

Chapter - IV

Stamp Duty

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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 Registrars exercise 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.

The value of property mentioned in the sale deed or the minimum market rate prescribed by the Collector, whichever is higher, is considered for levy of Stamp Duty and Registration Fee on transfer of properties. Following taxes/fees/cess are leviable at the time of executing an instrument:

- Stamp duty at the rate of five *per cent*;
- Additional Stamp Duty for Social Security Fund (SSF) at the rate of three *per cent* for transfer of properties situated within a Municipality/Corporation / within an area of five kilometers from the outer limit of a Municipality/Corporation;
- Social Infrastructure Cess (SIC) at the rate of one *per cent*;
- Registration Fee (RF) is at the rate of one *per cent* subject to maximum of ₹ 2 lakh and;
- Infrastructure Development Fee (IDF) at the rate of one *per cent*.

4.2 Results of audit

Out of 178 auditable units in the Department, audit test checked 114 units during the year 2018-19. Test check of 26,450 instruments out of the total 3,62,486 instruments, registered in these units, showed non/short levy of stamp duty and other irregularities of ₹ 24.51 crore in 1,665 cases. Audit of “Levy and collection of Stamp Duty and Registration Fee on Lease Deeds” was also conducted which brought out irregularities involving ₹ 59.83 crore in 1,964 cases. The results of audit involving ₹ 84.34 crore in 3,629 cases (3.95 *per cent* of receipt of ₹ 2,135.13 crore under stamp duty for the year 2017-18, audited in 2018-19) are as given in the following **Table 4.1**:

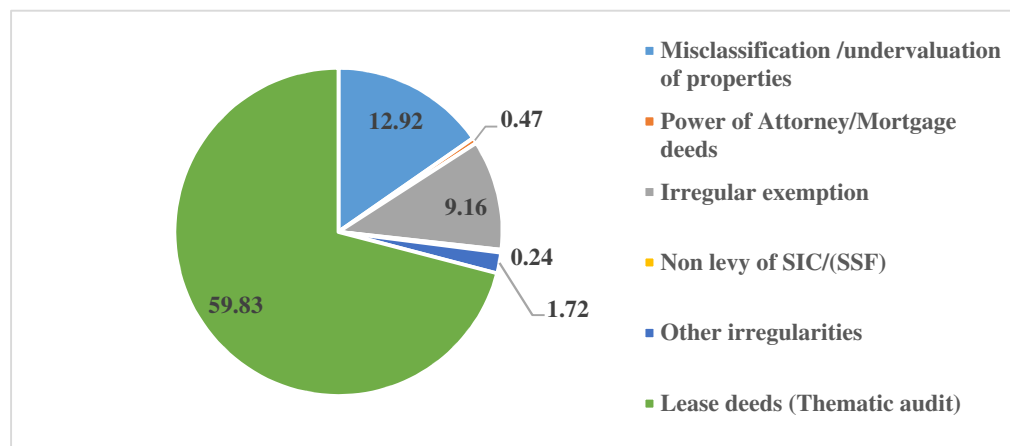
Table 4.1

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1	Non/short levy of stamp duty and registration fee due to misclassification/undervaluation of properties.	633	12.92
2	Non-levy of Stamp Duty on Power of Attorney/Mortgage deeds.	52	0.47
3	Irregular exemption of Stamp Duty and Registration Fee.	255	9.16
4	Non levy of Social Infrastructure Cess (SIC)/Social Security Fund (SSF)	275	0.24
5	Other irregularities	450	1.72
6	Levy and Collection of stamp duty and registration fee on lease deeds	1,964	59.83
Total		3,629	84.34

Category-wise audit findings noticed in audit under stamp duty, are depicted in Chart 4.1.

Chart-4.1

(₹ in crore)



Audit had pointed out similar omissions in the earlier years also, and these irregularities persisted during 2018-19 as well. The Department recovered ₹ 8.05 crore in 2,483 cases during 2018-19, of which ₹ 0.06 lakh in two cases were pointed out during 2018-19 and rest in earlier years.

Significant cases (five) having a financial implication of ₹ 63.35 crore are discussed in the following Paragraphs 4.3 to 4.7.

