

CHAPTER IV

STAMP DUTY AND REGISTRATION FEE

4.1 Tax Administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act, 1899 (IS Act), Registration Act, 1908 and the rules framed thereunder as applicable in Telangana State and are administered at the Government level by the Principal Secretary, Revenue (Registration & Stamps). The Commissioner and Inspector General of Registration and Stamps (CIGRS) is the head of the Department, who is empowered with the task of superintendence and administration of registration work in the State. He is assisted by zone wise Deputy Inspectors General (DIG). The District Registrar (DR) is in charge of the district. He supervises and controls the Sub-Registrars (SRs) in the district concerned.

4.2 Internal Audit

There is a separate Internal Audit wing in the Department headed by District Registrar cadre officer who is assisted by one SR. The internal audit programmes are drawn on quarterly basis and five SR offices are audited in a month.

4.3 Results of Audit

Test check of records of 122 offices of District Registrars / Sub-Registrars conducted during 2015-16 showed non-levy or short levy of stamp duty and registration fee etc., and other irregularities involving ₹ 29.98 crore in 368 cases, which broadly fell under the following categories:

Table 4.1: Results of Audit

(₹ in crore)

| S.No. | Category | No. of cases | Amount |
|--------------|-------------------------------------------------------------------------------|--------------|--------------|
| 1. | Performance Audit on “Revision and Implementation of Market Value Guidelines” | 1 | 11.00 |
| 2. | Short levy of duties | 296 | 17.58 |
| 3. | Undervaluation of properties | 44 | 0.66 |
| 4. | Misclassification of documents | 14 | 0.59 |
| 5. | Other irregularities | 13 | 0.15 |
| Total | | 368 | 29.98 |

During the year 2015-16, the Department accepted under-assessments and other deficiencies of ₹ 2.66 crore in 122 cases, of which 72 cases involving ₹ 2.31 crore were pointed out during the year 2015-16 and the rest in earlier years. An amount of ₹ 0.46 crore in 68 cases was realised during the year.

A few illustrative cases of non-levy / short levy of duties and fees involving ₹ 14.14 crore, which includes a Performance Audit on “Revision and Implementation of Market Value Guidelines”, are discussed in the succeeding paragraphs.

4.4 Performance Audit on “Revision and Implementation of Market Value Guidelines”

4.4.1 Introduction

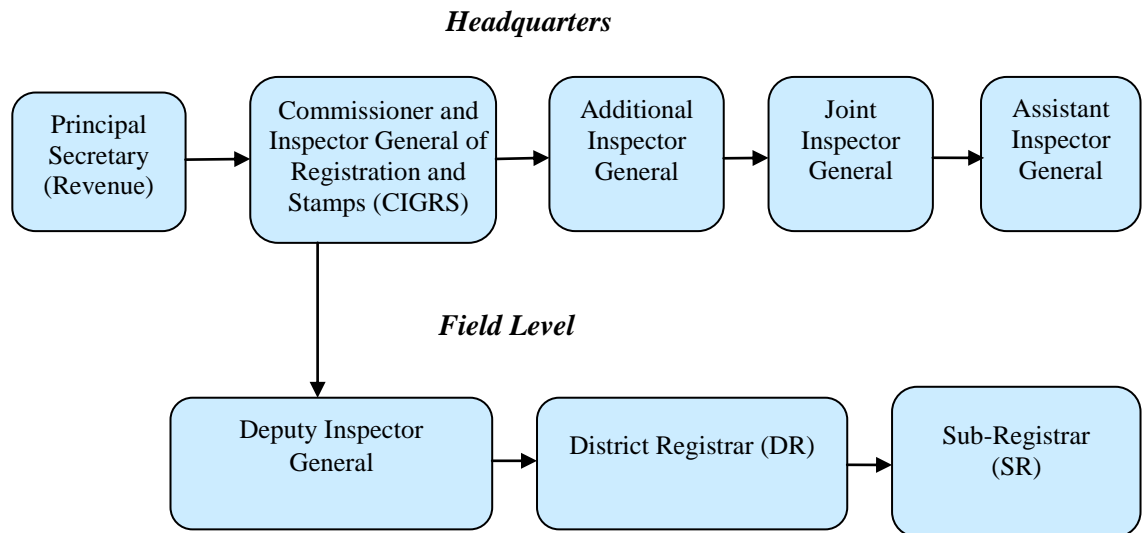
Registration and Stamps Department of Telangana is responsible for registration of transactions relating to immovable properties, marriages, firms, societies, chits etc. The core functions of the Department are carried out through an Information Technology (IT) system named Computer Aided Administration in Registration Department (CARD). The Department, after admitting the documents for registration, generates an acknowledgement slip, determines the market value and duties to be levied thereon as per classification of the document through CARD and, after registration, the documents are scanned and stored in the system.

Section 47-A of Indian Stamp (IS) Act, 1899 (Central Act II of 1899) defines Market Value (MV) as the minimum price on which stamp duty and registration fee are to be levied. Section 75 of IS Act provides power to the State Government to make rules generally to carry out the Act. Andhra Pradesh Stamp (Prevention of Undervaluation of Instruments) Rules, 1975 and Andhra Pradesh Revision of Market Value Guidelines (APRMVG) Rules,

1998 were framed under the IS Act. These Rules have also been adapted⁷³ by the State of Telangana. These Rules prescribe the procedure and periodicity to be followed by the registering authorities for revising the market value of the property. Registration and Stamps Department is to revise market values periodically as prescribed in APRMVG Rules so as to assign correct values to the properties.

