Project as per minutes of meeting of EC held in June 2009 and information provided by Punjab Urban Development Authority.	57.74	9.33
2.		In six SRs/JSRs <sup>10</sup> , SD and RF were not levied on 32 conveyance deeds on grounds of them being part of a Mega Project without necessary documents like the approval of EC to support that these conveyance deeds were indeed part of the Mega Project. This resulted in irregular remission of SD of ₹ 3.10 crore and RF of ₹ 28.39 lakh. Moreover, ASD and SIC of ₹ 1.43 crore were also remitted whereas no such remission was admissible.	453.89	28.39
3.		In JSR Majri, SD and RF was irregularly exempted on 22 instruments for exchange of land between developers and various land owners although such remission was applicable only in case of purchase of land.	14.97	21.20
4.	The Government of Punjab (June 2008) remitted SD and RF on the instruments of conveyance executed for the purchase of land in the State of Punjab by an owner whose land had been acquired for public purpose. The remission was limited to the amount which the owner of the land had received as compensation for the acquisition of his land. Further, the Government of Punjab had clarified (May 2005) that ASD and SIC was not	In JSR Majri, it was noticed from Land Acquisition Certificate that a person who had received compensation of ₹ 20.91 lakh on account of acquisition of land by Government, purchased land for ₹ 33.06 lakh during 2014-15 through two sale deeds. The JSR allowed remission of SD and RF on the entire amount of ₹ 33.06 lakh. This resulted in non-levy of SD and RF of ₹ 0.73 lakh (six per cent of ₹ 12.15 lakh). Further, in nine SRs/JSRs <sup>11</sup> , SD and RF were not levied on 35 instruments, executed in favour of the owners whose land had been acquired for public purposes, without obtaining the Land Acquisition Certificates which will give the details of amount of compensation received. Thus, there was nothing	59.41	7.58

<sup>9</sup> Basenpur, Chahar Majra, Ghandauli, Paintpur, Saini Majra and Salamatpur.

<sup>10</sup> Banur, Bathinda, Ludhiana (East), Ludhiana (West), Majri and Mohali.

<sup>11</sup> Ajnala, Amritsar-I, Banga, Ludhiana (Central), Machhiwara, Majri, Mansa, Mohali and Nabha.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD, ASD and SIC (₹ in lakh)	RF (₹ in lakh)
	exempt even in the cases where SD had been remitted.	on record to show as to how the SRs/JSRs assured themselves about fulfillment of the conditions regarding limitation of remission to the amount of compensation. This resulted in irregular remission of SD and RF of ₹ 50.16 lakh. Moreover, ASD and SIC of ₹ 16.10 lakh were also remitted in eight out of 35 instruments pertaining to five <sup>12</sup> SRs which resulted in inadmissible remission of ASD and SIC of ₹ 16.10 lakh.		
5.	The Government of Punjab remitted (February 1981) SD and RF chargeable on instruments of conveyance by sale or gift in favour of charitable institutions for charitable purposes. In order to rule out the mis-utilisation of this remission by the charitable institutions, the Government issued instructions (May 2010) that such remission was to be confirmed by the Deputy Commissioner (DC) as to whether the institution to whom the immovable property was being transferred was a Charitable Institution within the meaning of the Charitable Endowment Act, 1890.	In seven SRs/JSRs <sup>13</sup> , eight instruments of transfer of immovable property were registered during 2010-11 to 2014-15 with consideration of ₹ 6.80 crore without levying SD and RF of ₹ 36.31 lakh, treating the transfer for charitable purposes. However, certification by DC that the institution was a Charitable Institution within the meaning of the Charitable Endowment Act, 1890 was not obtained. Moreover, in six <sup>14</sup> SRs/JSRs, ASD and SIC of ₹ 10.19 lakh were also allowed as remission in seven out of eight cases.	41.91	4.59
<b>Total</b>			<b>627.92</b>	<b>71.09</b>

#### 4.3.12 Short levy of SD and RF due to misclassification /under-valuation of property.

Levy of SD and RF depends on type of instrument and value of the consideration set forth in the instrument or the value of the immovable property calculated at the rates fixed by the Collectors whichever is higher. Audit scrutiny (between May 2011 and March 2016) revealed cases of short levy of SD and RF of ₹ 17.16 crore as detailed in **Table 4.5** below.

<sup>12</sup> Amritsar-I, Banga, Ludhiana (Central), Mansa and Nabha.

