

CHAPTER V: STAMPS AND REGISTRATION FEES



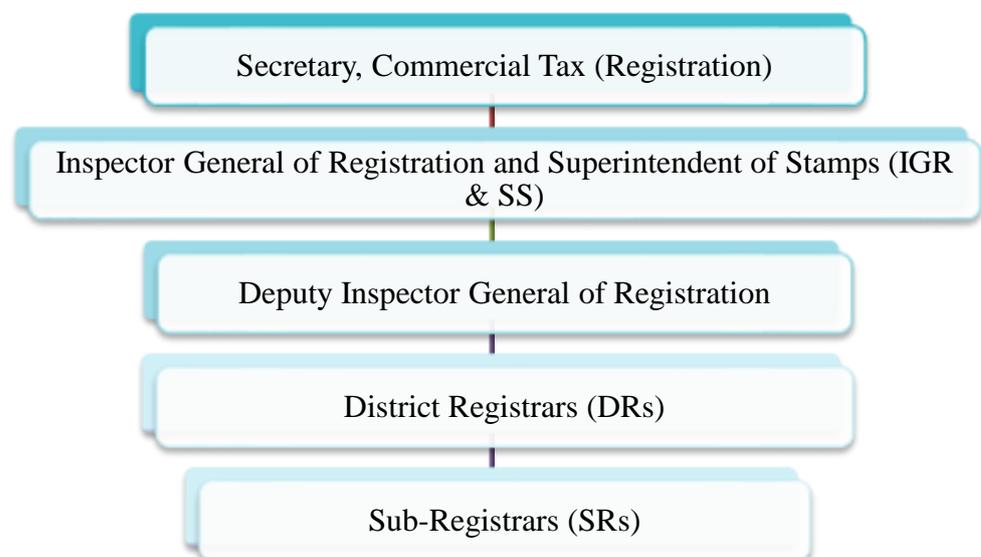
5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration (RF) in the state are regulated under the Indian Stamp Act, 1899, Registration Act, 1908, the Indian Stamp Rules, 1975 and the Chhattisgarh preparation and revision of Market Value Guidelines Rules, 2000, rules made there under by the Chhattisgarh Government. The SD is leviable on execution of instruments and RF is payable on registration of instruments. The role of District Registrar (DR) is to guide Sub-Registrars (SRs) in their day to day function, pass orders in cases of valuation of stamps required, penalty, refund and Inspection of SR and public officers where stamp duty is involved.

The SR Office is the place where all the registration works take place and having the maximum interaction with the public.

The Secretary, Finance (Revenue) cum Commercial Tax (Registration) is responsible for determination of policy, monitoring and control at the Government level. The Inspector General of Registration cum Superintendent of Stamps (IGR & SS) is the head of the Commercial Tax (Registration) Department who is assisted by two Deputy Inspector General Registration (DIGR), 16 DRs and 88 SRs.

Chart 5.1: Organisational setup



5.2 Internal Audit

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

The IAW has sanctioned posts of one Senior Accounts Officer and two Assistant Internal Audit Officers (AIOs). As against this, the two AIOs posts are lying vacant. In absence of the requisite manpower no units were planned for audit during the year 2015-16.

We recommend the Finance Department to take adequate steps to depute the personnel, so that regular audit could be conducted. This was also pointed out in earlier Audit Reports however the posts are vacant till date. As such these need immediate attention of the Government.

