

## CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

### 5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State are regulated under the Registration Act, 1908, the Rajasthan Stamps (RS) Act, 1998 and the Rules made thereunder. According to Section 3 of the RS Act, every instrument shall be chargeable with duty according to the rates mentioned in the Schedule to the RS Act. The SD is leviable on execution of instruments and RF is payable on registration of instruments. Surcharge is also chargeable on SD with effect from 9 March 2011.

The Registration and Stamps Department (Department) functions under the administrative control of Finance Department. The Inspector General, Registration and Stamps (IGRS) is the head of the Department. He is assisted by two Additional Inspector Generals in administrative matters and by a Financial Adviser in financial matters. Besides, one Additional Inspector General, Jaipur is entrusted with the work of Chief Vigilance Officer. The entire State has been divided into 18 circles which are headed by Deputy Inspector General (DIG) *cum Ex-officio* Collector (Stamps). There are 114 Sub Registrars (SRs) and 415<sup>1</sup> *ex-officio* SRs<sup>2</sup>.

### 5.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of the Financial Advisor. There are six Internal Audit Parties. Planning for internal audit of units is made on the basis of importance and revenue realisation. The status of internal audit conducted during the period from 2014-15 to 2018-19 is as under:

Year	Total units due for audit	Total number of units audited	Unaudited units	Shortfall (per cent)
2014-15	523	267	256	49
2015-16	523	180	343	66
2016-17	527	109	418	79
2017-18	340	81	259	76
2018-19	573	137	436	76

Source: Information provided by the IGRS.

The short fall in coverage of units due for audit ranged between 49 *per cent* and 79 *per cent* during 2014-15 to 2018-19. The Department stated that the arrear in audit was due to the shortage of posts and deployment of staff in Assembly and Parliamentary elections during financial year 2018-19.

It was noticed that 8,789 paragraphs of internal audit reports were outstanding at the end of 2018-19. Year-wise breakup of outstanding paragraphs of internal audit reports is as under:

Year	Upto 2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Paras	6,276	81	452	416	529	1,035	8,789

Source: Information provided by the IGRS.

Out of 8,789 paragraphs, 6,276 paragraphs were outstanding for more than five years for want of compliance/corrective action. The reason stated by the

<sup>1</sup> As per Administrative report 2018-19 of IGRS.

<sup>2</sup> Tehsildars and Naib Tehsildars have been declared as *ex-officio* SRs.

Department for slow pace of disposal was non-realisation of recovery under all the documents objected in a para, which remains unsettled even if recovery of one of the objected document remains pending.

*The Government may take steps to ensure expeditious compliance with the outstanding observations raised by the Internal Audit Wing.*

### 5.3 Results of audit

There are 547 auditable units<sup>3</sup> in the Registration and Stamps Department, Out of these, 100 Units (approximate 18 per cent) were selected for test check during the year 2018-19 wherein 6,29,165 instruments were registered, of these 3,32,151 instruments (approximate 53 per cent of instruments) were selected for test check<sup>4</sup>. During scrutiny, audit noticed short/non-realisation of SD and RF of ₹ 42.46 crore in 1413 instruments. Audit also noticed irregularities relating to expenditure involving an amount of ₹ 5.90 crore in six cases.

These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. Thus, there is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of Cases	Amount
1	Incorrect determination of market value of properties	821	9.76
2	Short/non-levy of stamp duty and registration fee	457	24.76
3	Other irregularities related to:		
	(i) Revenue	135	7.94
	(ii) Expenditure	06	5.90
<b>Total</b>		<b>1,419</b>	<b>48.36</b>

During the year 2018-19 the Department accepted underassessment and other deficiencies of ₹ 61.65 crore pertaining to 2806 cases, of which 455 cases involving ₹ 14.14 crore were pointed out during the year 2018-19 and the rest in the earlier years. The Department recovered ₹ 6.87 crore in 2,175 cases during the year 2018-19, of which 41 cases involving ₹ 0.07 crore relate to the year 2018-19 and rest to the earlier years.

The State Government accepted and recovered the entire amount of ₹ 2.50 crore in a case (pertaining to SR Kotputali) of non-levy of surcharge on amalgamation of companies after it was pointed out (February 2019) by the Audit. This paragraph has not been discussed in the Report.

A few illustrative cases involving ₹ 17.82 crore are discussed in the succeeding paragraphs.

<sup>3</sup> 547 auditable units: 527 SRs (Registering authorities) and 20 administrative offices as per Audit Plan.