<sup>13</sup> Ghanaur, Jalandhar-II, Kapurthala, Khandoor Sahib, Ludhiana (West), Moonak and Phillaur.

<sup>14</sup> Ghanaur, Kapurthala, Khandoor Sahib, Ludhiana (West), Moonak and Phillaur.

**Table 4.5: Short levy of Stamp Duty and Registration Fee**

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
1.	Punjab Government empowered <sup>15</sup> (August 2002) the Collector of a district in consultation with Committee of Experts as defined there under to fix the minimum market rates of land and properties situated in the Urban and Rural areas locality wise and category wise in the District for the purpose of levy of SD and RF on the instruments of transfer of properties.	In 44 SRs/JSRs <sup>16</sup> , 156 instruments of transfer of properties were registered at the value of ₹ 46.41 crore set forth in these instruments by applying the rates of agricultural properties whereas the properties were residential/ commercial as per revenue records i.e. Jamabandi/ khasra girdawari. Accordingly, properties were required to be evaluated to ₹ 144.12 crore by applying the collector's rates for residential/commercial properties. The misclassification of properties resulted in short levy of SD and RF of ₹ 8.36 crore.	764.36	71.78
2.		In 35 SRs/JSRs <sup>17</sup> , 143 instruments of transfer of immovable properties were registered at the value of ₹ 108.22 crore set forth in these instruments whereas the properties were required to be evaluated for ₹ 164.82 crore as per Collector's rates that were applicable at the time of registration of these instruments as the properties were situated in particular locality/ khasra numbers for which separate/higher rates were fixed by the respective Collectors. The undervaluation of properties resulted in short levy of SD and RF of ₹ 4.16 crore.	385.34	30.75
3		Audit scrutiny of three SRs/JSRs <sup>18</sup> revealed that nine sale deeds were registered (June 2014 to March 2015) by applying lower rates of agricultural properties on the basis of type of land described as agricultural in khasra girdawari/jamabandi reports attached with the deeds. However, cross verification of these reports by audit with the original khasra girdawaris/jamabandis maintained by the concerned Patwaris revealed that these properties were residential at the time of registration. The value of these properties as per applicable Collector's rates for residential properties was	97.88	6.28

<sup>15</sup> GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.

<sup>16</sup> Ajnala, Amritsar-I, Amritsar-II, Balachaur, Banga, Barnala, Bathinda, Derabassi, Dhariwal, Fatehgarh Sahib, Gurdaspur, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Longowal, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Majitha, Majri, Malout, Mansa, Moga, Mohali, MullanpurDakha, Nabha, Nakodar, Noormahal, Pathankot, Patiala, Phagwara, Phillaur, Qadian, Sahnewal, Samrala, Sidhwanbet, Sri Mukatsar Sahib and TalwandiBhai

<sup>17</sup> Ajnala, Amritsar-I, Amritsar-II, Baba Bakala, Banur, Barnala, Bathinda, Derabassi, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Majri, Mansa, Moga, MullanpurDakha, Nabha, Nakodar, Nawanshahar, Pathankot, Patiala, Phagwara, Phillaur, Raikot, Sahnewal, Samrala, Sidhwanbet and SultanpurLodhi