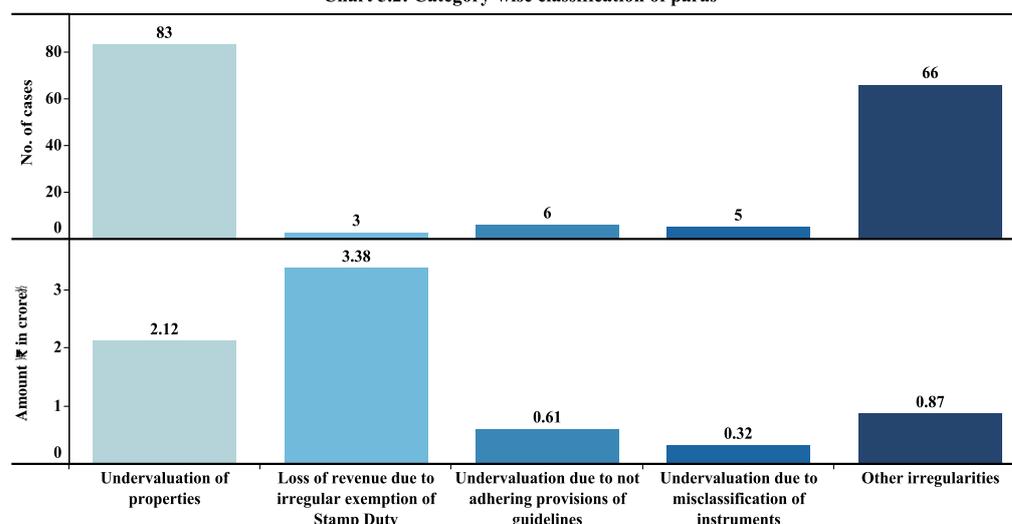
5.3 Results of Audit

We conducted test check of the records in the offices of nine ¹SRs out of 105 units in 2015-16. We found short levy/not levy of stamp duty and registration fees due to undervaluation of properties, misclassification of instruments and other irregularities involving ₹ 7.30 crore in 163 cases, which fall under the categories mentioned in **Table 5.1**:

Table 5.1: Results of Audit

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Undervaluation due to misclassification of instruments	5	0.32
2.	Undervaluation due not adhering provisions of guidelines	6	0.61
3.	Undervaluation of properties	83	2.12
4.	Loss of revenue due to irregular exemption of Stamp Duty	3	3.38
5.	Other irregularities	66	0.87
Total		163	7.30

Chart 5.2: Category-wise classification of paras



¹ SR, Ambikapur; SR, Baloda Bazar; SR, Dhamtari; SR, Janjgir-Champa; SR, Jagdalpur; SR, Nawagarh; SR, Raipur; SR, Rajnandgaon and SR, Takhatpur

The Department accepted underassessment of ₹ 44.43 lakh in eight cases pointed out during 2015-16 and recovered ₹ one lakh in two cases.

After issue of Draft Paragraphs the Department recovered ₹ 1.00 lakh in two cases.

A few illustrative cases involving financial impact of ₹ 1.92 crore are discussed in the following paragraphs.

5.4 Misclassification of Instruments

While registering three instruments, the SR classified them on the basis of their titles instead of the recitals. This resulted in misclassification of the instruments and consequent short realisation of Stamp Duty and Registration Fee (SD & RF) amounting to ₹ 13.09 lakh.

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. This has to be decided with reference to its contents and to the intention of the parties registering the document. The Government of Chhattisgarh, vide their notification (March 2014), stated that Stamp duty on the exchange deed will be levied on the difference between the market value of the properties exchanged. The property which is to be exchanged should not be *Nazul*/lease land. Clause one of Form I of Chhattisgarh Market Value Guidelines provides that if the agricultural properties sold in the urban area are below 0.202 hectare, then the property should be valued on slab basis. Further as per Schedule I to IS Act, an agreement relating to the construction of a building on a land by a person, other than the owner or lessee of such land, and with a condition in the agreement that after construction, such building shall be held jointly or severally by both the other person and the owner of the land or lessee, as the case may be of such land, then the Stamp Duty on such agreement will be two *per cent* of the market value of the land.

During test check (November 2015 and January 2016) of 8,868 out of 45,871 instruments registered (between April 2013 and March 2015) in two SR offices, we noticed that, the SRs while registering three instruments (between June 2013 and March 2015) classified them on the basis of their titles instead of the recitals of the documents, as detailed in the **Table 5.2:**

Table 5.2: Details of undervaluation of properties due to misclassification of instruments

(₹ in lakh)

Name of the SR	Document no. and date	Nature of Observation	Market Value as per guideline	Short levy of SD/RF
Raipur	11763 dt. 30.03.2015	In an instrument for mutual exchange of property, <i>Nazul</i> land (diverted) was exchanged with undiverted land. As per Government notification (March 2014), <i>Nazul</i> land should not be exchanged. As per notification (march 2014) the instrument ceases to be exchange deed and should be treated	89.87	4.67/0.68

		as Conveyance deed.		
Raipur	10972 dt. 30.03.2015	As per rule <i>ibid</i> valuation of the property under consideration of exchange should have equal value. In one of the instrument it was noticed that the vendors had exchanged the property by paying additional consideration of ₹ 23.06 lakh which was not included in valuation of property. Hence the same ceases to be exchange deed and valuation of property should have been done as per conveyance deed.	47.06	1.98/0.31
Dhamtari	63 dt. 20.06.2013	In one instrument, four people gave their land for partnership firm and the condition no. 4 of the agreement states that all the partners will be jointly and severally held responsible for the profit and loss as per their shareholders right. Hence agreement purports to be Development Agreement for which Stamp duty at the rate of two <i>per cent</i> was leviable. But the SR levied duty of ₹ 100 only.	195.00	3.89/1.56
Total	3		331.93	10.54/2.55

Thus, in accordance to the Section 3 of IS Act, the instrument ceases to be an exchange deed/agreement and amounts to conveyance deed for exchange of property for which Stamp Duty and Registration fee (SD & RF) amounting ₹ 13.97 lakh (SD - ₹ 11.31 lakh and RF - ₹ 2.66 lakh) was leviable. However, while registering the instruments, the SR overlooked the above recitals and registered them as exchange deed and simple agreement on the basis of title only and levied ₹ 0.88 lakh (SD - ₹ 0.77 lakh and RF - ₹ 0.11 lakh). Thus, misclassification of instruments resulted in short levy of SD & RF amounting ₹ 13.09 lakh (SD - ₹ 10.54 lakh and RF - ₹ 2.55 lakh).