<sup>4</sup> Record for the period 2014-18 was test checked.

#### 5.4 Deficit Stamp Duty and Registration fees

The executants while registering any instrument have to submit information, about property *i.e.* subject matter of transfer, location, area, nature of use, any other fact affecting duty, *etc.* in a prescribed check list. To assess the correct stamp duty (SD), the Sub-Registrar (SR) has to review the submitted check list along with facts contained in recital of instrument.

During test check (between December 2017 and March 2019) of records at the offices of 23 Sub-Registrars<sup>5</sup> (SRs), it was noticed that 104 instruments were registered as sale deeds/lease deeds/gift deeds/mining leases/mortgage deeds/release deeds/certificate of sales pertaining to agriculture/residential/marriage garden/commercial/institutional land(s). Either complete information was not given in check lists or facts were mentioned in recital of instruments/supporting instruments were enclosed but incorrect input was given in 'E-Panjiyan'. This resulted in non/short levy of SD and registration fee (RF) of ₹ 17.82 crore as discussed in table below:

Sl. No.	Particulars	Reply of the Government
1	<p><b>Undervaluation of immovable properties</b></p> <p>34 Instruments were registered (between June 2016 and March 2018) at 13 SRs<sup>6</sup> as <i>sale deeds/lease deed/gift deeds/mining leases</i> pertaining to agricultural/residential/industrial/commercial land(s)/marriage garden. Scrutiny of these instruments revealed that the concerned registering authorities had assessed the market value of the properties at ₹ 30.70 crore instead of ₹ 71.11 crore. The omissions were due to; incorrect classification of properties in 13 instruments amounting to ₹ 1.11 crore, non-consideration of cost of constructed area in one instrument amounting to ₹ 0.15 crore and application of incorrect DLC rates in 20 instrument amounting to ₹ 1.16 crore. The registering authorities therefore, levied SD, surcharge and RF of ₹ 1.72 crore<sup>7</sup> instead of ₹ 4.14 crore<sup>8</sup> which resulted in short levy of SD, surcharge and RF of ₹ 2.42 crore.</p>	<p>The Government replied (May 2019 and September 2019) that entire amount of ₹ 11.48 lakh had been recovered in one instrument (SR Pali-I), an amount of ₹ 2.15 lakh had been recovered against objected amount of ₹ 5.19 lakh in two instruments and efforts are being made to recover the remaining amount. Notices for recovery have been issued to the executants of 17 instruments, while cases have been registered with Collector (Stamps) in remaining 14 instruments. Further progress is awaited (May 2020).</p>
2	<p><b>Transfer of immovable properties</b></p> <p>10 instruments of immovable properties pertaining to shops in <i>Krishi Upaj Mandis</i> were registered (between April 2016 and October 2017) at two SRs<sup>9</sup> as lease deeds. Scrutiny of the lease deeds disclosed that initially the shops were allotted by the <i>Krishi Upaj Mandi Samittees</i> in favour of 10 allottees (first allottees). The first allottees subsequently transferred these shops to others (next allottees) with mutual consents. However, there was nothing on record to show that these documents of transfer of immovable properties were registered and duly stamped. The transfer of immovable properties through mutual consents was to be</p>	<p>The Government replied (May 2019) that notices for recovery have been issued to the executants. Further progress of recovery is awaited (May 2020).</p>

<sup>5</sup> Ajmer-I, Atru (Baran), Baran, Behror, Bhiwadi, Chittorgarh, Chomu, Jaipur-II, III, IV & IX, Kota-II, Nasirabad, Neemrana, Pali-I, Pushkar, Sanchore, Sanganer-I & II, Sayala, Tijara, Udaipur-I & II.

<sup>6</sup> SR: Ajmer-I (three cases), Atru (Baran) (one case), Behror (Alwar) (two cases), Pali-I (one case), Jaipur-II (two cases), Jaipur-IX (seven cases), Nasirabad (one cases), Neemrana (Alwar) (one case), Sanganer-I (one case), Sanganer-II (two cases), Sayala (Jalore) (one case), Udaipur-I (eight cases) and Udaipur-II (four cases).

<sup>7</sup> ₹ 1.72 crore: SD of ₹ 1.20 crore, surcharge of ₹ 23.84 lakh and RF of ₹ 28.23 lakh.

<sup>8</sup> ₹ 4.14 crore: SD of ₹ 2.94 crore, surcharge of ₹ 58.94 lakh and RF of ₹ 60.80 lakh.