<sup>18</sup> Ludhiana (West), Moga and Nabha.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
		₹ 14.49 crore whereas the same were registered at the value of ₹ 1.30 crore and SD and RF of ₹ 0.36 crore was levied instead of ₹ 1.40 crore. This resulted in short realisation of SD and RF of ₹ 1.04 crore.		
4.	The various District Collectors, while fixing the minimum market rates of land/properties located in their districts, mentioned in rate list that land, measuring up to two kanals and in case purchasers are more than two and share of each purchaser is less than two kanals, will be valued at rates fixed for residential property.	In 10 SRs <sup>19</sup> , 53 instruments of transfer of immovable properties were registered by applying rates fixed for valuation of agricultural land whereas these were required to be registered at the value calculated by applying the rates fixed for residential property as the area/share of land in each case was less than two kanals.	75.76	9.30
5.	Rule 3-A(c) of the Punjab Stamp (Dealing of undervalued instruments) Rules, 1983, as amended in March 2011, provides that in case of valuation of buildings, for the purpose of levying of SD, 10 per cent of the cost of land for ground floor and five per cent for every consecutive floors will be added to the cost of land.	In five SRs/JSRs <sup>20</sup> , 27 instruments of transfer of built-up properties were registered without considering the value of the building which was to be added to the value of land resulting in short levy of SD and RF of ₹ 58.05 lakh.	55.27	2.78
6.	Entry 45 of Schedule I-A of IS Act prescribes rates of SD to be charged on instrument of partition. Similarly, Entry 58 prescribes rates of SD on instrument of settlement. The rate of SD on instrument of partition as well as settlement was revised from two per cent to four per cent (03 August 2009).	In three SRs <sup>21</sup> , two settlement and three partition deeds comprising properties worth ₹ 7.42 crore were registered during 2014-15. SD of ₹ 29.68 lakh was leviable on these instruments whereas SD of ₹ 7.74 lakh was levied. This resulted in short realisation of SD and RF amounting to ₹ 21.94 lakh.	21.94	--
7.	Entry 35 of Schedule I-A of IS Act prescribes the rates of SD on lease deeds. The rate depends upon the average annual rent	In six SRs/JSRs <sup>22</sup> , 120 lease deeds were registered during 2011-12 to 2014-15 for periods ranging between 1 and 20 years on which SD of ₹ 1.12 crore was leviable	49.19	0.09

<sup>19</sup> Barnala, Derabassi, Jagraon, Kapurthala, Khanna, Ludhiana (Central), Ludhiana (West), Moga, Nawanshahar and Raikot.

<sup>20</sup> Jalandhar-I, Ludhiana (East), Ludhiana (West), Nawanshahar and Sahnewal.

<sup>21</sup> Amritsar-I, Amritsar-II and Barnala.

<sup>22</sup> Banur, Fatehgarh Sahib, Ludhiana (Central), Ludhiana (West), Majri, and Mohali.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
	reserved, money advanced and period of lease.	whereas SD of ₹ 0.63 crore was levied.		
8.	Entry 40 (b) of Schedule I-A of IS Act provides that instrument of mortgage in respect of a specified property for securing loan, when possession is neither given nor agreed to be given, was chargeable to SD at the rate of two <i>per cent</i> up to 2 August 2009 and thereafter at the rate of four <i>per cent</i> of the amount secured.	In 20 SRs/JSRs <sup>23</sup> , 200 instruments of mortgage were executed during 2010-11 to 2014-15 for securing loan of ₹ 16.92 crore from the commercial/banking institutions. SD of ₹ 33.95 lakh (at the rate of two <i>per cent</i> ) was levied as against SD of ₹ 67.83 lakh (at the rate of four <i>per cent</i> ) which was leviable on these instruments. This resulted in short levy of SD of ₹ 33.88 lakh.	33.88	--
9.	The Government of Punjab amended (July 2013) Entry 48 (f) of Schedule I-A of IS Act to levy SD on a Power of Attorney (POA) executed to give right to a person, other than family members, to sell immovable properties. The amendment provided levy of SD at the rate of two <i>per cent</i> of the amount of the consideration, or of Collector rate whichever was higher.	In 15 SRs/JSRs <sup>24</sup> , 27 POAs, giving rights to persons other than family members to sell immovable property were registered during 2013-14 to 2014-15. Out of these, 18 POAs were registered without levying SD at the rate of two <i>per cent</i> . In the remaining nine POAs, SD was levied at the rate of two <i>per cent</i> but was levied by applying lower rates of agricultural property whereas the properties were residential or deemed as residential as per conditions stipulated in rate list issued by the Collector of that district.	18.70	--
10.	As per Entry 5 (CC) of the Schedule I-A of IS Act, SD is chargeable in case of agreement to sell followed by or evidencing delivery of possession of the immovable property agreed to be sold, at the same rate as is applicable for conveyance which amounts to sale of immovable property	In six SRs <sup>25</sup> , 10 agreements for sale of land which evidenced receipt of advance payment of ₹ 1.56 crore by owners and delivery of possession of the immovable property were registered during 2010-11 to 2014-15. However, these agreements were registered by levying SD of ₹ 20,000 (at the rate of ₹ 2,000 per agreement) instead of leviable SD of ₹ 7.52 lakh.	7.32	--
11.	Punjab Government amended (February 2013) IS Act by inserting Section 3-D which provided <i>inter alia</i> , that every instrument mentioned in Entry 23 of Schedule I-A chargeable with duty under Section 3 and additional duty under Sections 3	In eight SRs/JSRs <sup>26</sup> , 16 instruments were registered during 2013-14 to 2014-15 without levying SIC of ₹ 26.25 lakh on consideration of ₹ 26.25 crore.	26.25	--

<sup>23</sup> Ajnala, Amritsar-I, Banur, Barnala, Bholath, Derabassi, Goraya, Hoshiarpur, Jalandhar-I, Kapurthala, Kharar, Lopoke, Majitha, Majri, Mansa, Nakodar, Phillaur, Sahnewal, Samrala and SultanpurLodhi.

