

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 102 units relating to Stamp Duty and Registration Fee during 2016-17 brought out irregularities involving ₹ 25.60 crore in 2,355 cases, which broadly fall under the following categories as depicted below.

Table 4.1: Result 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.	499	15.21
2.	Non-levy of Stamp Duty on Power of Attorney/Mortgage deeds/Transfer deeds and Lease deeds.	144	4.21
3.	Irregular exemption of Stamp Duty and Registration Fee.	71	2.81
4.	Non levy of Social Infrastructure Cess (SIC)/Social Security Fund (SSF)	323	2.56
5.	Other irregularities	1,318	0.81
	Total	2,355	25.60

In 2016-17, the Department accepted non/short levy of stamp duty and registration fee and other deficiencies of ₹ 7.19 crore in 4,526 cases out of which ₹ 1.30 lakh involved in 16 cases were pointed out in 2016-17 and rest in the earlier years. The Department further informed in 2016-17 that they had recovered ₹ 7.18 crore in 4,510 cases pertaining to the earlier years.

A few illustrative cases involving ₹ 9.03 crore are discussed in the succeeding paragraphs:

4.3 Misappropriation of Government money

Non-observance of codal provision resulted in misappropriation of Government money of ₹0.30 lakh.

Rule 2.2 of the Punjab Financial Rules, 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. The head of the office should verify the totaling of the cash book or have this done by some responsible subordinate other than the writer of the cash book and initial it as correct. Further, Rule 2.4 provides that the amount received should be deposited in treasury on the same day or the next day.

Scrutiny of records of SR Mansa for the period 2015-16 revealed that copying/pasting/registration fees amounting to ₹ 1.65 lakh were received and entered in cash book on 11 May 2015. However, the amounts were totalled as ₹ 1.35 lakh which was deposited in treasury on 12 May 2015. The wrong totalling of receipts resulted in misappropriation of Government money of ₹ 0.30 lakh.

SR Mansa replied (May 2017) that the authority had not yet decided from whom the recovery was to be made. The matter was reported to the Government/Department (May 2017); their replies were awaited.

4.4 Non levy of Additional Stamp Duty for Social Security Fund

Failure to comply with the Government instructions resulted in non-levy of additional stamp duty for Social Security Fund amounting to ₹10.56 lakh.

The Government of Punjab levied (February 2005) additional stamp duty in the name of Social Security Fund (SSF) at the rate of three *per cent* 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 or Corporation or within the area of five kilometers from the outer limit of Class-I Municipality or Corporation, as may be specified by the Collector.

Scrutiny of records of Joint Sub Registrar Balianwali (Bathinda) for the period 2015-16 revealed that a sale deed was executed and registered for ₹ 3.52 crore without charging additional stamp duty even when the property was situated within the limits of the Municipality. Failure to comply with the Government instructions resulted in non-levy of additional stamp duty for SSF of ₹ 10.56 lakh.

The matter was reported to the Government/Department (February 2017); their replies were awaited.

4.5 Villages for the purpose of levying Additional Stamp Duty not specified

The Collector did not specify the names of the villages for the purpose of levy of Additional Stamp Duty (ASD) after extension of boundaries of Phagwara Corporation due to which the Department could not charge ASD of ₹28.87 lakh.

As per Section 3(C) of IS Act, ASD 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 or Corporation or within the area of five kilometers from the outer limit of Class-I Municipality or Corporation as may be specified by the Collector. Further, the Government of Punjab had clarified (May 2005) that ASD was not exempt even in cases where SD had been remitted.

Scrutiny of records of Sub Registrar Phagwara for the period 2015-16 revealed that the Department of Local Government, Punjab, upgraded Phagwara Municipality as Corporation and extended (October 2012) its boundaries. Consequent upon this, the Collector did not specify villages falling within the arc of five kilometers of outer limit of extended boundaries for the purpose of levy of ASD even after the lapse of 53 months (up to March 2017) due to which the SR could not charge ASD of ₹ 28.87 lakh in two cases.

The matter was reported to the Government/Department (February 2017). SR Phagwara recovered (June 2017) ₹ 19.34 lakh in one case and sent the other case to Collector under Section 48 of IS Act for recovery of amount as arrear of land revenue.

4.6 Short levy of SD and RF due to misclassification of property

19 SRs/JSRs short levied Stamp Duty and Registration Fee of ₹7.71 crore in 57 cases due to misclassification of properties.

Punjab Government empowered¹ (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.

Scrutiny of records of 19² SRs/JSRs for the period 2014-16 revealed that 57 instruments of transfer of properties were registered at the value of

¹ GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.

² Amritsar-I, Barnala, Bathinda, Bhikhiwind, Ferozepur, Jagraon, Jalandhar-II, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Malerkotla, Mullanpur Dakhan, Nakodar, Patti, Phagwara, Rajpura, Sangrur, Talwandi Sabo and Zira.

