

CHAPTER – 5
STAMP DUTY AND
REGISTRATION FEES

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5.1 Tax Administration

The Department of Registration and Stamps functions under the overall charge of the Principal Secretary, Commercial Tax Department. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. One Joint Inspector General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts Officer (AO) are deployed at the headquarters. The Department has four Regional Offices located at Bhopal, Gwalior, Jabalpur and Indore, working under four Zonal DIGs, Registration. There are 51 DR offices and 234 Sub-Registrar (SR) offices in the State. The District Collector is the head of Registration administration in the districts. The District Collectors are assisted by 14 SDRs and 37 DRs posted in 51 districts. There are 262 SRs posted in 234 SR offices.

The SRs are the registering officers. It is the duty of the DRs to guide the SRs in their day-to-day function, determine correct market value of land or stamp duty in the cases referred to them by SRs, issue orders to impose penalty or to make refund, and inspect the Registration Offices. The DR is also referred to as the Collector of Stamps. Stamp Duty and Registration Fees are collected under the provisions of the following Acts, and Rules and notifications issued there under:

- Indian Stamp Act, 1899;
- The Registration Act, 1908;
- Indian Stamp (Madhya Pradesh Prevention of Undervaluation of Instruments) Rules, 1975;
- Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000;
- Madhya Pradesh Stamp Rules, 1942;
- Madhya Pradesh Municipal Corporation Act, 1956;
- Madhya Pradesh Municipalities Act, 1961;
- Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993;
- Madhya Pradesh *Upkar Adhiniyam*, 1982; and
- Circulars and orders of the Government/IGR of Madhya Pradesh, issued from time to time.

5.2 Trend of Receipts

Actual receipts from Stamp Duty and Registration Fees during the period 2013-14 to 2017-18, along with the budget estimates during the same period, are exhibited in **Table 5.1:**

Table 5.1
Trend of receipts from Stamp Duty and Registration Fees

(₹ in crore)

| Year | Budget estimates prepared by the Department | Budget estimates approved by the Finance Department | Actual receipts | Percentage of variation |
|---------|---|---|-----------------|-------------------------|
| 2013-14 | 3,500 | 4,000.00 | 3,400.00 | (-) 15.00 |
| 2014-15 | 4,000 | 4,000.00 | 3,892.77 | (-) 2.68 |
| 2015-16 | 4,200 | 4,700.00 | 3,867.69 | (-) 17.71 |
| 2016-17 | 4,000 | 4,500.00 | 3,925.43 | (-) 12.77 |
| 2017-18 | 4,300 | 4,300.00 | 4,788.51 | (+) 11.36 |

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

It can be seen from the above table that the budget estimates prepared by the Department for the year 2017-18 was approved by the Finance Department as such. Further, it can also be seen from the above Table that actual receipts during 2017-18 increased by 11.36 *per cent* in respect of budget estimates of the same year. The Department attributed (October 2018) the reason for increase in actual receipts during 2017-18 to the identification of tax evasion cases and subsequent recovery, continuous monitoring and introduction of e-registry system, which has reduced the registration time.

As regard to variation in budget estimates and actual receipts, the Department intimated (February 2019) during the Exit Conference that there were various external factors, like changes in Rules/Act and rates of cess in local bodies, etc. which affected the actual receipts of the Department and which were beyond their control. Further, it was also stated that the Finance Department had revised the BE to meet out the expenditure of new schemes of the State Government.

5.3 Internal Audit

The Department has an Internal Audit Wing (IAW) which is headed by the Joint Director (Finance). Against the sanctioned strength of one Accounts Officer (AO) and 10 Assistant Audit Officers (AAO), only one AO and four AAOs were posted in the IAW during the year 2017-18. Audit observed that against six new posts of AAOs, which were sanctioned by the Government in January 2015, no appointments have been made so far.

In 2017-18, against the plan to audit 128 DR and SR offices, only seven DR and 42 SR offices could be audited. Audit scrutinised (December 2018) the 10 Inspection Reports (IRs) of Internal Audit and found that irregularities of pending recovery in 158 cases of Revenue Recovery Certificate (RRC) issued, and undervaluation of properties amounting to ₹ 8.78 lakh in 38 cases had been pointed out. However, the Department failed to prevent the recurrence of undervaluation of properties by the registration authorities, and the same has been pointed out in this Audit Report.