<sup>24</sup> Bholath, Derabassi, Fatehgarh Sahib, Goraya, Hoshiarpur, Jalandhar-I, Kapurthala, Kharar, Mullanpur Dakha, Nakodar, Nawanshahar, Pathankot, Patiala, Raikot and Sahnewal.

<sup>25</sup> Amritsar-I, Banga, Bathinda, Jagraon, Ludhiana (East) and Moga.

<sup>26</sup> Banur, Bassi Pathana, Derabassi, Jalandhar-I, Ludhiana (East), Ludhiana (West), Mullanpur Dakha and Samrala.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
	(B, C), shall, in addition to such duty, be also chargeable with such Cess (SIC) at the rate of one <i>per cent</i> , as is specified in Schedule IC.			
12	The Government of Punjab levied (February 2005), Social Security Fund (SSF) at the rate of three <i>per cent</i> on every instrument mentioned in entry 23 of Schedule 1-A, if such an instrument was for transfer of properties situated within the jurisdiction of a Municipality/ Corporation or within the area of five kilometers from the outer limit of Municipality/ Corporation, as may be specified by the Collector.	In 10 SRs/JSRs <sup>27</sup> , 62 instruments of transfer of immovable property with consideration of ₹ 19.73 crore were registered during 2010-11 to 2014-15 without levying ASD of ₹ 58.99 lakh even when the properties were either situated within Municipality/Corporation or within five kilometers of the outer limit of Municipality/Corporation.	58.99	--
<b>Total</b>			<b>1,594.88</b>	<b>120.98</b>

#### 4.3.13 Registration of Power of Attorney without description of property

The Government of Punjab amended (July 2013) Entry 48 (f) of Schedule I-A of IS Act to levy SD on a Power of Attorney (POA) executed to give right to a person, other than family members, to sell immovable properties. The amendment provided levy of SD at the rate of two *per cent* of the amount of the consideration, or of Collector rate whichever was higher. Further, Section 21 of IR Act provides that no non-testamentary documents relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

In seven SRs/JSRs<sup>28</sup>, 14 POAs, giving rights to persons other than family members to sell the immovable property were registered during 2013-14 to 2014-15. However, the POAs did not contain such description of property sufficient to identify the same. By registering such POAs, SRs/JSRs violated the above provision and facilitated evasion of SD which could have been realised if description of the properties had been mentioned in the instruments.

<sup>27</sup> Bhawanigarh, Bholath, Derabassi, Fatehgarh Sahib, Goraya, Nabha, Nawanshahar, Phillaur, Rupnagar and Sahnewal.

<sup>28</sup> Adampur, Bholath, Nakodar, Pathankot, Phagwara, Phillaur and Raikot.

#### **4.3.14 Non-recording of khasra numbers of prime locations in rate list**

Punjab Government empowered<sup>29</sup> (August 2002) District Collectors to fix, in consultation with a committee of experts as defined therein, the minimum market rates of land and properties situated in the urban and rural areas locality wise and category wise for the purpose of levy of SD and RF on the instruments of transfer of properties. Separate rates were fixed for land depending upon location and type i.e. residential, commercial, land situated on National Highways, State Highways and developed colonies. However, the rate lists did not include khasra numbers of such properties which were situated in prime locations and thus falling in higher rate segments of the rate lists.

Audit scrutiny (July 2016) of records in two<sup>30</sup> SRs revealed that the khasra numbers of land situated in prime locations were not recorded in the rate list for the year 2015-16 whereas the same were recorded in the rate list for the year 2014-15. Absence of khasra numbers in the rate list of the year 2015-16 facilitated undervaluation of property in six cases and resulted in short levy of SD and RF of ₹ 54.23 lakh.