The matter was reported to the Government and IGR (July 2016) and IGR replied (October 2016) that in the document no. 11763 dated 30.03.2015 the document was found to be duly stamped by the DR and in remaining two cases the action was being taken.

Reply is not acceptable in case of document no. 11763 dt.30.03.2015 as the copy of the said order of the DR was not provided to audit for scrutiny. Further progress in the remaining two cases are awaited (November 2016).

5.5 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 ₹ 74.91 lakh.

As per Clause five of Form I of Chhattisgarh Market Value Guideline, in urban areas the valuation of land up to the depth of 20 metres from the main road shall be valued adjacent to the main road. But if any purchaser purchases the land at the depth more than 20 metres adjacent to the main road, the entire

property should be treated as adjacent to the main road. Further this limit is up to 46 metres for agricultural land.

During test check of 10,480 out of 68,856 instruments registered in the four offices² we noticed (November 2015 to February 2016) that in 29 instruments, the properties were situated on the main road but the SR valued them as situated off road as detailed in **Table 5.3**:

Table 5.3: Details of instruments valued off main road

Name of Sub-Registrar	No. of cases	Nature of observation	Market value (₹ in crore)		Short levy of SD/RF (₹ in lakh)
			As per guidelines	As per instrument	
Raipur	13	As per the recitals of the instruments as well as map, <i>Khasra</i> etc. the properties transacted were located on the main roads of their respective areas. But the SR valued them as situated off road	17.83	10.14	58.51/7.59
Ambikapur	12	As per the recitals of the instruments as well as map, <i>Khasra</i> etc. the properties transacted were located on the main roads of their respective areas. But the SR valued them as situated off road	2.47	1.91	3.62/0.42
Dhamtari	2	As per the recitals of the instruments such as map, <i>Khasra</i> etc. the properties transacted were located on the main roads of their respective areas. But the SR valued them as situated off road	0.82	0.39	3.18/0.34
Jagdapur	2	As per the recitals of the instruments such as map, <i>Khasra</i> etc. the properties transacted were located on the main roads of their respective areas. But the SR valued them as situated off road	0.71	0.55	1.13/0.12
Total	29		21.83	12.99	66.44/8.47

The above table shows that as per the provisions of the guidelines, market value of these properties were ₹ 21.83 crore. However, the SRs considering the properties situated as off road worked out the market value of the properties as ₹ 12.99 crore. Thus there was undervaluation of properties by ₹ 8.84 crore and subsequent short levy of SD & RF amounting to ₹ 74.91 lakh (SD - ₹ 66.44 lakh and RF - ₹ 8.47 lakh) as detailed in **Appendix 5.1**.

The matter was reported to the Government and IGR (July 2016) and IGR replied (October 2016) that the cases has been referred to DR for further valuation. Further progress in these cases are awaited (November 2016).

² SR, Ambikapur; SR, Dhamtari; SR, Jagdalpur and SR, Raipur

5.6 Undervaluation of agricultural properties

The provisions of guidelines in determining the market value of agricultural properties situated in Municipal Corporation/Municipal Council/Nagar Panchayat areas were not adhered resulting in short realisation of SD & RF of ₹ 53.81 lakh.

During test check (December 2015) of 7,249 out of 38,833 instruments of the SR, Raipur, we noticed (December 2015) that in 15 instruments registered in March 2015, the market value of the agricultural properties were not determined as per the provisions of the guidelines as detailed in **Table 5.4** :