4.4.2 Organisational Set-up

The Principal Secretary, Revenue (Registration and Stamps) is in charge of the overall administration of the Registration and Stamps Department. The Commissioner and Inspector General of Registration and Stamps (CIGRS) is the Head of the Department. The CIGRS also functions as the Chief Controlling Revenue Authority (CCRA) under the IS Act. He is assisted by staff at Headquarters and field level as shown below:



4.4.2.1 Market Value (MV) Committee

As per Rule 4(1) of APRMVG Rules, the Central Valuation Advisory Committee (CVAC) is the apex body to evolve general or specific guidelines for revision of market value for the use of the committees constituted under Rule 4 (2). It is headed by CIGRS as chairman with six other members from five⁷⁴ departments. Joint Inspector General of the office of the CIGRS is the convenor of the Committee. The Committee issues guidelines for fixation of market value in respect of different categories of land like agricultural land, urban land, industrial area, mining, plantation, commercial and non-agricultural land etc., after collecting relevant information and undertaking tours, as required. The CVAC is to meet in the month of May every year for rendering advice for revision of market value pertaining to urban areas and during the month of December every alternate year pertaining to rural areas.

⁷³ G.O.Ms.No.96 and 97 of Revenue (Registration-I) Department, dated 28 May 2016.

⁷⁴ Land Revenue; Agriculture; Horticulture; Roads and Buildings and Municipal Administration and Urban Development.

As per Rule 4(2) of APRMVG Rules separate committees for preparation of market values in urban and rural areas are to be formed. The details of constitution of the committees are as shown below:

| Name of the Committee | Constitution of the Committee | | |
|------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| | Chairman | Members | Convenor |
| Committee to prepare Market Value Guidelines in urban areas formed under Rule 4(2) | Joint Collector of the District | <ol style="list-style-type: none"> 1. Commissioner of Municipal Corporation 2. Vice-Chairman of Urban Development Authorities 3. Chief Executive Officer of the Zilla Praja Parishad (Chief Planning Officer in respect of Hyderabad District) 4. Commissioner of Municipality | Sub-Registrar concerned |
| Committee to prepare Market Value Guidelines in rural areas formed under Rule 4(2) | Revenue Divisional Officer concerned | <ol style="list-style-type: none"> 1. Mandal Revenue Officer concerned 2. Mandal Development Officer concerned 3. District Registrar/Sub-Registrar (MV and Audit) concerned | Sub-Registrar concerned |

The market values are to be revised on 1 August every year for urban areas and on 1 August every alternate year for rural areas as per Rule 5 of APRMVG Rules.

4.4.3 Audit Objectives

The Performance Audit (PA) was conducted with a view to assessing whether

- revision of market value guidelines were carried out in the prescribed manner, taking into consideration the prevailing market rates and inputs collected from various departments;
- the market value guidelines and instructions were correctly followed by the registering officers in respect of instruments executed / registered between April 2012 and March 2015; and
- internal control mechanism of the Department was effective to ensure proper implementation of market value guidelines for levy and collection of stamp duty and registration fee.

4.4.4 Audit Scope and Methodology

The Performance Audit (PA) was conducted between November 2015 and June 2016 involving scrutiny of records of three years from 1 April 2012 to 31 March 2015. Office of Commissioner and Inspector General of Registration and Stamps (CIGRS), 5 offices⁷⁵ of District Registrars (out of 12) and 13 offices⁷⁶ of Sub-Registrars (out of 129) were covered in audit. Offices were

⁷⁵ Hyderabad (South), Khammam, LB Nagar, Ranga Reddy (West) and Sangareddy.

⁷⁶ Bhongir, Gajwel, Gandipet, Kalwakurthy, Keesara, Khammam (Rural), Kukatpally, Madhira, Malkajgiri, Mancherla, Quthbullapur, Uppal and Warangal Fort.

selected using random sampling technique. The PA was conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

An entry conference was held with the Principal Secretary to Government (Registration and Stamps), Telangana on 10 February 2016 wherein Audit objectives, Audit Criteria, Scope and methodology were explained. The exit conference was held with the Special Chief Secretary to Government (Registration and Stamps), Telangana on 24 October 2016 wherein Audit observations and recommendations were discussed and response of the Department obtained and incorporated in the relevant paragraphs.

4.4.5 Audit Criteria

The Audit Criteria were derived from the following sources:

- Indian Stamp Act, 1899;
- Registration Act, 1908;
- The Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purpose) Act, 2006 (as adapted by the Government of Telangana);
- Andhra Pradesh Registration Rules made under Section 69 of the Registration Act, 1908 (as adapted by the Government of Telangana);
- The Andhra Pradesh Stamp (Prevention of Undervaluation of Instruments) Rules, 1975 (as adapted by the Government of Telangana);
- Andhra Pradesh Revision of Market Value Guidelines (APRMVG) Rules, 1998 (as adapted by the Government of Telangana);
- Government Orders and Memos / Circulars / Proceedings issued by CIGRS from time to time.

4.4.6 Acknowledgement

Audit acknowledges the co-operation extended by the Registration and Stamps Department in conducting the audit.

Audit Findings

The Performance Audit showed deficiencies in revision of MV guidelines and their implementation, which are discussed in the subsequent paragraphs.

4.4.7 Revision of Market Value Guidelines

4.4.7.1 Non-conducting of meetings of CVAC

As per Rule 4(1)(iv) of APRMVG Rules, the Central Valuation Advisory Committee (CVAC) was required to meet for evolving guidelines every year in May for urban areas and in December every alternate year for rural areas.

Audit observed that no CVAC meetings were held for rural areas during the period 2012-15. Further, no CVAC meeting was held during the year 2013 for urban areas, as required.

In response, the Government accepted (October 2016) the observation.

4.4.7.2 Non-adherence to the specified periodicity in market value revision

As per Rule 5(1) of the APRMVG Rules, the market value guidelines are to be revised in the State on 1 August every year for urban areas and on 1 August every alternate year for rural areas. There is no provision in the Rules for relaxation in this regard. Duties are to be levied on the consideration as declared by the executant in the document or market value as adopted by the Department, whichever is higher.

The last revision before the period covered under performance audit (2012-15) was made on 1 August 2010 for both urban and rural areas. Hence, revision was due on 1 August 2011 in respect of urban areas and on 1 August 2012 in respect of urban and rural areas. However, no revisions were made on these dates as required. The revision was made with effect from 1 April 2013 instead of 1 August, against the Rule provisions, for both rural and urban areas, through a Government Order⁷⁷ issued on 30 March 2013.