#### **4.3.15 Internal control mechanism**

Internal control mechanism in a Department is meant to ensure that its activities are carried out according to the prescribed rules and regulations in an economical, efficient and effective manner. Further, inspection is an important internal control in the hands of the administration for ascertaining that the rules and procedures prescribed by the Department are followed to safeguard the proper collection of revenue. Audit noticed that the internal control mechanisms needed strengthening as there was non-reconciliation of deposits with treasury records, shortfall in the number of department inspections and non-monitoring the working of SRs/JSRs as evidenced below:

(a) Rule 2.2 (v) of Punjab Financial Rules Volume-I (PFR) provides that by the 15<sup>th</sup> of every month, Drawing and Disbursing Officer (DDO) should obtain from the Treasury a consolidated receipt for all remittances made during the previous month which should be compared with the postings in the cash book. Audit scrutiny (between September 2011 and February 2016) in 37 SRs/JSRs<sup>31</sup> revealed that reconciliation of deposits with treasury office was not made during 2010-11 to 2014-15. Non-reconciliation with treasury might lead to misappropriation/ embezzlement of Government money.

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<sup>29</sup> GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.

<sup>30</sup> [Ludhiana \(Central\) and Ludhiana \(West\)](#).

<sup>31</sup> Amritsar (HRC), Amritsar-I, Amritsar-II, Baba Bakala, Balachaur, Banur, Barnala, Bathinda (HRC), Bhogpur, Bholath, Derabassi, Hoshiarpur, Jagraon, Jalandhar (HRC), Jalandhar-I, Kapurthala, Kartarpur, Koomkalan, Ludhiana (HRC), Ludhiana (Central), Ludhiana (West), Machhiwara, Majitha, Mansa, Moga (HRC), Moga, Nakodar, Nawanshahar (HRC), Nawanshahar, Pathankot (HRC), Patiala, Payal, Rupnagar (HRC), Sahnewal, Samrala, Sidhwanbet, SultanpurLodhi

(b) Rule 2.2 (ii) of the PFR Volume-I provides that all monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the office in token of check. Audit scrutiny (February 2016) of the records of SR Mansa for the period 2014-15 revealed that receipts amounting to ₹ 2.27 lakh were shown received in the receipt book whereas this amount had not been recorded in the cash book resulting in mis-match by taking less amounts in cash book than had been actually received as per receipt book.

(c) Rule 2.4 of PFR Volume-I provides that receipts collected during the day shall be deposited into the Government account on the same day or the very next day. Audit scrutiny of the records of SR Mansa and three<sup>32</sup> Head Registration Clerks revealed that receipts of ₹ 21.34 lakh pertaining to the period from April 2008 to March 2015 were deposited in the treasuries with delays ranging between three days to over seven months.

(d) Under Para 208 of the Punjab Registration Manual, the Registrar or the Officer deputed by him is required to inspect each SR office at least once a year. The minimum number of inspections required to be conducted and inspections actually conducted there-against during 2010-11 to 2014-15 are shown in **Table 4.6** below.

**Table 4.6: Inspections conducted by IGR and Registrars**

Year	Inspection by IGR				Inspection by Registrar			
	Due	Conducted	Shortfall	Percentage of shortfall	Due	Conducted	Shortfall	Percentage of shortfall
2010-11	155	12	143	92.26	88	16	72	81.82
2011-12	191	8	183	95.81	88	21	67	76.14
2012-13	191	-	191	100.00	88	21	67	76.14
2013-14	191	18	173	90.58	88	32	56	63.64
2014-15	191	18	173	90.58	88	24	64	72.73
<b>Total</b>	<b>919</b>	<b>56</b>	<b>863</b>		<b>440</b>	<b>114</b>	<b>326</b>	

(Source: Information provided by IGR and Registrars)

The minimum number of inspections required to be conducted by IGR and Registrars in five years were 1,359 during the period 2010-11 to 2014-15 against which only 170 inspections were conducted resulting in shortfall of 1,189 units.

(e) In order to prevent frauds of SD, the Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management instructed

<sup>32</sup> Bathinda, Ludhiana and Rupnagar.

(September 2012) all the DCs of the State to randomly test check the instruments registered by the SRs/JSRs under their jurisdiction. Audit scrutiny of the records/information provided by the 37 SRs/JSRs<sup>33</sup> revealed that 4,03,404 sale deeds were registered during 2012-13 to 2014-15 out of which not even a single instrument was randomly test checked by the Registrar in 31 SRs/JSRs<sup>34</sup> as required.