<sup>9</sup> SR: Baran and Kota-II.

	categorised as conveyance. This resulted in non-levy of SD, surcharge and RF of ₹ 55.44 lakh <sup>10</sup> .	
3	<p><b>Power of attorney</b></p> <p>A POA was enclosed with a sale deed executed (May 2017) at SR Tijara (Alwar). The sale deed was registered on the basis of registered POA. Scrutiny of the registered POA and sale deed revealed that the POA was executed (May 2016) in favour of a company by an individual on which SD, surcharge and RF of ₹ 8.32 lakh<sup>11</sup> at the rate of two <i>per cent</i> of market value of the property was chargeable. However, the registering authority levied and recovered only RF of ₹ 10 thousand. This resulted in non-levy of SD and surcharge of ₹ 8.22 lakh<sup>12</sup>.</p>	The Government replied (May 2019) that notice for recovery has been issued to the executant in the case. Further progress of recovery is awaited (May 2020).
4	<p><b>Mortgage deeds</b></p> <p>Three instruments of mortgage deed were registered (June 2017) at SR Pushkar (Ajmer) for availing loan from a Nationalised Bank. Scrutiny of the mortgage deeds revealed that these were registered for extension of existing loan facility on which SD of ₹ 13.71 lakh<sup>13</sup> at the rate of 0.15 <i>per cent</i> of the amount (₹ 72 crore <i>i.e.</i> further loan amount) secured was chargeable. However, the registering authority levied and recovered SD of ₹ 2.40 lakh<sup>14</sup> at the rate of 0.15 <i>per cent</i> of market value (₹ 9.17 crore) of the mortgaged properties. This resulted in short levy of SD and surcharge of ₹ 11.31 lakh<sup>15</sup>.</p>	The Government replied (May 2018) that notices for recovery have been issued to the executants. Further progress of recovery is awaited (May 2020).
5	<p><b>Release deeds</b></p> <p>Two instruments were registered (between June 2017 and July 2017) at SR Sanganer-II (Jaipur) as release deeds for releasing ancestral property to relatives. Further scrutiny revealed that the ancestral properties were released to relatives who were not specified under Article 48(a) of the Schedule to the RS Act. As the release deeds were executed in favour of relatives other than those specified in the Act, concessional rates should not have been applied and SD of ₹ 15.16 lakh<sup>16</sup> was to be charged as on conveyance for the amount equal to the market value of the share as per Article 48(b) of the Schedule to the RS Act. The registering authority, however, irregularly extended the benefit of concessional rates and charged SD of ₹ 0.13 lakh<sup>17</sup> only. This resulted in short levy of SD, surcharge and RF of ₹ 15.03 lakh<sup>18</sup>.</p>	The Government replied (July 2019) that cases have been registered with Collector (Stamps). Further progress is awaited (May 2020).
6	<p><b>Transfer of immovable properties through unregistered agreements</b></p> <p>Agriculture land(s) measuring 2,45,821 square metre situated in two <i>tehsils</i><sup>19</sup> (SR, Chomu (Jaipur) and Jaipur-III) were purchased (between November 2012 and March 2016) by a Co-operative Housing Society through unregistered agreements. These agreements were required to be registered under Section 17 of the Registration Act and Article 21 of the Schedule to the RS Act. However, the Regional Auditor, Co-operative Societies, being person-in-charge of a public office failed to detect this irregularity and did not make any</p>	The Government replied (July 2019) that cases have been registered with Collector (Stamps). Further progress is awaited (May 2020).

<sup>10</sup> ₹ 55.44 lakh: SD of ₹ 39.82 lakh, Surcharge of ₹ 7.65 lakh and RF of ₹ 7.97 lakh.

<sup>11</sup> ₹ 8.32 lakh: SD of ₹ 6.85 lakh, surcharge of ₹ 1.37 lakh and RF of ₹ 0.10 lakh.

<sup>12</sup> ₹ 8.22 lakh: SD of ₹ 6.85 lakh and surcharge of ₹ 1.37 lakh.

<sup>13</sup> ₹ 13.71 lakh: SD of ₹ 10.80 lakh, surcharge of ₹ 2.16 lakh and RF of ₹ 0.75 lakh.

<sup>14</sup> ₹ 2.40 lakh: SD of ₹ 1.38 lakh, surcharge of ₹ 0.27 lakh and RF of ₹ 0.75 lakh.