₹ 27.83 crore set forth in these instruments whereas the properties were required to be evaluated for ₹ 114.27 crore. These instruments were registered after applying lower rates whereas higher rates were applicable as these properties were either residential/commercial as per Jamabandi/khasra girdawari or situated in particular locality for which higher rates as fixed by the respective Collectors were applicable. The misclassification of properties resulted in short levy of SD and RF of ₹ 7.71 crore.

The matter was reported to the Government/Department (between March and June 2017). SR Amritsar-I, Bathinda, Jalandhar-II and Malerkotla replied that the cases had been referred to Collector under Section 47-A of Indian Stamp Act. SR Rajpura intimated (September 2017) that full recovery of ₹ 14.79 lakh has been made. Replies in other cases were awaited.

4.7 Inadmissible remission of stamp duty and registration fee

Failure of SR in not exercising delegated authority in compliance with the Government instructions resulted in inadmissible remission of SD and RF of ₹ 15.92 lakh.

The Government of Punjab remitted (February, 1981) stamp duty (SD) and registration fee (RF) chargeable on instruments of conveyance by sale or gift in favour of charitable institutions for charitable purposes. In order to decide whether an institution is a charitable institution within the meaning of Charitable Endowment Act 1890, the Government empowered (May 2010) the Deputy Commissioners (DCs) to decide the same and instructed that prior approval from the concerned DCs in this regard should be obtained before registering an instrument for charitable purposes. Subsequently, the Government observed (August 2014) that SRs/JSRs, instead of obtaining prior approval from DCs, had developed the practice of first registering the instruments without levying stamp duty and registration fee and then sending the same to DC under Section 47-A of Indian Stamp Act 1947 to decide whether the institution was charitable. The Government disapproved this practice and delegated (August 2014) the power to decide the same by passing a specific order before registering the deeds to the SRs/JSRs. The instruction stipulated that the applicant would submit documentary evidence to establish the eligibility of the institution to be classified as charitable as per the criteria stipulated in the instruction *ibid* and the SR/JSR will record specific order as to on which grounds the exemption has been granted.

Scrutiny of the records of SR Batala for the year 2015-16 revealed that the SR registered two instruments of transfer of immovable property in favour of an institution without charging any SD even though he was apparently satisfied that the institution did not fulfill the criteria for remission of SD. Thereafter, within just two days of registration without levy of SD, the SR sent (March 2016) the case to DC Gurdaspur under Section 47-A stating that the

executors of deeds did not return the original deeds which were taken by them on the pretext of checking them. The action of the SR defeated the purpose and objective of the Government instructions as he was required to decide the case himself and register the instrument only after charging proper stamp duty and registration fee. The action of the SR in not levying SD on an institution which he had considered as a non charitable institution resulted in inadmissible remission of stamp duty and registration fee of ₹ 15.92 lakh.

The matter was brought to the notice of the Department and the Government (May 2017); their replies were awaited.

4.8 Inadmissible remission of additional stamp duty and SIC

In 28 instruments, 21 SRs/JSRs allowed inadmissible remission of additional stamp duty for SSF and SIC of ₹ 76.43 lakh despite having clarification of Government on the contrary.

The Government of Punjab levied additional stamp duty for Social Security Fund (SSF) (February 2005) at the rate of three *per cent* and Social Infrastructure Cess (SIC) (February 2013) at the rate of one *per cent* on every instrument mentioned in entry 23 of Schedule 1-A. SSF is leviable if the instrument is 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. Further, the Government while issuing clarification regarding levy of SSF clarified (May 2005) that where remission from payment of stamp duty has been given from time to time under provision of Indian Stamp Act, such remission is for stamp duty only.

Scrutiny of the records of 21 SRs/JSRs³ for the year 2014-15 and 2015-16 revealed that 28 instruments for transfer of property were registered in the names of charitable institutions/trusts where stamp duty was exempted, without levying additional stamp duty of ₹ 42.72 lakh and SIC of ₹ 33.72 lakh in contravention of the provision and clarification *ibid*. This resulted in short realisation of additional stamp duty and SIC of ₹ 76.43 lakh.

The matter was brought to the notice of the Government/Department (between February and June 2017); SR Banga intimated (May 2017) recovery of ₹ 6.03 lakh in one case. SR Bathinda replied that SSF was not applicable in two cases. The reply was not tenable as the villages were within the five kilometers of the boundary of the Municipal Corporation. Replies in the remaining cases were awaited.

³ Ajnala, Amargarh, Baba Bakala, Banga, Bathinda, Chamkaur Sahib, Dirba, Ferozepur, Garhshankar, Gidderbaha, Hoshiarpur, Jagraon, Kharar, Ludhiana (East), Mansa, Moga, Mukerian, Mullanpur Dakhan, Noormahal, Pathankot and Sangrur.