#### **4.3.16 Internal Audit**

Internal Audit Organisation (IAO) is a vital component of the internal control mechanism. IAO was set up in October 1981 as an independent organization under the State Finance Department and was entrusted inter-alia, with the internal audit of revenue receipts to safeguard against any loss or leakage of revenue arising under the various revenue head including SD and RF.

Audit scrutiny of the information collected from the Deputy Director, Internal Audit (Revenue) revealed that there was shortfall in conducting audit of units planned for audit during the year as detailed in **Table 4.7** below.

**Table 4.7: Position of conducting internal audits**

Year	Number of units due for audit			Units audited during the year	Units remained unaudited	Percentage of unaudited units
	Arrears of previous years	Current year	Total			
2010-11	147	153	300	200	100	33.33
2011-12	100	166	266	136	130	48.87
2012-13	130	172	302	149	153	50.66
2013-14	153	178	331	94	237	71.60
2014-15	237	178	415	196	219	52.77
<b>Total</b>	<b>767</b>	<b>847</b>	<b>1614</b>	<b>775</b>	<b>839</b>	

*(Source: Information provided by Internal Audit Organisation)*

Audit observed that the shortfall in conducting internal audit by the Finance Department ranged between 33.33 and 71.60 *per cent* during the years 2010-11 to 2014-15.

On being pointed out, the Deputy Director stated that shortfall in conducting internal audit was due to shortage of staff.

(a) Audit noticed that 4,875 paragraphs of internal audit involving ₹ 230.92 crore were outstanding as on 31 March 2015 as detailed in **Table 4.8** below.

<sup>33</sup> Adampur, Jargaon, Ajnala, Amritsar-II, Banga, Barnala, Bhogpur, Derabassi, Fatehgarh Churian, Goraya, Hoshiapur, Jalandhar-I, Jalandhar-II, Kapurthala, Khanna, Kharar, Lopoke, Ludhiana (West), Machhiwara, Majitha, Majri, Mansa, Nabha, Nakodar, Nawanshahr, Noormahal, Pathankot, Payal, Phagwara, Phillaur, Qadian, Raikot, Rupnagar, SAS Nagar, Samrala, Sidhwanbet and SultanpurLodhi.

<sup>34</sup> Adampur, Ajnala, Banga, Barnala, Bhogpur, Fatehgarh Churian, Goraya, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Khanna, Kharar, Lopoke, Machhiwara, Majitha, Mansa, Nabha, Nakodar, Nawanshahr, Noormahal, Pathankot, Phagwara, Phillaur, Qadian, Raikot, Rupnagar, SAS Nagar, Samrala, Sidhwanbet and SultanpurLodhi.

**Table 4.8: Outstanding audit paragraphs of internal audit**

Year	Outstanding audit paragraphs			Amount involved (in crore)
	Procedural	Financial	Total	
2010-11	597	2367	2964	44.43
2011-12	621	2403	3024	57.07
2012-13	719	2721	3440	80.92
2013-14	819	3063	3882	138.64
2014-15	1034	3841	4875	230.92

(Source: Information furnished by the Finance department)

The Department stated that matter would be taken up with Internal Audit Wing of Finance Department to clear the arrear.

#### 4.3.17 Conclusion

Thus, the existing mechanism and procedure for levy and collection of stamp duty and registration fee suffered from both systemic as well as implementational deficiencies that resulted in non-levy or loss of revenue aggregating to ₹ 72.05 crore. Lack of a system to ensure due collection of stamp duty/registration fee on instrument lying in custody of even government departments led to short/non-levy payment of stamp duty of ₹ 11.92 crore. Further, there was no mechanism for ascertaining the genuineness of stamp papers. The registering authorities also failed to adhere to the provisions of the Act and Rules relating to grant of remission and exemption that led to non/short levy of ₹ 6.99 crore. Lastly, the internal control and internal audit mechanism were weak and required strengthening to improve monitoring and effective control to minimize such losses of revenue.

#### 4.3.18 Recommendations

Based on our audit's findings, it is recommended that the Government:

- i. Evolve a mechanism to detect evasion of stamp duty on instruments lying in custody of other Government offices and banks;
- ii. Ensure immediate implementation of notifications relating to levy of stamp duty and registration fee; and
- iii. Strengthen internal control and internal audit mechanisms for greater coverage and effectiveness to plug the leakage of revenue.

The matter was reported to the Government/Department (August 2016); their replies were awaited (October 2016).