

Chapter IV

Stamp Duty and Registration Fee

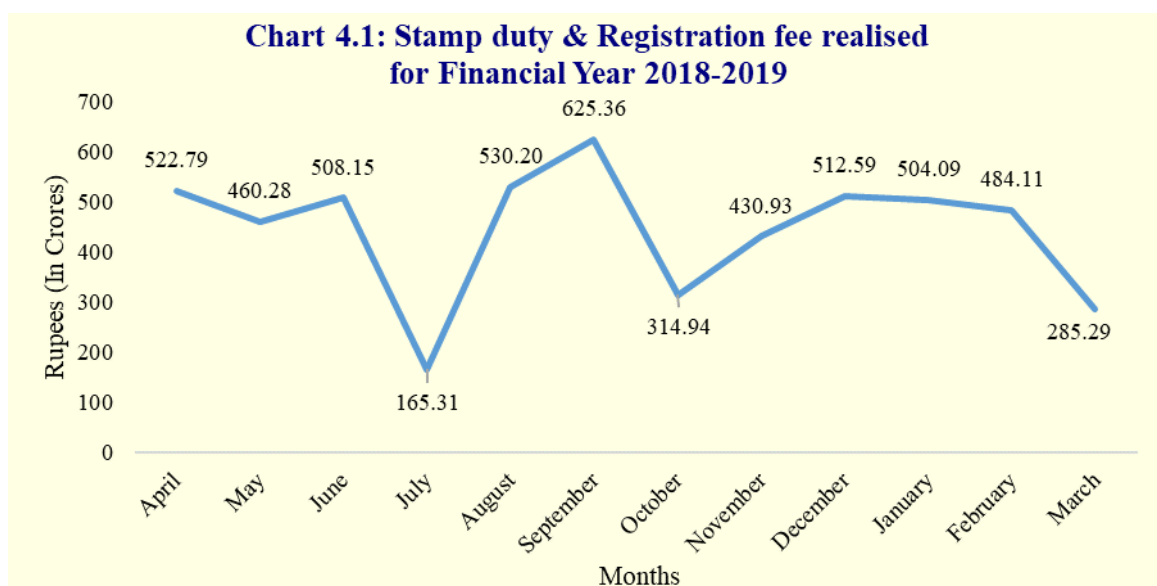
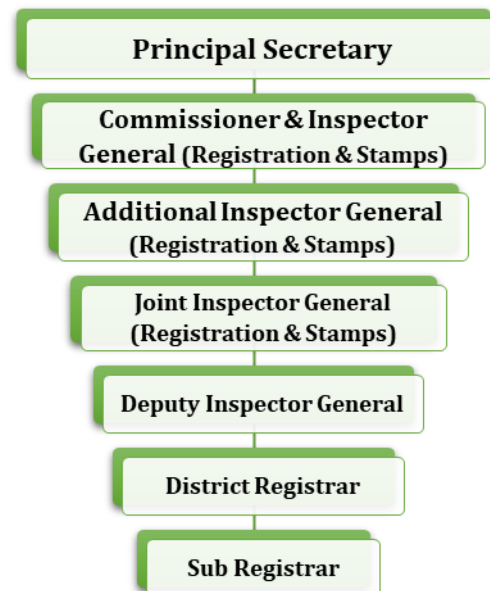
4.1 Tax Administration

Registration and Stamps Department is primarily entrusted with registration of documents and is responsible for determining and collecting stamp duty and registration fees on registration of various documents/instruments by the general public. The Department also enforces administration of the Indian Stamp (IS) Act, 1899 and the Registration Act, 1908, as amended from time to time and rules framed therein.

The Commissioner and Inspector General (CIGRS), Registration and Stamps exercises overall superintendence of all the registration offices in the State. He is assisted by the region-wise Deputy IGs. The District Registrar (DR) is in charge of the district and supervises the work of Sub-Registrars (SRs) in the district concerned. The important functionaries of the Department are depicted in the organogram below.

Stamp Duty and Registration fee forms the fourth largest source of revenue for the State and accounts for 5.27 per cent of the total revenue of the State. It has been increasing from year-to-year since the formation of Telangana State in June 2014 and has exceeded the budget estimates during the two-year period 2017-18 to 2018-19. The total revenue from Registration & Stamps Department during 2018-19 was ₹5,344.04 crore¹. The monthly break-up of department's revenue during the year is given in **Chart 4.1**.

Figure-4.1: Organogram



¹ Source: Finance Accounts of Government of Telangana for 2018-19.

4.2 Results of Audit

Registration is being carried out through a computerised system called 'Computer Aided Administration in Registration Department (CARD)' in client server Architecture.