It was also observed that the said Government Order was set aside by the Andhra Pradesh High Court⁷⁸ in September 2013 on the ground that Government had no power to relax the Rules (i.e., revising market values in April instead of August). Despite this, the Department, continued to adopt the values revised on the basis of guidelines, which were set aside by the Court, as market values for properties.

In response, Government replied (October 2016) that due to slump prevailing in the real estate market and also to encourage number of registrations, the revision of market values for urban areas in the year 2011 and for urban and rural areas in the year 2012 was not taken up. The reply was not tenable as the APRMVG Rules did not allow the Government to hold up the revision process on such grounds.

⁷⁷ G.O.Ms. No. 157 Revenue (Registration-I) Department dated 30 March 2013.

⁷⁸ Public Interest Litigation No.274 of 2013. Order dated 23 September 2013.

4.4.7.3 Necessity of revision

To study the impact of non-adherence to the periodical revision of market values, Audit analysed 1,080 documents⁷⁹. On analysis of these documents, Audit observed variation between the approved market values and the consideration mentioned in the documents. Analysis of Audit is summarised below:

| Year | Total No. of documents verified | No. of Documents | | | | | |
|---------------|---------------------------------|------------------|-------------|------------------------|--------------------|---------------------|------------------------|
| | | Less than MV | Equal to MV | More than Market Value | | | |
| | | | | 1 to 20 per cent | 21 to 100 per cent | 101 to 500 per cent | More than 500 per cent |
| 2012-13 | 360 | 39 | 135 | 41 | 42 | 83 | 20 |
| 2013-14 | 360 | 42 | 183 | 23 | 50 | 55 | 7 |
| 2014-15 | 360 | 39 | 151 | 42 | 55 | 64 | 9 |
| Total: | 1080 | 120 | 469 | 106 | 147 | 202 | 36 |

It may be seen from the above that out of 1,080 documents analysed, the consideration in 491 documents (45.46 per cent) was higher than the market value and ranged from 1 to 5,995 per cent over and above the market value. Thus, the decision of the Department not to revise the market values annually, as envisaged in APRMVG Rules, was erroneous and irregular.

It is also evident from the above that the market value determined as per the MV guidelines did not reflect the true and fair market value of the properties in many cases and entailed significant loss of revenue to the Government.

In response, the Government accepted (October 2016) the observation and assured of taking steps to watch this trend where considerations were more than the market values.

4.4.7.4 Preparation of Market Value Guidelines without considering valuation principles

As per Rule 6 of APRMVG Rules, the MV committees, while working out values of lands and buildings or preparing the Market Value Guidelines Registers, is to take into account factors like the condition of real estate market, interest rates, inflation rate, prices of building materials etc., apart from established principles of valuation enunciated in Rule 5 of AP Stamp (Prevention of Undervaluation of Instruments) Rules, 1975 like classification of land, rate of revenue assessment, value of adjacent land, nearness to road etc.

Audit called for the data collected by the Market Value Committees in all the 18 sampled offices for preparing market value guidelines. Officers in all the offices stated that the prevailing values were ascertained orally/locally. No discussion was carried out by any of the Committees regarding real estate market, interest rates, inflation rate, prices of building material etc.

⁷⁹ 60 documents in each of 18 offices (20 high value documents for each year).

Audit observed that though the APRMVG Rules were framed as far back as in 1998, no methodology was evolved for collecting the data required for revision of market values so far. No procedure has also been prescribed for deriving the market values applicable to urban and rural areas.

In response, the Government stated (October 2016) that though there was no documentation, elaborate exercise was done by the members of the MV Revision Committees before the revision of market values. It was further stated that necessary instructions would be issued to document the process, in ensuing revisions.

4.4.7.5 Absence of system to monitor information being provided to the Committees from the Department

Rule 10 of APRMVG Rules requires the Registering Officers to furnish to the Convenor of the Market Value Revision Committees, a monthly extract of instruments in which consideration is more than the market value by 30th of the following month.

Audit observed in all the 18 offices that none of the Registering Officers had furnished such extracts to the Convenors, thereby defeating the purpose of their use during revision.

Further, the duties of DRs/SRs (Market Value and Audit) include maintenance of MV Intelligence and Information Register containing all the information regarding higher values in specific areas and the latest developments in the areas for use during revision of MV guidelines. The Sub-Registrar of the concerned office also had to maintain a copy of the Register and update the same whenever any developmental activities were noticed. District/Sub-Registrar (Market Value and Audit) was to utilise the above information at the time of MV revision. District/Sub-Registrar (Market Value and Audit) at the end of every internal audit is to discuss with the local SR whether any developmental activities and change of land use etc., had been noticed and note such information in the register maintained by him.

Audit observed that neither the DRs/SRs (Market Value and Audit) nor the SRs were maintaining the above register. The officials stated that maintenance of the register was discontinued vide Commissioner's proceedings⁸⁰. As seen from the proceedings, there was a simultaneous request to National Informatics Centre (NIC) to make necessary provisions in CARD (a software used in registering the documents by the Department) to generate statement of documents where consideration was higher than the market value. However, no such provision was made in the CARD so far. Further, as the register was also to contain the details of developmental activities, change of land use, etc., dispensing with the register is irregular and done away with the important information required to be used as input at the time of revision.

As seen from the minutes of MV revision committees, the committees did not insist on extracts of such documents. In the absence of such crucial

⁸⁰ No. MV1/14671/2013 dated 3 December 2013.

information for revision, the department failed to analyse the trend of open market values in a transparent manner.

Also, the Rules do not prescribe the mechanism or the details of the data to be provided by the Department and other agencies to CVAC nor does CVAC have independent staff for collection of required information.

The above shows that the Department was unable to supply even the information available with itself to the Committees for making suitable recommendations/taking action.

In response, the Government stated (October 2016) that there was a provision in CARD to generate a report on documents where the considerations were higher than the market value through Management Information System. However, no such reports were generated and submitted to MV revision committees.