4.3 Short-levy of Stamp Duty on Power of Attorney

JSR Zirakpur short levied SD of ₹ 10.59 lakh on two Power of Attorneys giving right to person other than family member to sell immovable property.

The Punjab Government amended (December 2013) Entry 48 of Schedule I-A of the Indian Stamp Act, 1899 as applicable to Punjab and levied Stamp Duty at the rate of two *per cent* on Power of Attorney when given to a person other than family member, authorizing the attorney to sell any immovable property.

Scrutiny of deeds (May 2018), registered during 2014-15 under JSR Zirakpur, showed that two Power of Attorneys (PoAs) were executed, by levying SD of ₹ 1,000 only (₹ 500 each), to give right to person other than family member to sell immovable property whereas SD of ₹ 10.60 lakh¹ was required to be levied at the rate of two *per cent* on the value of the property of ₹ 5.30 crore. The omission resulted in short levy of SD of ₹ 10.59 lakh.

On this being pointed out, JSR Zirakpur sent the cases to the Collector, for decision under Section 47-A and replied (December 2019) that these cases have been decided by the Collector SAS Nagar wherein order for recovery of ₹ 10.59 lakh has been issued along with 12 *per cent* interest till recovery.

The matter was reported to the Department/Government (November 2018 and April 2020); their replies were awaited (December 2020).

The Government may direct the Department to recover SD of ₹ 10.59 lakh which was short levied in the case referred to in this para.

4.4 Non-application of applicable market rates

Sub-Registrar Bathinda short levied SD, RF and Infrastructure Development (ID) Fee of ₹ 12.69 lakh in a case, due to non-application of minimum market rate fixed by the Collector.

Entry 23 of Schedule I-A (for Punjab) of Indian Stamp Act, 1899, read with Rule 3-A of the Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983 provides that amount of consideration mentioned in the instrument of transfer of property or minimum market value prescribed by the Collector, whichever is higher, is considered for levy of duty and fee on transfer of properties.

Scrutiny of records of SR Bathinda for the year 2017-18 revealed that a sale deed which was executed in compliance of the decree of Civil Court given in respect of suit for specific performance of agreement to sell, was registered by levying SD, RF and ID Fee on the lower value of consideration set forth in the sale deed instead of minimum market value fixed by the Collector. The agreement to sell was entered into during 2005, whereas the sale deed was executed and registered during 2017-18. The deed was registered by levying SD of ₹ 0.42 lakh at the rate of seven *per cent*, RF of ₹ 0.06 lakh and ID Fee of ₹ 0.06 lakh at the rate of one *per cent* each on the value of ₹ 6.00 lakh as set forth in these documents which was the value as per agreement to sell. However,

¹ Two *per cent* of ₹ 5.30 crore.

SD of ₹ 10.29 lakh, RF of ₹ 1.47 lakh and ID Fee of ₹ 1.47 lakh were required to be levied on ₹ 1.47 crore, worked out on the basis of minimum market rate fixed by the Collector for the period in which the instrument was executed. The omission resulted in short levy of SD and RF of ₹ 12.69 lakh².

The matter was reported to the Government/Department in September 2018 and April 2020; their replies were awaited (December 2020).

The Government may direct the Department to recover SD, RF and ID Fee of ₹ 12.69 lakh which was short levied in the case.

4.5 Inadmissible remission of additional stamp duty, Social Infrastructure Cess and Infrastructure Development Fee

Nineteen SRs/JSRs allowed inadmissible remission of additional stamp duty, SIC and ID fee of ₹ 1.92 crore in 99 cases where instruments were executed a) in favour of Charitable Institutions, b) for purchase of land by owner whose land was acquired for public purpose and c) on instruments executed in favour of persons for purchase/lease of land for setting up a project duly approved by the Punjab Energy Development Authority (PEDA) under the New and Renewable Sources of Energy Policy, 2012.