Table 5.4: Details of undervaluation of agricultural properties

Sl. No.	No. of cases	Nature of observation	Market value (₹ in crore) as per		Short levy of SD/RF (₹ in lakh)
			Instrument	Guidelines	
<p>Clause of Guideline: Clause five of Form III: Agricultural land sold below 0.202 hectare in Municipal area shall be valued at hectare rates if the land had been purchased for agricultural purposes and is adjacent to the purchaser's land as certified by the <i>Patwari</i> and supported by the document. Otherwise the valuation of the property shall be done on the slab basis at plot rates and such benefit shall not be extended for the lands situated in the midst of cities.</p>					
1	7	In seven instruments the properties were situated in the midst of Raipur city, and as per the revenue records these properties were <i>padat</i> ³ and certificate of <i>Patwari</i> regarding adjacent to purchasers land were also not available. But SR valued the land as per hectare rate instead of slab rate as detailed in <i>Appendix 5.2</i> .	3.09	9.30	37.98/4.97
<p>Clause of Guideline: Clause six of Form I read with Clause one of Form I: when the agricultural land is purchased together by more than one person not belonging to the same family and share of each comes upto 0.202 hectare in Municipal areas, the valuation of land shall be done on slab basis at plot rates for share of each purchaser.</p>					
2	1	Eight persons not belonging to the same family purchased 0.166 hectare of agricultural land in Raipur municipal area. Since the area of the land was below 0.202 hectare, the SR should have determined the market value on slab rate on each purchasers' share instead of applying the slab rate taking the entire land of eight persons together as detailed in <i>Appendix 5.3</i> .	3.21	4.37	6.01/0.93

³ *Padat* means agricultural land in which agricultural activities are not taking place for the last three years.

Clause of Guideline: Clause six of Form-III while determining market value of the agricultural property having dual crop pattern, the valuation should be done by adding 25 per cent of the rate of the market rate as per the type of agricultural land. Further separate rate have been provided in guideline for irrigated land.					
3	4	In two instruments the agricultural properties have dual crop pattern and in the remaining two instruments as per <i>patwari</i> record the land was irrigated with canal/tubewell. But the SR valued the property as per unirrigated rate as detailed in <i>Appendix 5.4</i> .	0.86	1.02	1.00/0.11
Clause of Guideline: Clause one of Form I: Agricultural land sold below 0.202 hectare in Municipal Corporation/Municipal Council area shall be valued on the slab basis at plot rates. Further as per special clause of the Guideline agricultural property sold below 0.101 hectare and 0.150 hectare in Mana and Nakti village respectively shall be valued as per the provisions of Clause one of Form I of the guidelines.					
4	3	In each instrument land was purchased from two vendors. Since each vendor had a separate <i>Khasra</i> and <i>Kisan Kitab</i> ⁴ for his piece of land, each property should have been valued separately. However, the executants clubbed the properties of both the vendors by which the area in each document exceeded the limit of 0.202 (Municipal Council, Birgaon)/0.101 (Mana)/0.150 (Nakti) hectare and valuation was done on hectare rate as detailed in <i>Appendix 5.5</i> .	0.60	1.00	2.48/0.33
Total	15		7.76	15.69	47.47/6.34

It may be seen from the above table that as per the provisions of the guidelines, the market value of these properties was ₹ 15.69 crore. However, the SR valued these properties as ₹ 7.76 crore. This resulted in short levy of SD & RF amounting to ₹ 53.81 lakh (SD - ₹ 47.47 lakh and RF - ₹ 6.34 lakh).

The matter was reported to the Government and IGR (July 2016) and IGR replied (October 2016) that the matter has been referred to DR for further valuation. Further progress in these cases are awaited (November 2016).

5.7 Undervaluation of properties

The provisions of guidelines were not observed by the SR while calculating the market value of the properties. This resulted in undervaluation of properties and subsequent short realisation of SD & RF amounting to ₹ 50.00 lakh.

The Registering Officer, i.e. SR, in accordance with the provisions of Indian Stamp (IS) Act, Registration Act and the Market Value Guidelines, shall

⁴ *Kisan Kitab* is the details of agricultural holdings and the tax fixed on each of holdings of the tenants.

calculate the SD & RF leviable on the document on the basis of valuation of property as per the abovementioned Guidelines and rates. Further, Section 47 (A) of IS Act empowers the SR to refer a document to the Collector of Stamps for determination of the correct market value of the property, if there are reasons to believe that the market value of property has not been set forth truly in the instrument.

During test check of 8,861 out of 61,818 instruments in three⁵ SRs, we noticed (December 2015 and February 2016) that in 11 instruments land admeasuring 63,330.18 square meters area was registered between April 2013 and March 2015 and valued by SRs at ₹ 6.25 crore. But as per provisions of the guidelines the market value of these properties was ₹ 13.40 crore. The provisions of guidelines were not observed by the SR while calculating the market value of the properties leading to short realisation of SD & RF of ₹ 50.00 lakh (SD - ₹ 44.28 lakh and RF - ₹ 5.72 lakh) as detailed in the ***Appendix 5.6***.

The matter was reported to the Government (July 2016) and IGR replied (October 2016) that the cases has been referred to DR for further valuation. Further progress in these cases are awaited (November 2016).

⁵ SR, Ambikapur; SR, Jagdalpur and SR, Raipur