Audit noticed that out of 104 Internal Audit IRs of DR/SR offices issued during the period 2013-14 to 2017-18, compliance reports of only 12 IRs were received in IGR office till April 2019. For the remaining IRs, the Department intimated (April 2019) that action was under process to get the compliance

reports from DRs/SRs concerned. As the DRs/SRs of units concerned were responsible for timely compliance of IRs. This indicates that the follow-up of Internal Audit IRs was not being monitored properly by the Department.

Recommendation:

The Department should ensure timely compliance by DRs/SRs of the issues raised in IRs by the Internal Audit Wing.

5.4 Results of Audit

There are 274 auditable units in the Department. Out of these, audit selected 51⁷⁸ units for test-check, wherein a total of 3,19,667 instruments were executed/registered. Out of these, audit test-checked 16,573 instruments (approx. 5.18 per cent) during the year 2017-18 and noticed irregularities in 861 instruments (approx. 5.20 per cent of audited sample) such as inordinate delay in finalisation of cases referred to DRs, misclassification of deeds, undervaluation of properties, short realisation of Stamp Duty and Registration Fees and other observations. These cases are only illustrative and not exhaustive, as these are based on test-check of records. Audit had pointed out similar omissions in earlier years also, but not only have these irregularities continued to persist, but they also remained undetected till the next audit was conducted. Irregularities noticed broadly fall under the following categories, as mentioned in **Table 5.2**:

Table 5.2
Results of Audit

(₹ in crore)

| Sl. No. | Categories | No. of deeds | Amount |
|--------------|--|--------------|--------------|
| 1. | Revenue not realised due to inordinate delay in finalisation of cases referred to DRs under Section 47-A of the Indian Stamp Act | 364 | 3.48 |
| 2. | Undervaluation of property | 213 | 1.59 |
| 3. | Misclassification of deeds | 110 | 1.52 |
| 4. | Others (Short levy of Stamp Duty and Registration Fees) | 174 | 3.54 |
| Total | | 861 | 10.13 |

These observations were communicated to the Department (between May 2017 and February 2018). The Department accepted (between May 2017 and February 2018) under-assessment and other deficiencies of ₹ 30 lakh in 26 cases, and assured to review 684 cases amounting to ₹ 8.03 crore. Department intimated recovery of ₹ 1.91 lakh in one case (September 2019).

5.5 Follow-up of previous Audit Reports

In the Audit Reports for the period from 2012-13 to 2016-17, Audit had pointed out various observations amounting to ₹ 361.56 crore in 95 paragraphs against which the Department accepted observations involving ₹ 231.66 crore and recovered ₹ 5.82 crore. Out of these 95 paragraphs, 74 paragraphs⁷⁹ were selected for discussion by the Public Accounts Committee (PAC) between March 2015 and May 2017. However, they are awaiting discussion till date (September 2019).

⁷⁸ One IGR, Bhopal office and 50 SR offices.

⁷⁹ 2012-13 (09), 2013-14 (23), 2014-15 (02) and 2015-16 (40).

5.6 Delay in disposal of cases referred by Sub-Registrars (SRs)

In 328 cases referred by Sub-Registrars to the Collector of Stamps (District Registrars) for determination of market value of properties, the value had not been finalised, though the stipulated period of three months for disposal of referred cases had lapsed. As a result, revenue amounting to ₹ 3.33 crore was not realised.

The Indian Stamp Act provides for the Registering Officer, in specific circumstances, to refer any property registration instrument to the District Registrar (DR) for determination of the correct market value of such property and duty leviable thereon. The Department prescribed (July 2004) a maximum period of three months within which the DR had to dispose such cases.

Audit test-checked (between August 2017 and November 2017) 427 out of 470 cases referred by 11 Sub-Registrar Offices⁸⁰ for the period from April 2011 to March 2017 and observed that in 328 cases (70 per cent), market value of properties was not determined by the Collector of Stamps, within the stipulated period of three months.