The Government of Punjab remitted (February 1981 and June 2008) stamp duty and registration fee chargeable on the instruments of conveyance executed (a) in favour of charitable institutions (b) for the purchase of land in the State of Punjab by the owner whose land has been acquired for public purpose and (c) any person for purchase/lease of land for setting up a project duly approved by the Punjab Energy Development Authority (PEDA) under New and Renewable Sources of Energy Policy, 2012. The Government of Punjab levied additional stamp duty for Social Security Fund (SSF) (February 2005³) at the rate of three *per cent*, Social Infrastructure Cess (SIC) (February 2013) and Infrastructure Development Fee (June 2015) at the rate of one *per cent* on every instrument mentioned in entry 23 of Schedule 1-A. Further, the Government, while issuing clarification regarding levy of SSF, stated (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 records (between November 2016 and January 2019) of 19⁴ SRs/JSRs for the period from 2014-15 to 2017-18 showed that the SRs/JSRs remitted additional stamp duty, SIC and ID fee of ₹ 1.92 crore in 99 cases besides remission of stamp duty and registration fee as detailed below:

a) Charitable Institutions

In 19⁵ SRs/JSRs, 22 instruments for transfer of property were registered treating those to be transfers of properties in favour of 10 charitable institutions for charitable purposes and remission of Stamp Duty and Registration Fee was

² SD ₹ 9.87 lakh (₹ 10.29 lakh – ₹ 0.42 lakh) + RF ₹ 1.41 lakh (₹ 1.47 lakh – ₹ 0.06 lakh) + ID Fee ₹ 1.41 lakh (₹ 1.47 lakh – ₹ 0.06 lakh).

³ The Government waived levy of additional stamp duty for SSF from 28 August 2017 till further orders.

⁴ Anandpur Sahib, Attari, Bagha Purana, Barnala, Bathinda, Bhikhi, Harike, Jalandhar-I, Lambi, Ludhiana (West), Mansa, Mullanpur Dakhan, Nathana, Patti, Phillaur, Talwandi Bhai, Talwandi Sabo, Zira and Zirakpur.

⁵ Anandpur Sahib, Attari, Barnala, Bathinda, Jalandhar-I, Lambi, Mullanpur Dakhan, Nathan, Phillaur and Zirakpur.

allowed. However, additional stamp duty of ₹ 1.03 crore and SIC of ₹ 0.35 crore were also remitted in addition to remission of Stamp Duty and Registration Fee, which was in contravention of the clarification mentioned, *ibid*. The inadmissible remission resulted in non-realisation of additional stamp duty for SSF and SIC of ₹ 1.38 crore.

b) In cases where land of the purchaser was acquired for public purpose

In nine⁶ SRs/JSRs, 54 instruments were registered for transfer of property in the name of persons whose land had been acquired for public purposes and remission of Stamp Duty and Registration Fee was allowed. However, additional stamp duty of ₹ 0.12 crore, SIC of ₹ 0.22 crore and ID Fee of ₹ 0.09 crore were also remitted in addition to remission of Stamp Duty and Registration Fee, which was in contravention of the clarification mentioned, *ibid*. The inadmissible remission resulted in non-realisation of ₹ 0.43 crore.

SR Zira stated (December 2019) that IDF was not charged as the instruments were registered in accordance with Land Acquisition Act. The reply of the SR is not tenable as the notification (June 2008), *ibid*, provided for exemption from stamp duty only.

c) Inadmissible remission of SIC to solar power projects

Scrutiny of the records of Sub Registrar Talwandi Sabo for the year 2014-15 showed that in 23 instruments, SR allowed remission of SIC along with Stamp Duty. The instruments were executed for transfer of property in favour of persons who were to set up solar power projects approved by the PEDDA. Hence, remission of stamp duty was in order. However, remission of SIC was in contravention of the clarification mentioned, *ibid*, which resulted in non-realization of ₹ 10.57 lakh.

The matter was reported to the Government/Department between June 2018 and April 2020; their replies were awaited (December 2020).

The Government may like to fix responsibility in the matter for irregularity allowed and initiate action to recover the amount due.

4.6 Short levy of Stamp Duty and Registration Fee due to misclassification of property

Four SRs short levied Stamp Duty, Registration Fee and Infrastructure Development Cess of ₹ 1.36 crore in seven cases, due to application of lower rates than were applicable as per the Collector rate or status of properties at the time of registration.

Rule 3-A of the Punjab Stamp (Dealing of Undervalued Instruments) (First Amendment) Rules⁷, 2002 provides that the Collector of a district shall, in consultation with Committee of experts as defined there under, fix the minimum market value of land/properties, located in the district, locality wise and category wise for the purpose of levy of SD and RF on the instruments of transfer of properties.