<sup>15</sup> ₹ 11.31 lakh: SD of ₹ 9.42 lakh and surcharge of ₹ 1.89 lakh.

<sup>16</sup> ₹ 15.16 lakh: SD of ₹ 10.45 lakh, surcharge of ₹ 2.09 lakh and RF of ₹ 2.62 lakh.

<sup>17</sup> ₹ 0.13 lakh: SD of ₹ 0.10 lakh, surcharge of ₹ 0.02 lakh and RF of ₹ 0.01 lakh.

<sup>18</sup> ₹ 15.03 lakh: SD of ₹ 10.35 lakh, surcharge of ₹ 2.07 lakh and RF of ₹ 2.61 lakh.

<sup>19</sup> *Tehsils*: Chomu and Jaipur.

	reference to Collector (Stamps) in the matter which resulted in non-levy of SD, surcharge and RF of ₹ 1.96 crore at the rate of five <i>per cent</i> on market value of ₹ 28.35 crore <sup>20</sup> of these properties.	
7	<p><b>Partition deeds of immovable properties:</b></p> <p>Four instruments of sale deed of immovable properties were registered (between June 2017 and March 2018) at SR, Udaipur-II. Scrutiny of the recitals of these sale deeds revealed that these properties were purchased by the co-owners jointly. Later on they separated their shares from the joint properties through execution (between December 2011 and September 2016) of partitioned deeds. Thereafter the owners sold their portion in individual capacities through sale deeds. There was nothing on record to show that these partition deeds were registered though, SD of ₹ 100 each was paid. However, while registering the sale deeds the registering authority failed to notice the irregularity and did not charge SD, surcharge and RF on the partition deeds. This resulted in non-levy of SD, surcharge and RF of ₹ 73.96 lakh<sup>21</sup>.</p>	The Government replied (July 2019) that notices for recovery have been issued to the executants. Further progress is awaited (May 2020).
8	<p><b>Certificate of sale</b></p> <p>Four instruments were registered (Between December 2017 and March 2018) at SR, Bhiwadi as <i>certificate of sale</i>. Scrutiny of records revealed that these <i>certificates of sale</i> were issued to the purchasers by the Banks/Financial Institutions after auction of the properties against which loan amount was not paid by the defaulters. The registering authority allowed full exemption in SD to the purchasers without ensuring submission of certificates of sick enterprises. In absence of the certificates, exemption for SD was irregular. The registering authority, however, ignored the fact while registering the instrument and levied only the registration fee of ₹ 5.44 lakh. Irregular exemption in SD resulted in non-levy of SD and surcharge of ₹ 33.50 lakh<sup>22</sup>.</p>	The Government replied (September 2019) that entire amount of ₹ 8.48 lakh has been recovered in two instruments while in remaining two instruments, cases have been registered with collector (Stamps). Further progress is awaited (May 2020).
9	<p><b>Developer agreements:</b></p> <p>Two instruments of immovable properties were registered (May 2017 and June 2017) at two SRs<sup>23</sup> as sale deed/lease deed. Scrutiny of the recital of these deeds revealed that agreements were executed (April 2006 and September 2007) between the owners of the property and the developers for development of residential and commercial building/complex on the properties. The fact about the registration of these agreements was neither mentioned in the sale/lease deed nor were the copies of registered agreements enclosed for ready reference. Thus, there was nothing on record to prove that these developer agreements were registered and duly stamped. Therefore, non-registration of these developer agreements resulted in non-levy of SD of ₹ 1.29 crore.</p>	The Government replied (August 2019) that cases have been registered with collector (Stamps) in both the instruments. Further progress is awaited (May 2020).
10	<p><b>Lease deeds</b></p> <p>Six instruments were registered (between June 2017 and December 2017) at three SRs<sup>24</sup> as lease deeds pertaining to immovable properties. Scrutiny of the recital of the lease deeds and evaluation reports revealed that the concerned registering authorities ignored the facts mentioned in the leases or documents attached and thus incorrectly calculated</p>	The Government replied (August 2019) that a notice for recovery has been issued to the executant in one instrument while cases have been registered with

<sup>20</sup> The rates as fixed by the concerned District Level Committee for the area effective from 15 May 2017, 22 May 2017 and 13 February 2018.

<sup>21</sup> ₹ 73.96 lakh: SD of ₹ 61.30 lakh, surcharge of ₹ 12.26 lakh and RF of ₹ 0.40 lakh.