Out of these 328 cases, 55 cases involved delays of two to 18 months, and 273 cases involved delays of 23 to 104 months, beyond stipulated period. The DRs did not comply with the Departmental instructions and the cases referred by Sub-Registrars involving Stamp Duty and Registration Fees of ₹ 3.33 crore were not finalised (**Appendix XXIII**).

During the Exit Conference (February 2019), the Department intimated that these issues were happening due to manual monitoring system in the Department. It was also stated that the Department was considering online system for monitoring of such type of cases to ensure their timely disposal, so that additional revenue could be realised. The Department informed (April 2019) that recovery of ₹ 51.01 lakh in 63 cases was effected, RRC in eight cases were issued and assured to take appropriate action in the remaining cases.

5.7 Short realisation of Stamp Duty and Registration Fees on mining lease

In case of 15 mining leases, Stamp Duty and Registration Fees amounting to ₹ 2.55 crore was short realised.

Article 38 of Schedule I-A to the Indian Stamp Act, 1899 (amended on 16 September 2014 and 14 January 2016) provides for levy of Stamp Duty on mining leases at the rates prescribed therein. Further, as per Article II of the Registration Table under the Registration Act, 1908, Registration Fee at the rate of three-fourth of the value of the Stamp Duty is chargeable on such instruments.

Audit test-checked (between June 2017 and March 2018) a total of 101 out of 118 mining lease deeds kept in five District Mining Offices (DMOs)⁸¹ and found that in 15 mining lease agreements, an amount of ₹ 2.71 crore was

⁸⁰ Amarwara (Chhindwara), Ashoknagar, Banda (Sagar), Bhopal I, Betul, Chhindwara, Harda, Jaora (Ratlam), Khandwa, Luvkush Nagar (Chhatarpur) and Seoni.

⁸¹ Guna, Narsinghpur, Panna, Seoni and Sidhi.

leviable as Stamp Duty and Registration Fee against which only ₹ 15.88 lakh was actually levied by the registering authorities. This resulted in short realisation of ₹ 2.55 crore (**Appendix XXIV**). Though mining lease deeds were executed between DMOs and lessees concerned, yet Sub-Registrar concerned failed to levy the correct Stamp Duty and Registration Fees at the time of registration of these deeds though the whole amount payable or deliverable under such leases were mentioned in the agreement and the proposed mining plan.

During the Exit Conference (February 2019), the Department stated that these cases would be looked into and assured remedial action. The Department informed (April 2019) that recovery of ₹ 2.83 lakh in four cases was effected, and RRC in four cases were issued.

5.8 Short realisation of Stamp Duty and Registration Fees on lease deed

The registration authorities levied only ₹ 32.75 lakh as Stamp Duty and ₹ 24.46 lakh as Registration Fees against leviable Stamp Duty of ₹ 53.44 lakh and Registration Fees of ₹ 39.59 lakh respectively on three lease deeds. This resulted in short realisation of Stamp Duty and Registration Fees of ₹ 35.83 lakh.

Article 38 of Schedule I-A to the Indian Stamp Act, 1899 (amended on 16 September 2014 and 14 January 2016) provides for levy of stamp duty at rates prescribed therein. Further, as per Article II of the Indian Registration Act, 1908 for registration of leases, Registration Fee shall be levied at the rate of three fourth of the value of the Stamp Duty.

Audit test-checked (between July 2017 and December 2017) a total of 37 out of 13,199 cases of lease deeds in two Sub-Registrar offices⁸² for the period from April 2014 to March 2017. It was observed that in three documents of lease deeds registered, Stamp Duty and Registration Fees of ₹ 93.03 lakh was leviable but the Registering Authority levied ₹ 57.20 lakh only. The SRs failed to determine the correct amount of payable or deliverable under such lease, resulting in short levy of Stamp Duty and Registration Fees of ₹ 35.83 lakh (**Appendix XXV**).

During the Exit Conference (February 2019), the Department stated that these cases would be looked into and assured remedial action. The Department intimated (April 2019) that RRC in two cases were issued. However, no recovery has been intimated so far.

Most of the audit observations are of a nature that may reflect similar errors/omissions in other units of the concerned State Government Department, but were not covered in the test check conducted during the year. The Department/Government may therefore like to internally examine all other units with a view to ensuring that they are functioning as per requirement and rules.

⁸² Chhindwara and Narsinghpur.