⁶ Bagha Purana, Bhikhi, Harike, Nathana, Talwandi Bhai, Ludhiana (West), Mansa, Patti and Zira.

⁷ Notified vide GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.

Scrutiny of records of four⁸ Sub-Registrars/Joint Sub-Registrars, revealed that seven sale deeds were registered during the period 2016-17 at the value of ₹ 3.50 crore set forth in these instruments, whereas the properties were required to be valued at ₹ 16.04 crore, as these were either situated in particular locality or status of the properties was residential/commercial/industrial at the time of registration of document, for which higher rates as fixed by the respective Collectors were applicable. The difference in valuation of the properties on account of misclassification was ₹ 12.54 crore, which resulted in short levy of SD, RF and ID Fee of ₹ 1.36 crore⁹.

The matter was reported to the Government/Department in May 2018 and April 2020; their replies were awaited (December 2020).

The Government may direct the Department to recover SD and RF of ₹ 1.36 crore in seven cases referred to in this para.

4.7 Levy and Collection of Stamp Duty and Registration Fee on Lease Deeds

The Indian Stamp Act empowers all public officers to impound the instruments, chargeable with duty but not duly stamped, which are produced or come before them in the course of performance of their functions, however, public officers did not impound and refer insufficiently stamped instruments to the Collectors for assessment of stamp duty. The public officers and Banks did not ensure that the lease agreements were duly stamped. Stamp duty and registration fee of ₹ 59.42 crore on 1,720 out of 1,800 lease instruments examined in audit was not paid. Further, stamp duty and registration fee of ₹ 0.41 crore was short levied on 244 out of 3,893 instruments presented for registration before 32 SRs/JSRs.

4.7.1 Introduction

Section 105 of the Transfer of Property Act, 1882 defines ‘lease of immovable property’ as a transfer of a right to enjoy such property, made for a certain time or in perpetuity, in consideration of a price paid or promised to be rendered periodically or on specified occasions. The transferor is called the ‘Lessor’, the transferee is called the ‘Lessee’, the price is called the ‘Premium’ and the money, share, service or other thing to be so rendered is called the ‘Rent’.

Section 2(16) of the Indian Stamp Act, 1899 (IS Act) defines lease as lease of immovable property, and also includes a *patta*¹⁰, a *kabuliyat*¹¹ and any instrument by which tolls of any description are let. Thus, lease under the IS Act has a wide scope, from leasing of immovable property to letting out rights of collection of various tolls where no immovable property is leased. With the introduction of Public-Private-Partnership (PPP) model of development, the Government is entering into various agreements with private parties in the form

⁸ Derabassi, Kharar, Jalandhar and Mullanpur Dakhan.

⁹ SD of ₹ 1.17 crore, RF of ₹ 6.36 lakh and ID Fee of ₹ 12.54 lakh.

¹⁰ *Patta* is a type of land allotment by government to a cultivator for specified time where the cultivator agrees to pay land revenue, taxes, cesses at the rate legally assessed or imposed in respect of the land.

¹¹ A *kabuliyat* is an undertaking in writing by a tenant to take the tenancy.

of ‘Concession Agreements’, ‘BOT Agreements¹²’, ‘Development Agreements’ etc., whereby, in lieu of investment made and money offered by private parties to the Government in the shape of concession fee/upfront fee/ negative grant, the right of collection of tolls/fees is let out to such parties for specified period of time. Such arrangements are termed as lease under Section 2(16) of the IS Act and chargeable to Stamp Duty, leviable at the rate prescribed in Entry 35 of Schedule I-A of IS Act, considering the average annual rent reserved, money advanced in addition to rent reserved, fine or premium paid and term of lease. Further, Section 29(C) of the IS Act provides that expenses on account of stamp duty will have to be borne by the lessee unless there is an agreement to the contrary.

The Lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent, is required to be compulsorily registered on payment of prescribed registration fee as per Section 17 of ‘The Registration Act, 1908’.