4.4.7.6 Lack of co-ordination with Land Revenue Department

- **Non-obtaining of Land Acquisition orders**

As per Rule 11 of APRMVG Rules, the Land Acquisition Officers (LAOs) are to furnish copies of awards passed to the Convenors of the Committees within 30 days from the date of payment of compensation where the amount of compensation awarded was higher than market value. District Collectors were also requested⁸¹ to instruct the concerned officials to send copies of land acquisition awards and conversion orders to convenors of MV revision committees.

Audit observed that copies of compensation awards were not received in any of the 18 offices test checked. The Registration Department also did not pursue the matter. The committees also did not consider such cases where land acquisition compensation was paid to the land owners in excess of market values.

In response, the Government accepted (October 2016) the observation and stated that despite repeated instructions, the Land Revenue authorities were not furnishing the land acquisition awards to the registering officers. Necessary instructions would be issued to the District Collectors for issuing suitable instructions thereon.

- **Incorrect classification of land used for non-agricultural purposes**

As per Section 5 of AP Agricultural Land (Conversion for Non-agricultural Purposes) Act, 2006, agricultural land can be converted for non-agricultural purposes by Revenue Divisional Officers (RDOs). CIGRS had issued instructions⁸² to the DRs/SRs to collect copies of conversion orders issued by RDOs. Also, agricultural land converted for non-agricultural purposes was to be classified as ‘agricultural land

⁸¹ Letter No. MV1/2365/2014 dated 6 February 2014.

⁸² Memo Nos. MV1/8794/2011 dated 10 June 2011 and 22 July 2011.

fit for house sites'. Lands converted as house sites and not falling in any ward or block were to be classified as 'house sites'. As per Rule 7 of APRMVG Rules, different values have to be fixed for house sites and agricultural land fit for house sites.

Audit observed that copies of conversion orders were not received in any of the 18 offices test checked. The Registration Department also did not pursue with the RDOs to obtain the same. The committees also did not consider such cases of conversion of land use.

Rule 4(1)(ii) *ibid* provides for valuation of agricultural land and non-agricultural land for levy of stamp duty. For agricultural land, acreage rates and, for non-agricultural land, square yard rates have to be adopted for levy of stamp duty.

In five offices⁸³ of DR / SRs, seven documents styled as Sale Deeds/Development Agreements-cum-General Power of Attorney (DGPA) were registered between March 2013 and June 2015. Cross verification with the Land Revenue Department / Panchayat Raj and Rural Development / Municipal Administration and Urban Development Departments showed that the properties in these documents had already been converted into non-agricultural lands / layouts before the market values were due for revision (1 August every year for urban areas and every alternate year for rural areas). Audit observed that due to non-revision of market values, these properties continued to be wrongly classified as agricultural lands at the time of registration also. Therefore, the properties were valued at ₹ 3.26 crore instead of ₹ 13.33 crore and this resulted in undervaluation of properties and consequent short levy of duties of ₹ 12.56 lakh.

In response, the Government accepted (October 2016) the observation and assured of issuing necessary instructions to the Registering Officers for obtaining the land conversion orders from revenue authorities. It was also stated that steps would be taken to collect the differential duties.

4.4.8 Implementation of MV guidelines

Once the market values are revised, these are to be uploaded into CARD to act as the basis for valuation. APRMVG Rules prescribe the formats in which market value guidelines registers are to be maintained. The properties in residential localities are listed (ward and block wise) in Form-I of MV Guidelines Register and door numbers of commercial properties or properties with values higher than common values are listed in Form-II. Properties enlisted in Form-I and Form-II are valued on square yard basis. Agricultural lands are listed as per their classification such as dry land, wet land etc., in Form-III and as per survey number in Form-IV. Agricultural lands are valued on acreage basis. To find out the rate of a particular agricultural land, Form-IV is to be checked first. Only if the details are not available in

⁸³ DRs - Sangareddy, SRs - Bhongir, Gajwel, Madhira and Warangal Fort.

Form-IV, Form-III is to be used for arriving at market value. All Forms have been inbuilt in CARD. The concerned SRs upload the revised market values in the CARD system and after verification by the concerned DR, the revised market values have to be adopted.

As per Rule 227 of AP Registration Rules, the details of the registration check slip⁸⁴ and receipt are to be verified by the registering officer with reference to the original document to satisfy himself as to the compliance with the Act, Rules and the adequacy of stamp duty paid.

4.4.8.1 Audit observed in four documents (registered between September 2012 and August 2014) in three offices of DR/SRs⁸⁵, out of the 18 sampled offices, that the market values were incorrectly entered into the master data of CARD system. This led to incorrect adoption of market value of ₹ 40.02 lakh instead of ₹ 87.69 lakh while registering the above documents. This resulted in short levy of duties of ₹ 2.97 lakh.

4.4.8.2 In respect of urban properties in 11 documents (registered between May and December 2014) in the office of SR, Kalwakurthy, out of 18 sampled offices, house sites were valued at acreage rate, instead of square yard rate in CARD. Though all the properties were conveyed in these documents as plots and valuation carried out on square yard basis, their classification was entered as 'house sites' and valuation was incorrectly generated on acreage basis in CARD. Based on this, the properties were valued at ₹ 50.79 lakh, instead of ₹ 119.26 lakh, resulting in short levy of duties of ₹ 3.98 lakh.

Further, in three documents (registered between April and July 2014) in the office of SR, Kalwakurthy, Audit observed that the registering officer had adopted structure rates applicable to Gram Panchayat, though the properties were located in Nagar Panchayat. Therefore, the properties were valued at ₹ 10.56 crore instead of ₹ 11.40 crore. Thus, adoption of incorrect market value (structure rates) resulted in short levy of duties of ₹ 1.02 lakh.

The Registering Officer accepted the audit observation and collected ₹ 0.49 lakh. The balance amount is yet to be collected.

