



Chapter III
Stamp Duty and
Registration Fee

Chapter-III Stamp Duty and Registration Fee

3.1 Tax administration

Receipts from Stamp Duty and Registration Fee are regulated by the Indian Stamp Act (IS Act), 1899, the Karnataka Stamp Act (KS Act), 1957, the Registration Act, 1908 and the Rules made thereunder. In Karnataka, the levy and collection of Stamp Duty and Registration Fee is administered at the Government level by the Principal Secretary, Revenue Department. The Department of Stamps and Registration (DSR) under the administrative control of the Revenue Department regulates the levy and collection of Stamp Duty and Registration Fee.

3.2 Internal Audit

The Department stated that though an Internal Audit Cell was constituted in December 2012, it was still not functional due to lack of manpower. But, the Department has a mechanism in place where the District Registrars are in charge of circle-wise periodic audits. The results of such Audit are reported to the Inspector General of Registration and Commissioner of Stamps (IGR&CS). The position of observations is as shown in **Table 3.1**.

Table 3.1
Year-wise details of observations

Year	Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2014-15	749	10.99	232	2.38	517	8.61
2015-16	239	2.54	90	0.45	149	2.09
2016-17	799	3.59	108	0.39	691	3.20
2017-18	705	6.51	103	0.67	602	5.84
2018-19	611	9.36	60	0.36	551	9.00
Total	3103	32.99	593	4.25	2510	28.74

As seen from the above, 2,510 observations involving ₹ 28.74 crore were pending settlement as on 31 March 2019. Early action may be taken to settle the pending observations.

3.3 Results of Audit

There are 282 auditable units in the Department of Stamps and Registration. Out of these, Audit selected 51 units for test check wherein 10.86 lakh documents were registered. Out of these, Audit test checked 1.62 lakh documents (14.92 *per cent*) during the year 2018-19 and noticed 1846 cases (1.14 *per cent* of audited sample) of short-levy of Stamp Duty and Registration Fee due to undervaluation and suppression of consideration and non-observance of provisions of Acts/Rules, etc., in 41 units involving an amount of ₹ 93.87 crore. These cases are illustrative only as these are based on test check of records. The observations broadly fell under the following categories.

Table 3.2
Results of Audit

(₹ in crore)			
Sl. No.	Category	No. of Paragraphs	Amount
1	Short-levy of SD and RF due to undervaluation	37	64.90
2	Short-Levy SD and RF due to suppression of consideration	20	4.79
3	Short-levy of SD and RF on Development agreements	10	9.46
4	Other irregularities	32	14.72
	Total	99	93.87

During the year an amount of ₹ 97.73 lakh was recovered in 27 Paragraphs pointed out in earlier years.

A few illustrative cases of non/short realization of Stamp Duty and Registration Fee involving ₹ 39.41 crore are discussed in the following paragraphs.

3.4 Short-levy of Stamp Duty and Registration Fee due to undervaluation

According to Section 3 of the Karnataka Stamp Act 1957, Stamp Duty is levied on instruments chargeable with duty as prescribed under various Articles in the Schedule of the Act, *ibid.* Under Article 20, for instruments of conveyance, Stamp Duty is charged as a percentage of the consideration or of the market value of the property, whichever is higher. Market Value Guidelines are prescribed for properties situated in the State by the Central Valuation Committee under Section 45-B of the Act. This forms the basis for estimation of market value by the Registering Officer while registering documents chargeable with Stamp Duty. A set of Special Instructions is also appended as Annexure-I to the statement of estimated values to deal with specific enhancements in the nature of the property. These instructions are to be correctly applied during valuation to arrive at the proper market value of the property.