In order to assess the adequacy and effectiveness of levy and collection of Stamp Duty and Registration Fee on lease deeds, an audit of “Levy and collection of Stamp Duty and Registration Fee on Lease Deeds” was conducted between April 2019 and December 2019. Audit obtained details and copies of agreements entered into by the Government Departments/Bodies with private parties from Punjab Infrastructural Development Board (PIDB)¹³, National Highways Authority of India’s (NHAI) Regional Office for Punjab¹⁴, Grain Procurement Agencies¹⁵, Local Bodies¹⁶, Banks¹⁷, Universities¹⁸, Developing Authorities¹⁹, and Government Departments²⁰ and examined these for sufficiency of Stamp Duty. Records of 39²¹ SRs/JSRs from six²² districts were selected on the basis of Probability Proportional to Size (PPS) method. Records of all the 3,893 lease deeds registered between the period from 2016-17 to 2018-19 were examined.

Examination of lease agreements executed between the Government departments/bodies and private parties, and, agreements that were registered

¹² In Build, Operate and Transfer (BOT) agreements, the Government grants a concession to a private party for a specified period to finance, build and operate a project. The concession is in shape of right to collect toll, fee from public for using the project. After the concession period, the project is returned to the Government.

¹³ State Nodal Agency for PPP Projects in Punjab. All the PPP agreements of the Govt. of Punjab are facilitated by the Board.

¹⁴ Nodal Agency for construction of National Highways in Punjab

¹⁵ Punjab Grain Procurement Corporation Limited (PUNGRAIN), Punjab State Civil Supplies (PUNSUP), Punjab State Warehousing Corporation (PSWC), Punjab Agro Food Grains Corporation (PAFC).

¹⁶ 49 MCs from six districts (Amritsar, Jalandhar, Kapurthala, Ludhiana, Rupnagar, SAS Nagar).

¹⁷ Bank of India, Bank of Maharashtra, Canara Bank, Central Bank of India, Punjab National Bank, Punjab and Sindh Bank, State Bank of India, United Commercial Bank.

¹⁸ Guru Angad Dev Veterinary and Animal Sciences University Ludhiana, Guru Nanak Dev University Amritsar, I.K. Gujral Punjab Technical University Jalandhar, Punjab Agricultural University Ludhiana.

¹⁹ Amritsar Development Authority, Greater Ludhiana Area Development Authority, Greater Mohali Area Development Authority, Jalandhar Development Authority.

²⁰ Department of Medical Education and Research, Department of Technical Education and Industrial Training, Fisheries.

²¹ Adampur, Ajnala, Amritsar-1, Amritsar-2, Anandpur Sahib, Baba Bakala, Bholath, Chamkaur Sahib, Dehlon, Dera Bassi, Goraya, Jagraon, Jalandhar-1, Jalandhar-2, Kapurthala, Kartarpur, Khanna, Kharar, Koomkalan, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Majitha, Majri, Malaud, SAS Nagar, Mullanpur Dakha, Nakodar, Nangal, Noormahal, Payal, Phagwara, Phillaur, Raikot, Rupnagar, Samrala, Shahkot, SultanpurLodhi, Zirakpur.

²² Amritsar (5), Jalandhar (9), Kapurthala (4), Ludhiana (12), Rupnagar (4), SAS Nagar (5)

with SRs/JSRs revealed irregularities in stamp duty and registration fee of ₹ 59.83 crore in 1,964 cases, which have been discussed in the succeeding paragraphs:

4.7.2 Deficiencies in stamping of lease instruments

Section 33(1) of the IS Act enjoins upon all public officers to impound the instruments, chargeable with duty but not duly stamped, which are produced or come before them in the course of performance of their functions.

Scrutiny of agreements and information related to 1,800 lease instruments executed between the Government departments/bodies and private parties revealed that 1,720 lease agreements were not duly stamped. The public officers did not impound and refer insufficiently stamped instruments to the Collectors for assessment of stamp duty. The public officers and Banks did not ensure that the lease agreements were duly stamped. This resulted in non-levy of stamp duty of ₹ 59.42 crore as detailed in the succeeding paragraphs and may have legal implications as an unstamped instrument is not admissible in evidence before Courts of Law. Thus, the interest of Government may not be legally secured and enforceable.