All the documents registered by SROs are scanned and uploaded to centralized server chronologically and all these scanned image files of the documents are being stored in central server. As per Audit's request to enable audit teams to download these documents for exercising prescribed checks, the Commissioner and Inspector General (Registration & Stamps) facilitated audit users with access to image files of the documents.

Audit of Stamp duty & Registration Fee receipts was conducted through a test check of relevant records and transactional data in 91 out of 159 offices (57.23 per cent) in the State during 2018-19 to gain assurance that the stamp duty and registration fees are levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and the interests of the Government are safeguarded. These 91 offices were selected on the basis of revenue collected. Audit brought out instances of non-levy or short levy of duties/fees, etc., in 464 cases involving an amount of ₹46.73 crore, as detailed in **Table 4.1:**

Table-4.1: Categories of Audit observations on Stamps & Registration Fees receipts

(₹ in crore)

Sl. No.	Category of Audit observations	No. of deviations	Amount
1	Short levy of Duties	240	25.04
2	Undervaluation of properties	72	14.50
3	Misclassification of Documents	24	1.98
4	Non-Registration of Compulsorily Registerable Documents	85	3.25
5	Short Levy of Registration Fee	6	0.60
6	Incorrect exemption of Stamp Duty	17	0.23
7	Loss of Revenue	8	0.28
8	Other Irregularities	12	0.85
	Total	464	46.73

During the year 2018-19, the Department accepted under-assessments and other deficiencies of ₹ 15.90 lakh in 42 cases pertaining to previous years and this amount was realised during the year.

There are eight broad categories of audit observations under Stamp Duty & Registration Fee. There may be similar irregularities, errors/omissions in other units under the department but not covered in the test audit. Department may, therefore, examine all the units to ensure that the taxes are levied as per provisions of the Act and Rules.

Significant cases of non-compliance with the provisions of the Acts/Rules by the Registering Authorities (RAs) in the cases brought out in the following paragraphs resulted in short-realisation of Stamp Duty and Registration Fee of ₹10.36 crore in 220 cases.

4.3 Short collection of Registration fee on instruments creating *Paripassu* charge

*Paripassu*² agreements come into existence when an industrial firm/company obtains credit facilities from more than one financial institution by offering securities on *paripassu* basis in the form of ‘Simple Mortgage’, mortgage by deposit of title deeds’ and ‘hypothecation of movable properties’.

Government³ prescribed levy of Registration Fee at 0.5 *per cent* on the amount of loans secured by instruments which create charge on *paripassu* basis.

Audit test checked (May 2017 and June 2018) the records of District Registrar, Medak and Sub Registrar, Bibinagar and noticed that in respect of three documents, the Registering Officer collected Registration Fee of ₹10,000 instead of charging the fee at 0.5 *per cent* on the loan amount. This resulted in short collection of Registration Fee of ₹4.85 crore.

District Registrar, Medak and Sub Registrar, Bibinagar assured a detailed reply. The matter was referred to the Department in April 2019 and to the Government in October 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

4.4 Short levy of duties and fees due to misclassification of transactions in registered documents

Schedule I-A of Indian Stamp Act, 1899 provides rates of duties and fees to be adopted based on classification of documents. Further, the Commissioner and Inspector General of Registration and Stamps had issued instructions⁴ that the Sub-Registrars should scrutinise the recitals of the document presented for Registration thoroughly, so as to arrive at the correct classification of the document for adoption of the applicable rates of duties and fees.

Audit test-checked (August 2017 - November 2018) the registered documents in 12 Sub Registrar Offices⁵ and two DR offices⁶ and found that in respect of 23 documents, there was short levy of duties and fees due to misclassification of transactions amounting to ₹1.67 crore as given in **Appendix-4.1**.

District Registrars and Sub-Registrars concerned assured a detailed reply.

The matter was referred to the Department in May 2019 and to the Government in October 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

² *Paripassu* is a latin phrase meaning “equal footing”. When an immovable property of a borrower is mortgaged as security to multiple lenders, the rights in the property, created in favour of the lenders would rank equal without any preference or priority for any lender over the others for all intents and purposes.

³ G.O. Ms. No 463 (Registration-I) Department, dated 17 August 2013.

⁴ Memo no.FR1/1A/4946/96 dated 16 October 2000.

⁵ SROs- Kapra, L B Nagar, Maheswaram, Malkajgiri, Mancherial, Maredpally, Miryalaguda, Narayanpet, Nakrekal, Saroornagar, Sircilla and Uppal.