4.4.8.3 CARD also provides for manual entry of market value in exceptional circumstances⁸⁶. Audit observed that in 14 documents registered in five offices⁸⁷ of DRs / SRs (registered between April 2012 and November 2015), market values were incorrectly entered into the CARD system manually. Based on this, the Department adopted the market value of ₹ 192.47 crore

⁸⁴ Checkslip contains the details of the executants, claimants, nature of the document, description of the property together with its boundaries and generated through the computer.

⁸⁵ DR-LB Nagar, SRs- Gandipet and Madhira.

⁸⁶ Rule 233 of AP Rules under the Registration Act 1908 provides for registration of documents manually for (1) categories of documents not notified by the Government; (2) when the CARD system is out of order and (3) document which in the opinion of the registering officer cannot be registered under CARD.

⁸⁷ DRs - Hyderabad (South), Khammam and Ranga Reddy (West); SRs - Keesara and Kukatpally.

instead of ₹ 302.98 crore. This resulted in undervaluation of properties by ₹ 110.51 crore and consequential short levy of duties of ₹ 6.50 crore.

4.4.8.4 For properties in urban areas, CARD initially checks whether the door numbers given as inputs are available in Form-II. In case the door number is not available, Form-I values (block and ward wise general values) are adopted. Audit observed in six documents in four offices⁸⁸ (registered between May 2012 and November 2014) that though door numbers and other details were given in the recitals of documents, they were either not entered in the system while registering the documents or were incorrectly entered. Thus, the properties were valued at ₹ 13.70 crore instead of ₹ 22.77 crore, resulting in undervaluation and consequent short levy of duties of ₹ 49.10 lakh.

4.4.8.5 As per Rule 4(2) of APRMVG Rules, the MV Revision Committee is to fix composite values on square foot basis for Apartments/portion of multi-storeyed buildings. In case of finished apartments / multi-storeyed buildings, for CARD to calculate the values, the Registering Officer has to confirm in CARD that the construction was complete.

Audit observed that in four documents registered (October 2014) in the office of DR, Khammam, as per recitals of the documents, the construction of a multi-storeyed building was complete. However, the Registering Officer did not confirm the fact of completion in the CARD system. As such, the CARD system did not adopt composite values for these properties. Therefore, the CARD system generated checkslip for the market value of ₹ 1.41 crore instead of ₹ 1.88 crore resulting in short levy of duties of ₹ 2.88 lakh.

4.4.8.6 Other than errors in the master data, incorrect market values were adopted and details of the property were incorrectly entered in the system while registering the documents. In 1,080 documents test checked by Audit, as mentioned in para 4.4.7.3, in all the cases boundaries were only vaguely described and, in 329 cases, addresses were not mentioned. In the absence of complete data, Audit was not in a position to verify that applicable market rates were actually adopted.

Out of the above cases, in respect of one document registered (March 2013) in the office of DR, Hyderabad (South) Audit observed that the property was valued at ₹ 17,000 per square yard wherein the boundaries were shown as road, neighbour's land, 30 feet road, etc. Scrutiny of the map attached to the document and layout approval of GHMC had shown that the road was a leading road (Ring Road X Road to Sharada Nagar) and the market value fixed for that area was ₹ 25,000 per square yard.

However, the Registering Officer, without verifying the property details, registered the document with vague description of boundary (Road). This resulted in short collection of duties of ₹ 74.05 lakh.

⁸⁸ DRs - Hyderabad (South), Ranga Reddy (West) and Sangareddy; SR, Uppal.

On this being pointed out, the District Registrar issued notice (November 2015) to the party for payment of duties of ₹ 74.05 lakh along with penalty of ₹ 2.22 crore.

4.4.8.7 Properties also get undervalued if amenities available, parking space etc., are omitted while entering the data in CARD. According to Section 2(6) of Registration Act, immovable property includes land, buildings, rights to ways etc. CIGRS had instructed⁸⁹ that the value of open terrace be computed at 70 per cent of site value while revising the rates of structures for various types of buildings.

Audit observed in six offices⁹⁰ of DRs / SRs that in 21 documents (Sale / Development Agreement-cum-General Power of Attorney / General Power of Attorney registered between August 2012 and June 2015), the Registering Officers had accepted the value declared by the parties excluding built-up area, terrace area, parking area and area left for roads and amenities. The registering officers had failed to verify the above areas mentioned in the document. Due to this, the properties in the above documents were valued at ₹ 221.40 crore instead of ₹ 271.63 crore. Thus, undervaluation of properties resulted in short levy of duties amounting to ₹ 56.88 lakh.

4.4.8.8 As per CIGRS instructions⁹¹, when a building / structure not bearing house number or whose house number was not found in Form-II but when house numbers were mentioned in the boundaries, the maximum land rate of house numbers mentioned in the boundaries would have to be adopted. It was also clarified that when such rate could not be found with survey numbers mentioned in schedule of property, rate of Form-IV for the survey numbers mentioned in boundaries would have to be adopted. However, CARD has no inbuilt mechanism to automatically calculate higher values in such cases.

Audit observed in seven offices⁹² of DRs in respect of 11 Sale Deed / DGPA / GPA documents (registered between September 2012 and February 2015) that the Registering Officers had adopted market values ranging from ₹ 4,000 to ₹ 33,000, as declared by the parties. However, as per the above instructions, the value fixed for the bounded properties ranged from ₹ 12,000 to ₹ 60,000. Therefore, the properties in the above documents were valued at ₹ 33.49 crore instead of ₹ 58.20 crore. Thus, due to non-adherence to the instructions, the properties were undervalued and thereby duties amounting to ₹ 97.08 lakh were not levied.

In response, the Government stated (October 2016) that necessary instructions would be issued to verify and collect the differential duties.

⁸⁹ Proceedings No. MV/30324/2000 dated 2 November 2001.

⁹⁰ DRs - Hyderabad (South), LB Nagar, Ranga Reddy (West) and Sangareddy; SRs - Kukatpally and Uppal.

⁹¹ Circular No. MV1/8483/2013-2 dated 10 October 2013.

⁹² DRs - Hyderabad (South), LB Nagar, Ranga Reddy (West) and Sangareddy. SRs - Gandipet, Uppal and Warangal Fort.