4.7.2.1 Concession agreements: Seven²³ Departments/Boards/ Corporations of the Government of Punjab and the National Highway Authority of India (NHAI) executed 29 concession agreements on PPP mode between 2004-05 and 2016-17 with private parties for development and maintenance of roads, medical and technical institutes, hospitals, bus terminals and tourist complexes. Out of these, 28 agreements were not stamped. We noticed that in lieu of upfront fee of ₹ 499.37 crore and average annual concession fee of ₹ 178.61 crore, the private parties were given rights for collection of tolls, fees, rent and user charges for the terms ranging between 5 and 99 years.

As per contents of the agreements, these agreements were lease instruments within the scope of Section 2(16) of the IS Act and chargeable to Stamp Duty, however, no stamp duty was paid. This deprived the State Government of revenue on account of Stamp Duty of ₹ 36.05 crore as detailed in the following **Table 4.2:**

²³ Department of Medical Education and Research, Department of Technical Education and Industrial Training, National Highway Authority of India (Punjab Region), Punjab Health System Corporation, Punjab Heritage and Tourism Promotion Board, Punjab State Power Corporation Limited, Punjab Urban Development Authority.

Table 4.2: Non-payment of stamp duty on Concession Agreements

Sr. No.	Name of Department/ Board	Agreements		Purpose of agreement	(₹ in crore)				
		Total	Objected in Audit		Upfront Fee	Average Annual Concession Fee	SD due	SD paid	Short levy
1	Department of Medical Education and Research	1	1	Development of Medical Institute	131.00	116.45	17.90	0.00	17.90
2	Department of Technical Education and Industrial Training	11	11	Development of Industrial Training Institutes	0.00	0.82	0.10	0.00	0.10
3	National Highways Authority of India (NHAI)	2	2	Development of Roads	304.30	0.00	9.13	0.00	9.13
4	Punjab Health System Corporation	2	2	Development of Hospital	6.32	0.00	0.19	0.00	0.19
5	Punjab Heritage and Tourism Promotion Board	9	8	Development of Tourist Complex	0.75	5.68	0.34	0.00	0.34
6	Punjab State Power Corporation Ltd (PSPCL)	1	1	Development of 5-Star hotel	0.00	3.20	0.38	0.00	0.38
7	Punjab Urban Development Authority (PUDA)	3	3	Development of Bus Terminals, 5-Star, 3-Star Hotel	57.00	52.46	8.01	0.00	8.01
Total		29	28		499.37	178.61	36.05	0.00	36.05

The Managing Director, PIDB, the nodal agency for PPP projects in Punjab, replied (February 2020) that no duty was chargeable in respect of instruments executed by, or on behalf of, or in favour of the Government as per provisions of Section-3 of the Stamp Act. The reply is not tenable as the said exemption was applicable only where the Government was liable to pay the Stamp Duty, whereas in these cases, duty was payable by the private parties.

4.7.2.2 Lease Agreements: The Government Department, Universities and telecom operators executed 1,543 lease agreements for various purposes, out of which, 1,470 lease agreements were not registered. This deprived the State Government of revenue on account of stamp duty and registration fee of ₹ 20.96 crore as detailed below:

- (i) The Punjab State Forest Department signed an MoU with the Punjab State Forest Development Corporation (PSFDC) wherein it gave exclusive right of nine *per cent* of its office to the PSFDC for life time for a consideration of ₹ 6.20 crore which was nine *per cent* of cost of construction of whole office. The MoU contained element of lease and was required to be treated as such, on which Stamp Duty of

₹ 18.60 lakh and registration fee of ₹ 2.00 lakh was payable, whereas, MoU was executed on a stamp paper of ₹ 50 and was not registered.

- (ii) In 14 out of 29²⁴ Municipal Corporations, 22 Telecom operators executed 268 lease agreements during the years 2004-05 to 2018-19 to obtain space on lease for period ranging from 10 to 20 years to install telecommunication towers. However, 210 out of 268 agreements were not registered, on which stamp duty and registration fee of ₹ 20.18 lakh was payable, but not paid.

Twenty²⁵ Municipal Corporations did not provide the information for mobile towers.