⁶ DRs - Rangareddy and Warangal.

4.5 Short levy of Duties and Registration Fees on agricultural lands converted for non-agricultural purposes

The total consideration of a converted land shall include the market value of the property and all other facts and circumstances affecting the levy of duty on any instrument.⁷ Further, the registering officer or any other officer appointed/authorised 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 above provisions are complied with. Telangana Revision of Market Value Guidelines 1998 stipulates adoption of different market value rates for agriculture lands, agricultural lands fit for house sites and non-agriculture lands (residential plot, etc.) on acreage/square yard basis for the purpose of valuation, levy of stamp duty and Registration fee.

Audit test-checked (between February 2018 and October 2018) the registered documents of 11 Sub Registrar⁸ and two District Registrar⁹ offices and found that in 33 documents the registering officers, had adopted a lesser rate applicable to agricultural lands in respect of lands whose conversion for non-agricultural purposes had already been approved by the Revenue Authorities. Due to suppression of fact of conversion by the executants and non-verification of the same by registering authorities, the properties were valued at ₹4.89 crore instead of at ₹27.25 crore resulting in undervaluation of the properties by ₹22.36 crore and short levy of stamp duty and registration fee of ₹1.27 crore.

District Registrars and Sub-Registrars concerned assured a detailed reply.

The matter was referred to the Department in September 2019 and to the Government in October 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

4.6 Non-levy of duties on documents involving distinct matters

According to Indian Stamp Act 1899,¹⁰ any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which each separate instrument would be chargeable under the Act.

Audit test-checked (May 2017– November 2018) the registered documents of 10 Sub-Registrar offices¹¹ and two District Registrar Offices¹² and found that in respect of 15 registered documents, duties were not levied on various distinct matters¹³ involved in these documents which resulted in short levy of duties amounting to ₹74.88 lakh as given in *Appendix 4.2*.

District Registrars and Sub-Registrars concerned assured a detailed reply.

⁷ Section 27 of the Indian Stamp Act, 1899.

⁸ Sub Registrars - Mahabubabad, Makthal, Maheswaram, Jadcherla, Armoor, Zahirabad, Kodad, Kalwarkurthy, Miryalguda, Ghatkesar and Nagarkurnool.

⁹ Mahabubnagar and Warangal.

¹⁰ Section 5 of the Indian Stamp Act, 1899.

¹¹ SROs- Gajwel, Golconda, Mahabubabad, Maheswaram, Mancherial, Shamirpet, Qutubullapur, Secunderabad, Shankarpally and Warangal (Fort).

¹² DRs- Rangareddy and Medak.

¹³ Conveyance of cash in Sale deed, Conveyance of cash in Development cum General Power of Attorney and Release in a Partition deed.

The matter was referred to the Department in June 2019 and to the Government in November 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

4.7 Short levy of duties due to non-adoption of valuation instructions in respect of rural properties

As per instructions of the Commissioner and Inspector General of Registration and Stamps¹⁴, when the rate for valuation of rural properties is not found against a Survey number mentioned in the schedule of the property, the rate of Form IV for the survey numbers mentioned in the boundaries is to be adopted.

Audit test checked (September 2018 to October 2018) the registered documents of eight Sub Registrar Offices¹⁵ and three District Registrar Offices¹⁶ and found that in respect of 15 documents, the Registration Authorities, while levying duties, did not adopt the rate of Form-IV for the survey numbers mentioned in the boundaries in cases where the rate for valuation was not found for the survey numbers mentioned in the schedule of property. This resulted in short levy of duties amounting to ₹62.99 lakh as detailed in **Appendix 4.3**.

District Registrars and Sub-Registrars concerned assured a detailed reply.

The matter was referred to the Department in June 2019 and to the Government in October 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

4.8 Short levy of duties in Registered Documents

According to Indian Stamp (IS) Act, 1899¹⁷, stamp duty, transfer duty and registration fee are leviable at specified rates in respect of various types of documents at the time of their registration.

Audit test-checked (May 2017 and November 2018) the registered documents of six District Registrar Offices¹⁸ and 19 Sub Registrar Offices¹⁹ and found that in respect of 65 documents, the Registering Authorities have short levied the duties due to various reasons like incorrect adoption of market value, incorrect adjustment of stamp duty, etc. This resulted in short realisation of duties amounting to ₹58.38 lakh as given in **Appendix 4.4**.

District Registrars and Sub-Registrars concerned assured a detailed reply.

The matter was referred to the Department in September 2019 and to the Government in October 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

¹⁴ Circular Memo No. MV1/8483/2013-2 dated 10 October 2013.