4.4.9 Internal control mechanism

Internal control mechanism is important for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. It also provides a reasonable assurance on enforcement of laws, rules and departmental instructions. The internal control mechanism of the Department has not been effective as evident from the succeeding paragraphs.

4.4.9.1 Absence of alerting mechanism leading to loss of revenue

As per CIGRS instructions⁹³, the registering officer has to adopt higher value fetched earlier as market value for that particular property in all future transactions.

Audit observed, on cross verification with link documents, cases of undervaluation of properties due to non-compliance with these instructions, as discussed below:

- In four DR / SR offices⁹⁴, Audit observed that in six Sale / DGPA / Gift documents (registered between March 2014 and November 2015), the Registering Officers had not adopted higher values fetched in previous transactions (registered between September 2007 and October 2015) for the same properties. There was no mechanism available in the Department to alert the registering officer about higher values adopted earlier for the properties. Contrary to these instructions, the properties were valued at ₹ 29.87 crore instead of ₹ 59.87 crore, resulting in short levy of duties of ₹ 1.32 crore.
- It was also observed in three offices⁹⁵ of DR / SRs that in three sale deeds (registered between December 2012 and March 2015) the parties, while mortgaging their properties with financial institutions, had declared higher value for the properties mortgaged which were registered (between May 2010 and March 2015) as Deposit of Title Deeds. However, the Registering Officers did not consider this higher value declared by the parties in the subsequent sale deeds for the same properties. The Registering Officers had adopted ₹ 2.41 crore instead of ₹ 5.23 crore which resulted in short levy of duties of ₹ 17.40 lakh.

While accepting the observation, the Government stated (October 2016) that a provision would be made in CARD system to alert the registering officers about the higher value fetched in the previous documents and also necessary steps would be taken to collect the differential amount.

4.4.10 Conclusion

The Department did not adhere to the MV Guidelines Rules, 1998, on periodicity of revision of market values and did not maintain any documents for the surveys conducted and collection of inputs/requisite data to ascertain

⁹³ Circular No.MV1/20363-A/90 dated 10 August 1990.

⁹⁴ DRs- Hyderabad (South), LB Nagar and Ranga Reddy (West); SR Kukatpally.

⁹⁵ DR LB Nagar; SRs- Uppal and Warangal Fort.

the prevailing market values from time to time for use at the time of revision. The Department also did not insist upon furnishing of address and boundaries of the properties in the documents. Lack of co-ordination with other Departments like Revenue, Panchayat Raj and Rural Development, Municipal Administration and Urban Development resulted in short levy / non-levy of duties due to misclassifications and undervaluation of properties. Requisite extracts on properties registered with considerations higher than the approved market values and market value information and intelligence registers about higher values and developments, that occurred in the urban / rural areas, were not maintained and no mechanism was in place to monitor maintenance of such reports / registers. Adoption of incorrect market values, undervaluation of properties and non-adherence to instructions on valuation of properties resulted in significant short levy of duties.

4.4.11 Recommendations

Government should consider taking steps to

- ensure that the MV revision committees obtain required data from Revenue and other departments.
- derive a formal mechanism with specific procedures to be adopted for revision of market values for valuation of properties considering various developmental factors with proper documentation.
- make a provision in CARD for generation of reports that are to be considered while revising the market values like statements of documents registered with higher values and to alert the registering officers and to facilitate trend analysis during revision.
- analyse the reasons for variation between the approved market values and the price realised in open market value and initiate steps to minimise the gaps.
- make modifications in CARD to enter details like complete description of boundaries with door numbers/survey numbers for more accurate calculation of market values and also to reduce the scope for manual entries.
- ensure greater scrutiny of documents where manual entries were made to prevent wrong entries.

The Government accepted (October 2016) all the recommendations and agreed to implement the same in ensuing revisions.

4.5 Short Levy of Duties and Fees on Documents involving Agricultural Lands converted for Non-agricultural Purposes

As per Section 27 of the IS Act, the consideration, if any, the market value of the property and all other facts and circumstances affecting the levy of duty on any instrument, shall be fully and truly set forth therein. The registering officer or any other officer appointed under the Registration Act, 1908 may

inspect the related property, make necessary local enquiries, call for and examine all the connected records and satisfy that the provisions of this Section are complied with. As per Rule 7 of AP Revision of Market Value Guidelines Rules, 1998 as adapted by the Government of Telangana through an order⁹⁶ dated 28 May 2016, different values have been fixed for agricultural lands and non-agricultural lands.

During test check of records of 15 offices of Sub Registrars (SRs)⁹⁷, Audit observed (between June 2015 and January 2016) that in 31 cases involving 25 sale deeds, two general power of attorney (GPA) and four agreement-cum-GPA (AGPA) documents registered between December 2012 and February 2015, the registering officers, while registering the documents, had adopted the agricultural rate for the lands which had already been converted to non-agricultural use. Due to suppression of fact of conversion by the executants and also due to non-verification of facts by registering authorities, as provided under Section 27 *ibid*, the properties were undervalued resulting in short levy of duties and registration fee by ₹ 1.38 crore.

After Audit pointed out these cases, SR, Nizamabad (Rural) replied (June 2016) that revenue authorities did not furnish the details of conversions. DR, Mahabubnagar in respect of the observation relating to SR Wanaparthy, replied (August 2016) that the deficit occurred due to suppression of facts and notices would be issued for collection. About the case of SR, Narayanpet, the DR replied (August 2016) that the conversion proceedings were not communicated to the SR before registration of documents. SR, Karimnagar (Rural) replied (November 2015) that there were no instructions for cross verification of the conversion orders, if any, issued in respect of the agricultural lands being registered.

The replies were not acceptable as there were instructions⁹⁸ of the CIGRS to all DRs and SRs to collect copies of conversion orders from revenue authorities. The remaining officers replied (between June 2015 and January 2016) that the matter would be examined and replies sent in due course.