- (iii) Three universities executed 33 agreements during 2016-17 to 2018-19 to lease out shops and agricultural land for the period ranging from less than one year to 33 years. Out of these, 22 agreements were not registered, on which stamp duty and registration fee of ₹ 9.25 lakh was payable but not paid.

One²⁶ university did not provide the information for lease agreements.

- (iv) Four Procurement Agencies viz Punjab Agro Food grains Corporation (PAFC), Punjab State Grains Procurement Corporation (PUNGRAIN), Punjab State Civil Supply Corporation Limited (PUNSUP) and Punjab State Warehousing Corporation (PSWC) executed hire agreements with private parties for storage of food grains during the years 2016-17 to 2018-19. Scrutiny of 1,241 lease agreements revealed that 1,237 agreements were not registered on which stamp duty and registration fee of ₹ 20.46 crore was payable.

4.7.2.3 Parking sites: Audit examination of records in 23 Municipal Corporations showed that two²⁷ Municipal Corporations had executed 23 agreements during 2016-17 to 2018-19 with private parties/persons for allotment of parking sites on average annual rent of ₹ 6.12 crore. Being lease instruments, Stamp Duty of ₹ 24.40 lakh was payable on these agreements but was not paid. This deprived the State Government of revenue on account of Stamp Duty as detailed in **Table-4.3:**

Table 4.3: Non-payment of Stamp Duty on agreements leasing Parking Sites

(Amount in ₹)

Sr. No.	MC	No. of agreements	Average Annual Rent	Stamp Duty
1	Khanna	4	62,92,000	2,50,480
2	Ludhiana	19	5,48,86,000	21,89,940
Total		23	6,11,78,000	24,40,420

²⁴ Out of total 49 Municipal Corporations/Municipal Councils in six selected districts, 29 MCs provided information about lease agreement for installation of towers. Out of 29 MCs, 268 lease agreements were made in 14 MCs only.

²⁵ Alwalpur, Bhogpur, Bholath, Dhilwan, Jandialaguru, Kapurthala, Kharar, Kiratpur Sahib, Kurali, Lohian Khas, Majitha, Mehatpur, Mullanpur Dakha, Nadala, Naya Gaon, Noor Mahal, Nurpur Bedi, Phillaur, Rajasansi, Ramdas.

²⁶ I.K. Gujral Punjab Technical University Jalandhar.

²⁷ Khanna and Ludhiana.

4.7.2.4 Rent deeds: The Banks provide residential accommodation to their officers, either by acquiring the houses/flats on lease or reimburse the rent to officers, who acquire houses/flats on lease in their name.

Information obtained from four²⁸ Zonal/Regional Branches of two Banks related to lease agreements executed by the banks or their officers for acquiring house/flat on lease in Punjab, showed that all 128 lease agreements were neither stamped nor were registered with the jurisdictional Sub Registrars. This deprived the State Government of revenue on account of stamp duty and registration fee of ₹ 3.49 lakh.

Similar information sought from 15 Zonal/Regional branches²⁹ of eight banks was not provided to audit.

4.7.2.5 Right to Fisheries: The Fisheries Department executed 36 lease agreements during the years 2016-17 to 2018-19 for ₹ 8.53 crore to lease out fishing rights to private parties, on which Stamp Duty of ₹ 34.74 lakh was payable, however, none of the agreements was stamped. This deprived Government from revenue of ₹ 34.74 lakh on account of Stamp Duty.

Executive Engineer, Project and RM Division, Ranjit Sagar Dam (RSD) Shahpur Kandi Township (Pathankot) did not provide information on auction of fishing rights in the RSD reservoir (Punjab region) during the years 2016-17 to 2018-19.

4.7.2.6 Allotment of industrial plots: The Greater Mohali Area Development Authority (GMADA) and the Punjab State Industrial and Export Corporation (PSIEC) executed 41 agreements against allotment of industrial plots on lease hold basis. Out of these, 34 lease agreements were not stamped and one lease agreement was insufficiently stamped. Moreover, these agreements were not registered. This deprived the State Government of revenue of ₹ 1.79 crore on account of Stamp Duty and Registration Fee as detailed in **Table-4.4**.

