

CHAPTER – III: UNION TERRITORIES (REVENUE SECTOR)

Union Territory of Dadra and Nagar Haveli

3.1 Short-levy of stamp duty on Development Agreements

Failure of the Sub-Registrar, Silvassa, to levy stamp duty on the basis of consideration amount with respect to Development Agreements led to short levy of stamp duty. An amount of ₹ 29.03 lakh was subsequently recovered in 12 cases at the instance of Audit.

In terms of the Indian Stamp Act, 1899, stamp duty is payable on conveyance agreements relating to sale and transfer of properties based on the sale consideration. The stamp duty payable on sale consideration of properties as fixed by the UT Administration in April 2011 was one *per cent* for tribal to tribal sale and two *per cent* in the case of all other sales. For safeguarding government revenue, the UT Administration also fixes circle rates for the purpose of charging stamp duty on transfer of properties.

Test check of 500 documents out of a total of 22,123 documents registered during the period from 2011-12 to 2015-16 in the Office of the Sub-Registrar (SR) Dadra and Nagar Haveli, Silvassa, revealed that nine Development Agreements were registered between land owners and developers for transferring development rights on stamp paper of only ₹ 100. In four of these cases, the developers had agreed to pay ₹ 6.88 crore as consideration to the land owners. In the remaining five cases, the consideration amount was not clearly¹ mentioned. Since ownership of land had been transferred through Development Agreements, these were to be treated as conveyance agreements attracting stamp duty at the rate of two *per cent* on the consideration value.

Consequent to the audit observation, the SR Silvassa issued notices to the Developers (June 2017) in all the nine cases and recovered an amount of ₹ 19.90 lakh (August 2017). In five cases, stamp duty was collected as per circle rates and in the other four cases it was collected based on declared value. The SR Silvassa assured that this position would be reviewed once construction permission is accorded and differential stamp duty, if any, would be collected based on the area for which developmental rights is transferred.

¹ In such cases, stamp duty may be collected on the value of property fixed based on Circle Rate fixed by the UT Administration.

Audit noted that though a computerised system for recording all registration documents was in place since August 2011, the same did not provide for Development Agreements as a distinct category of documents. Hence, the system could not segregate Development Agreements from amongst the 22,123 documents registered during the period from 2011-12 to 2015-16 for the purpose of estimating and collecting short levied stamp duty. The SR Silvassa had to therefore manually identify all Development Agreements registered during 2011-12 to 2015-16 and calculate short-levy of stamp duty and collect the same.

SR Silvassa stated (August 2017) that there was no possibility of creating a separate category of Development Agreements in the existing software. Further, it was difficult to demand stamp duty at the time of registration of Development Agreements and that stamp duty can only be estimated and demanded when developers register the constructed buildings. It added that an additional amount of stamp duty of ₹ 9.13 lakh has been recovered in the case of three more Development Agreements.

Audit observed that the Department of Revenue should have interacted with NIC to ensure that changes are made in the software which captures all the different types of instruments. This is necessary to ensure that stamp duty is correctly estimated and collected and not evaded on account of ambiguous classification of instruments. It should also have undertaken a manual check of documents registered to identify all cases of Development Agreements where stamp duty had been short collected.

Thus, failure of the Sub-Registrar, Silvassa to levy stamp duty on the basis of consideration amount with respect to Development Agreements led to short levy of stamp duty. Further, as the cases of short levy of stamp duty were identified only from amongst a small sample of registered documents, the chances of more cases being in existence cannot be ruled out as the computerised system in use was not able to segregate the Development Agreements registered.

The paragraph was issued to the Ministry in June 2017; its reply was awaited (December 2017).