<sup>22</sup> ₹ 33.50 lakh: SD of ₹ 27.92 lakh and surcharges of ₹ 5.58 lakh.

<sup>23</sup> SR: Jaipur-II and Kota-II.

<sup>24</sup> SR: Chittorgarh, Jaipur-IV and Udaipur-I.

	<p>the period of leases. In three cases, previous period immediately preceding the new leases without a break for which the lessee and lessor remained the same were not considered and in remaining cases the leases were for a period of more than five years<sup>25</sup> however, the registering authorities considered the period as less than five years. Thus, the registering authorities levied SD of ₹ 13.46 lakh<sup>26</sup> instead of ₹ 71.44 lakh<sup>27</sup>. This resulted in short levy of SD, surcharge and RF of ₹ 57.98 lakh<sup>28</sup>.</p>	<p>Collector (Stamps) in remaining five instruments. Further progress is awaited (May 2020).</p>
11	<p><b>Transfer of immovable properties to partnership firms</b></p> <p><b>(i) Immovable properties transferred by individuals to the partnership firms</b></p> <p>Five instruments were registered (between April 2016 and September 2017) at four SRs<sup>29</sup> as sale deeds. Scrutiny of these sale deeds and records provided by the Registrar of Firms (RoF), Sirohi revealed that the immovable properties owned by the individuals were transferred to partnership firms. Thus, the individuals (assigners) had transferred (assigned) their immovable properties to the partnership firms (assignees) and therefore, the assignee(s) had become the sole owner of the said property(s). The immovable properties valuing ₹ 49.37 crore were transferred to the firms on which SD of ₹ 2.96 crore<sup>30</sup> was leviable. However, the RoF, Sirohi, being person-in-charge of a public office, failed to detect this irregularity at the time of registration (between July 2016 and December 2016) of the partnership deeds and did not refer the matter to Collector (Stamps) in two cases. These were notarized in the office of Notary Public on the stamps of ₹ 2,000 each only. These Notary(s) public also failed to perform their duty as public officer. In remaining three cases, SD was not paid. The registering authority while registering the sale deeds did not detect the irregularity and did not charge duty on transfer of immovable properties which resulted in non-levy of SD of ₹ 2.96 crore.</p> <p><b>(ii) Immovable properties transferred to the existing/new partners of the partnership firms</b></p> <p>Two instruments were registered (between December 2017 and February 2018) at two SRs<sup>31</sup> as sale deeds. Scrutiny of these sale deeds and records provided (May 2019) by the RoF, Udaipur revealed that share of immovable properties owned by the existing/retiring partners were transferred to the existing/new partners of the partnership firms. Thus, the existing/retiring partners (assigners) had transferred (assigned) their immovable properties to the existing/new partners (assignees) of the partnership firms and therefore, the assignee(s) had become the sole owner of the said property(s). The immovable properties valuing ₹ 111.40 crore were transferred to the existing/new partners of the partnership firms on which SD of ₹ 6.64 crore<sup>32</sup> was leviable. This resulted in non-levy of SD and surcharge of ₹ 6.64 crore.</p>	<p>The Government replied (August 2019) that cases have been registered with Collector (Stamps) in three instruments while notices for recovery have been issued to the executants in two instruments. Further progress is awaited (May 2020).</p> <p>The Government replied (October 2019) that cases have been registered with Collector (Stamps) in both the instruments. Further progress is awaited (May 2020).</p>

<sup>25</sup> Above 5 years and upto 10 years.

<sup>26</sup> ₹ 13.46 lakh: SD of ₹ 9.62 lakh, surcharge of ₹ 1.92 lakh and RF of ₹ 1.92 lakh.

<sup>27</sup> ₹ 71.44 lakh: SD of ₹ 52.54 lakh, surcharge of ₹ 10.51 lakh and RF of ₹ 8.39 lakh.

<sup>28</sup> ₹ 57.98 lakh: ₹ 71.44 lakh (-) ₹ 13.46 lakh.

<sup>29</sup> SR: Ajmer-I, Sanchore (Jalore), Sirohi and Udaipur-I.

<sup>30</sup> ₹ 2.96 crore: SD of ₹ 2.47 crore and Surcharge of ₹ 0.49 crore.

<sup>31</sup> SRs: Nathdwara and Udaipur-I.

<sup>32</sup> ₹ 6.64 crore: SD of ₹ 5.72 crore and Surcharge of ₹ 0.92 crore.