Table 4.4: Non-payment of SD and RF on industrial plots allotted on lease hold basis
(₹ in lakh)

Sr. No.	Name of Department	Agreements		Premium / AAR* for levy of SD	Due		Paid		Deficient	
		Total	Objected in Audit		SD	RF	SD	RF	SD	RF
1	GMADA	40	34	4,521.54	135.65	42.59	0.00	0.00	135.65	42.59
2	PSIEC	01	01	34.31	1.03	0.34	0.26	0.00	0.77	0.34
Total		41	35	4,555.85	136.68	42.93	0.26	0.00	136.42	42.93
<i>*Annual Average Rent</i>									179.35	

²⁸ Punjab and Sindh Bank (Jalandhar, Ludhiana, Patiala), United Commercial Bank (Chandigarh).

²⁹ Zonal/Regional Branches of banks which did not provide information:

1	2	3	4	5	6	7	8
Bank of India	Bank of Maharashtra	Canara Bank	Central Bank of India	Punjab National Bank	Punjab and Sindh Bank	State Bank of India	United Commercial Bank
Amritsar Ludhiana	Chandigarh	Chandigarh	Chandigarh	Ludhiana	Amritsar, Bathinda, Chandigarh, Faridkot, Hoshiarpur	Ludhiana, Patiala, SAS Nagar	Jalandhar

Similar information sought from three³⁰ Development Authorities was not provided to Audit. Further, the Punjab State Industrial and Export Corporation (PSIEC), which is responsible for development and promotion of industries in Punjab, had allotted 10,658 industrial plots in the State up to 31 March 2017. As per terms of the allotment, the allottees were required to get the lease deed registered within three years of the allotment. However, the PSIEC did not maintain data regarding execution or non-execution of lease deeds by the allottees. In the absence of such data, loss on account of Stamp Duty and Registration Fee in respect of plots, for which lease deeds were not registered, could not be ascertained in Audit.

The above matters were reported to the Government/Departments (March 2020); their replies were awaited (December 2020).

4.7.3 Short levy of Stamp Duty and Registration Fee on lease deeds

Under the provisions of IS Act, Stamp Duty at the prescribed rate is chargeable on an instrument of lease on the basis of period of lease and amount of the average annual rent reserved.

Audit, however, observed that out of 3,893 lease deeds registered with 39 SRs/JSRs during the period from 2016-17 to 2018-19, there was short realization of Stamp Duty and Registration Fee of ₹ 40.74 lakh against 244 lease deeds in 32³¹ SRs/JSRs. The short levy was mainly on lease instruments having lease period up to five years on which Stamp Duty at the rate of three *per cent* was charged instead of applicable four *per cent*. Further, in January 2019, the rate of stamp duty on these instruments was increased to eight *per cent*, however, the Department continued levy of stamp duty at pre-revised rate.

The above matters were reported to the Government/Departments (between April 2019 and March 2020); their replies were awaited (December 2020).

Conclusions

Stamp duty from lease deeds/agreements has a potential of becoming good source of revenue to the Government. It is clear from the foregoing that the most of lease instruments produced or coming before the public officers in the course of performance of their functions were unstamped and unregistered. Though lease agreements are executed for various activities by public offices like municipal councils/corporations, banks, food procurement agencies, universities, telecom operators etc., yet, unlike conveyance deed, there is no compulsion for the parties to get these registered for the reason that no change in land records is required on the basis of lease deeds, as is required in the case of conveyance deeds. Thus, in this scenario, stamp duty from lease deeds cannot

³⁰ Amritsar Development Authority, Greater Ludhiana Area Development Authority, Jalandhar Development Authority.

³¹ Adampur, Ajnala, Amritsar-1, Amritsar-2, Baba Bakala, Bholath, Dehlon, Dera Bassi, Goraya, Jalandhar-1, Jalandhar-2, Kapurthala, Kartarpur, Khanna, Kharar, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Majri, Malaud, SAS Nagar, Mullanpur Dakha, Nakodar, Noormahal, Phagwara, Phillaur, Raikot, Rupnagar, Samrala, Shahkot, Sultanpur Lodhi, Zirakpur.

be secured unless there is mechanism to hold the public officers as well as public bodies accountable for insufficient stamping and non-registration of lease deeds.

The State Government may institute a system to ensure that omissions as pointed out, do not recur.