¹⁵ SROs- Abdullapur, Gandipet, Ghatkesar, Kalwakurthy, Maktal, Qutubullapur, Wanaparthy and Wardhannapat.

¹⁶ DRs-Karimnagar, Nalgonda and Rangareddy.

¹⁷ Section 3 read with Schedule I-A of the Indian Stamp Act, 1899.

¹⁸ DRs-Hyderabad (South), Karimnagar, Khammam, Mahabubnagar, Medak, Nizamabad.

¹⁹ SROs- Atmakur, Bibinagar, Bowenpally, Farooqnagar, Gadwal, Gandipet, Golkonda, Kalwakurthy, Kamareddy, Ibrahimpatnam, Maheshwaram, Marredpally, Quthbullapur, L B Nagar, Saroornagar, Shamshabad, Secunderabad, Shamirpet, Uppal.

4.9 Short realization of duties due to undervaluation of Properties in Registered Documents

As per Indian Stamp (IS) Act, 1899²⁰ instruments of Sale are chargeable to Stamp Duty (SD) at 4 per cent²¹, Transfer Duty (TD) at 1.5 per cent and Registration Fee (RF) at 0.5 per cent on the Market Value (MV)²² of the property or consideration whichever is higher. Further, SD at one per cent and RF at 0.5 per cent (subject to a maximum of ₹ 20,000) on the MV is leviable in respect of Power of Attorney documents executed for construction/development or sale or transfer in any manner of immovable property²³.

Audit test-checked (between May 2017 and November 2018) the registered documents of 20 Sub Registrar²⁴ and four District Registrar²⁵ Offices and found that in 47 documents duties of ₹ 1.43 crore were levied instead of ₹ 1.96 crore due to undervaluation of properties²⁶ contrary to MV guidelines and instructions issued by the CIGRS. Under-valuation of properties resulted in short levy of duties amounting to ₹ 52.70 lakh as given in *Appendix 4.5*.

District Registrars and Sub-Registrars concerned assured a detailed reply.

The matter was referred to the Department in August 2019 and to the Government in October 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

4.10 Incorrect exemption of Stamp Duty in respect of Deposit of Title Deeds

According to the Indian Stamp Act, 1899²⁷, Stamp Duty (SD) is to be levied at 0.5 per cent of the amount of loan secured subject to a maximum of ₹50,000 on the documents registered as "Deposit of Title Deeds (DOTDs)". Stamp Duty of only ₹1,000 is levied in respect of DOTDs executed by Small Scale Industries/Medium Scale Industries²⁸ on production of valid SSI/MSME²⁹ Certificates.

Audit test-checked (May and November 2018) registered documents of six Sub-Registrar Offices³⁰ and found in respect of 19 documents that, SD was levied at the rate of ₹1,000 in respect of SSI units which did not produce valid SSI/MSME Certificates. Incorrect exemption of SD resulted in short levy of duties of ₹7.74 lakh.

Sub-Registrars concerned assured a detailed reply.

The matter was referred to the Department in August 2019 and to the Government in October 2019. Reminders were issued to the Government in May 2020 and October 2020; replies have not been received.

²⁰ Section 3 read with Article 47A of Schedule I-A of the Indian Stamp Act, 1899.

²¹ Stamp duty is reduced to 4 per cent vide G O Ms. No. 162 dated 30 March 2013.

²² Market value guidelines indicate the market value approved by the Market Value Revision Committee.

²³ Article 42(i)(b) of Schedule- I-A of the Indian Stamp Act, 1899.

²⁴ Abdullapur, Armoor, Bibinagar, Charminar, Chikkadpally, Farooqnagar, Gandipet, Ghatkesar, Kalwakurthy, Kodad, Kollapur, Mahabubabad, Miryalguda, Rajendranagar, Sathupally, Secunderabad, Serilingampally, Suryapet, Uppal and Warangal Rural.

²⁵ Hyderabad(South), Medak, Khammam and Nizamabad.

²⁶ Non adoption of market value rates viz., rates assigned to specific survey nos./rates assigned in view of SH/NH roads situated on the boundaries of the scheduled properties; Incorrect valuation of urban properties.

²⁷ Article 7(a) of Schedule I A to the Indian Stamp Act, 1899.

²⁸ G.O.Ms.No. 316 of Revenue (Registration-I) department dated 14 March 2006).

²⁹ SSI- Small Scale Industries - MSME- Micro, Small and Medium Enterprises.

³⁰ SROs - Charminar, Golconda, Malkajgiri, Nizamabad (R), Secunderabad and Vallabh Nagar.