The matter was referred to the Department in June and October 2016 and to the Government in October 2016; replies have not been received (December 2016).

4.6 Short Levy of Duties and Fees due to Undervaluation of Properties

Under Section 3 of the IS Act, read with Articles 6 (B) and 47-A of Schedule 1-A to the IS Act, instruments of sale and AGPA are chargeable to stamp duty on the market value of the property or consideration, whichever is higher.

⁹⁶ G.O.Ms.No. 96, Revenue (Registration-I) Department, dated 28 May 2016.

⁹⁷ Atmakur, Bhainsa, Cherial, Kalluru, Karimnagar (Rural), Mancherial, Narayanpet, Narsapur, Nirmal, Nizamabad (Rural), Siddipet (Rural), Suryapet, Tandur, Wanaparthy and Zaheerabad.

⁹⁸ MV1/8794/2011 dated 10 June 2011.

Transfer duty⁹⁹ is also to be levied on sale deeds besides registration fees. Instruments of Gift under Article 29 and GPA, given in favour of other than family members under Article 42 (g) of the Schedule, are chargeable to stamp duty on the market value of the property besides registration fee.

During scrutiny of records of office of two DRs¹⁰⁰ and nine SRs¹⁰¹, Audit observed (between May 2015 and January 2016) that in 21 documents involving 16 sale deeds, 2 AGPA, 2 GPA deeds and 1 gift deed registered between May 2013 and March 2015, the registering authorities valued the properties at ₹ 14.60 crore instead of ₹ 29.63 crore in contravention of the market value guidelines and instructions issued by the CIGRS. Thus, the properties were undervalued resulting in short levy of duties and fees amounting to ₹ 70.92 lakh as detailed in Annexure I.

After Audit pointed out these cases, DR, Hyderabad replied (December 2015) that notice would be issued for collection of differential stamp duty. DR, Ranga Reddy (in respect of SR Vallabh Nagar) replied (September 2015), that as per the provisions of Section 3 (C) of the AP Apartments (Promotion of Construction and Ownership) Act, 1987¹⁰², composite values could not be applied to the cases pointed out in audit as the building consisted of ground plus three floors. The reply was not acceptable in view of CIGRS's instructions¹⁰³ that composite values were to be applied for multi-storeyed buildings or apartments whose stage of construction was complete. Further, Section 3 (C) of AP Apartments Act, 1987, defines 'building' as containing five or more apartments and the properties in the instant case consisted of ground plus three floors with six independent units (apartments) whose construction was complete. The remaining officers replied (between May 2015 and January 2016) that the matter would be examined and replies sent in due course.

The matter was referred to the Department between April and October 2016 and to the Government in October 2016; replies have not been received (December 2016).

4.7 Loss of Revenue due to Short Declaration of value of improvements in Lease Deed

Section 27 of the IS Act requires that all facts and circumstances affecting the chargeability of any instrument with duty shall be fully and truly set forth therein. The registering officer may examine all the connected records and satisfy himself / herself that the provisions of this Section are complied with. According to Article 31(a)(v) of Schedule I-A to IS Act, where the lease purports to be for a term exceeding 20 years but not exceeding 30 years, stamp

⁹⁹ Transfer duty is leviable in respect of transfer of immovable property situated in the jurisdiction of local bodies.

¹⁰⁰ Hyderabad and Nizamabad.

¹⁰¹ Achampet, Bheemgal, Choutuppal, Golconda, Miryalaguda, Shamirpet, Vallabh Nagar, Yadagirigutta and Yellareddy.

¹⁰² Adapted by the Government of Telangana through G.O.Ms.No. 45, Law (F), dated 1 June 2016.

¹⁰³ No. MV1/8483/2013-2 dated 10 October 2013.

duty is to be levied at 0.8 *per cent* on the total rent payable on such lease. Further, under Article 31(d) of the Schedule, where the lessee undertakes to effect improvements in the leased property and agrees to transfer the same to the lessor at the time of termination of lease, stamp duty is to be levied at five *per cent* on the value of the improvements contemplated to be made by the lessee, as set forth in the deed, in addition to the duty chargeable under other clauses of Article 31.

During scrutiny of records of office of SR, Uppal, Audit observed (November 2014) in respect of a lease deed registered in July 2013 that land measuring 2 acres 29 guntas¹⁰⁴ was leased to a partnership firm for construction of a building for standalone hypermarket store / shopping mall or allied businesses, on Build, Operate and Transfer (BOT) basis for a period of 21 years with an undertaking that the lessee should handover the structures constructed by him to the lessor after the lease period.

Audit observed from the Municipal permission dated 31 May 2013 relating to the above leased property that the permitted built-up area of the building was 10,763.43 sqm (1,15,856 sqft) with a parking area of 5015.36 sqm (53,984 sqft). According to the construction rates communicated by CIGRS¹⁰⁵ for assessing the cost of construction of buildings, the estimated value of the proposed construction of structures on the leased area worked out to ₹ 10.81 crore. However, the lessee had declared the estimated value of structures as ₹ 25 lakh in the document. It was thus, evident that the proposed structures in the leased area were not truly set forth in the document which resulted in undervaluation of improvements leading to loss of revenue of ₹ 52.74 lakh to the Government.

After Audit pointed out the case, the SR replied (December 2014) that the matter would be examined and reply sent in due course.

The matter was referred to the Department and to the Government in October 2016; replies have not been received (December 2016).

4.8 Short Levy of Stamp Duty on Documents of Development Agreement-cum-General Power of Attorney

According to Article 6(B) of Schedule I-A to IS Act read with Government Orders¹⁰⁶, documents of Development Agreement-cum-General Power of Attorney (DGPA) are chargeable to stamp duty at one *per cent* on the market value or the estimated value of the proposed development made or to be made, whichever is higher. CIGRS had clarified¹⁰⁷ that registering officers should invariably obtain copy of the sanctioned plan or proposed plan of the buildings from the parties and levy stamp duty only on the actual proposed built-up area

¹⁰⁴ 40 guntas make one acre.

¹⁰⁵ Procs.No.MV6/12658/2012, dated 2 February 2013.

¹⁰⁶ G.O.Ms.No.1481 Revenue (Regn-I) Department, dated 30 November 2007.

G.O.Ms.No.581 Revenue (Regn-I) Department, dated 30 November 2013.

¹⁰⁷ Memo.No.LAR-1/10094/2012 dated 25 October 2012.

as evidenced by the building plan and not on the basis of recitals of the document.

During scrutiny of records in three offices of SRs¹⁰⁸, conducted (between May and September 2015), Audit observed that in four documents of DGPA / supplementary DGPAs registered between June 2013 and January 2015, the registering authorities, instead of considering the built-up area of 2,88,102 sqft shown in the approved building plans, had adopted 1,62,290 sqft as mentioned in documents in two cases. In two other cases, the registering authorities had adopted the built up area of 2,10,259 sqft against 3,96,162 sqft worked out as per the recitals of the documents. Consequently, the properties proposed for development were undervalued which resulted in short levy of stamp duty of ₹ 20.43 lakh.

After Audit pointed out these cases, the registering officers replied (between June and September 2015) that matter would be examined and detailed reply submitted in due course.

The matter was referred to the Department in April and May 2016 and to the Government in October 2016; replies have not been received (December 2016).

4.9 Short levy of Duties and Fees due to Misclassification of Documents

Schedule I-A to the IS Act provides for the rates of stamp duty to be adopted based on classification of documents. The CIGRS had issued instructions¹⁰⁹ that the SR should thoroughly verify the recitals of the document presented for registration so as to arrive at the correct classification of the document.

During scrutiny of records of offices of three SRs¹¹⁰ (May and October 2015), Audit observed from the recitals of four documents registered between September 2013 and September 2014 that the documents were misclassified leading to short levy of duties and fees amounting to ₹ 18.88 lakh as detailed in Annexure II.

After Audit pointed out these cases, DR, Ranga Reddy replied (August 2015) in the case of SR, Saroornagar that the document was only a Development Agreement and not DGPA as mere permission given to the developer to enter into the property could not be held as DGPA. The reply was not acceptable as the document contained GPA features, such as, authorising the developer to execute applications and the plans etc., approved on behalf of the land owner for development of the property and to sell flats of developer's share. The remaining officers replied (between June and October 2015) that the matter would be examined and replies sent in due course.

¹⁰⁸ Kukatpally, Kapra and Serilingampally.

¹⁰⁹ Memo No: FR1/IA/4946/94 Dated 16 October 2000.

¹¹⁰ SRs - Miryalaguda, Saroornagar and Shamirpet.

The matter was referred to the Department in May 2016 and to the Government in October 2016; replies have not been received (December 2016).

4.10 Short Levy of Stamp Duty and Registration Fee on Lease Deeds

According to Article 31 of Schedule I-A to the IS Act, the rates of stamp duty on lease deeds are to be decided on the basis of lease periods and lease rentals. Further, as per Explanation to the Article *ibid*, if the lessee undertakes to pay any recurring charge on behalf of the lessor including taxes / fees due to the Government, it shall be part of the rent and duties levied accordingly. Besides stamp duty, registration fee is also to be levied at the rates applicable on the value of Average Annual Rent (AAR) according to the provisions of Registration Act, 1908.

During scrutiny of records of DR, Warangal and three offices of SRs¹¹¹, Audit observed (between May and September 2015) that specific clauses stipulating payment of service tax by the lessees on behalf of lessors were included in four lease deeds registered between November 2012 and January 2015. The registering authorities did not take into account the service tax component of ₹ 7.04 crore agreed to be paid by the lessees for arriving at the total lease rent, which resulted in short levy of stamp duty and registration fee of ₹ 5.57 lakh. In another case, where the lease deed was registered (November 2012) for a period of 33 years, the registering authority levied stamp duty at 0.8 *per cent* on total rent, instead of the prescribed rate of five *per cent* on market value of the property. Further, registration fee was also levied at 0.5 *per cent* of Average Annual Rent (AAR), instead of 0.5 *per cent* on 10 times of AAR, resulting in short levy of stamp duty and registration fee amounting to ₹ 1.22 lakh.

After Audit pointed out the cases, DR, Ranga Reddy (East) in respect of observation in SR, Saroornagar replied (August 2015) that the differential stamp duty would be collected. District Registrar, Warangal replied (December 2015) that there was no such provision to collect service tax on lease deeds. The reply of DR, Warangal was not relevant as the audit observation is regarding non-consideration of service tax element, agreed to be paid by the lessee, for computing total rent on which stamp duty is payable. SR, Banswada replied (September 2015) that the matter would be examined. SR Kukatpally replied (July 2016) that an amount of ₹ 1.46 lakh was collected out of ₹ 2.98 lakh.

The matter was referred to the Department in May 2016 and to the Government in October 2016; replies have not been received (December 2016).

¹¹¹ Banswada, Kukatpally and Saroornagar.

4.11 Non-registration of Compulsorily Registrable Documents

As per Section 17 of the Registration Act 1908, agreements of sale of immovable property and partition deeds are to be compulsorily registered. Non-registration of these documents entails in loss of revenue to the Government.

During scrutiny of records of offices of two DRs¹¹² and SR, Bhainsa, (between June and December 2015), Audit observed from the recitals of three sale deeds that the vendors and vendees had already entered into agreements of sale (without possession) which were not registered. Further, a scrutiny of two other AGPA documents registered in May 2012 showed that the vendor got the ownership of the property through a family partition deed executed in September 2002, which was also not registered. The registering authorities, however, ignored the provisions of Section 17 of Registration Act in respect of the above unregistered deeds, which resulted in loss of stamp duty and registration fee of ₹ 6.15 lakh.

After Audit pointed out these cases, the registering authorities replied (between June 2015 and January 2016) that the matter would be examined and reply sent in due course.

The matter was referred to the Department and to the Government in October 2016; replies have not been received (December 2016).

¹¹² DRs - Hyderabad and Hyderabad (South).