During audit of 77 Sub-Registrar Offices (SROs) between April 2016 and June 2018, Audit noticed short-levy of Stamp Duty and Registration Fee amounting to ₹ 16.18 crore due to adoption of incorrect guidance values, incorrect classification of the nature of the document, non-adherence to Special Instructions, etc. in 19 SROs¹⁰⁴ (24.67 per cent). In this connection, Audit had test checked 89,382 documents (18.63 per cent) out of 4,79,576 documents and noticed the above discrepancies in 73 sale deeds (0.08 per cent of the audited sample). The details are as follows.

a. Non-application of enhanced rates

The market value guidelines contain general rates for each area under the jurisdiction of the SRO concerned. In addition, there are a set of special instructions regarding valuation, to be applied under special circumstances. As

¹⁰⁴ SROs-Bidar, Bidarahalli, Bommanahalli, BTM layout, Channagiri, Chitradurga, Davanagere, Ganganagar, Hunsur, Karkala, Karwar, K.R.puram, Malleswaram, Mangaluru, Moodabidri, Periyapatna, Sindanoor, Shivajinagar and Shivamoga.

per these instructions enhanced rates are to be applied depending on the type of property being conveyed, as follows.

Table 3.3
Prescribed rates of enhancement

Nature of property	Percentage enhancement of general rates
Property abutting National Highway	50 per cent enhancement
Property with roads on two sides	10 per cent enhancement
For Commercial sites	30 per cent enhancement
For Commercial buildings	40 per cent enhancement

Audit noticed 14 documents¹⁰⁵ wherein properties (i) abutting NH, (ii) with roads on two sides and (iii) commercial properties, were conveyed. All these cases warranted enhancement of general rates by percentages prescribed, but were valued at general rates instead. This resulted in short-levy of Stamp Duty and Registration Fee of ₹ 1.76 crore.

b. Non-adoption of full consideration shown in the document

Stamp Duty is levied on the consideration stated in the document or the estimated market value whichever is higher.

Audit noticed 15 documents¹⁰⁶ of sale of apartments, where Stamp Duty and Registration Fee were levied on the consideration stated in the document. On perusal of the recitals of the documents, it was noticed that there were entries of all individual cheques through which the consideration was paid. Audit noticed that the total amounts of these cheques were more than the figure depicted as consideration and hence Stamp Duty and Registration Fee were to be levied on the total amount of the cheques. This was not done during valuation of the documents, which resulted in short-levy of Stamp Duty and Registration Fee of ₹ 10.41 lakh.

c. Adoption of incorrect guidance values

The market value guidelines prescribe higher rates for wet¹⁰⁷ agricultural lands as compared to dry¹⁰⁸ agricultural lands. This has to be ascertained through the Right, Tenancy and Crop (RTC)¹⁰⁹ of the lands, by the SRO and apply appropriate rates. Audit noticed 10 cases¹¹⁰ where properties conveyed were wet agricultural lands. However, in all these cases the Sub-Registrar (SR) applied the rates for dry agricultural lands.

Audit also noticed two cases¹¹¹ of individual sites, whose rates were specifically prescribed in the market value guidelines. However, while valuating the properties, instead of these specific rates, rates pertaining to other similar

¹⁰⁵ SROs– Bidar, BTM layout, Channagiri, Chitrdurga, Davanagere, Karkala, Malleswaram, Mangaluru, Moodabidri, Periyapatna and Shivamoga.

¹⁰⁶ SRO, Bidarahalli.

¹⁰⁷ Wet land- land in which wet crops can be grown by use of rain water or water obtained from any source of water which is not the property of the State Government.

¹⁰⁸ Dry lands- land in which wet crops cannot be grown except when irrigated by water obtained from any source of water which is the property of the State Government.

¹⁰⁹ Right, Tenancy and Crop information issued by the Land Revenue Department.

¹¹⁰ SRO, Sindanoor.

¹¹¹ SROs, Ganganagar and Bommanahalli.

properties with lesser rates were adopted. Thus, error in identifying the properties correctly led to undervaluation and consequent short-levy of Stamp Duty and Registration Fee of ₹ 26.87 lakh.

d. Non-application of sital rates

When agricultural lands or converted un-developed lands upto five guntas are conveyed, they have to be valued at full sital¹¹² rates and when lands conveyed are from five guntas to 10 guntas, they have to be valued at 50 *per cent* of the sital rates. Further, lands converted for non-agricultural use, but remaining un-developed, have to be valued at multiples of agricultural rates depending on the nature of conversion.

Audit noticed eight documents¹¹³ wherein agricultural rates were adopted for valuation instead of sital rates. In one case, seven parcels of land in different Survey numbers were conveyed through a single document, where each parcel was less than five guntas. In the remaining seven cases, portions of converted un-developed land were conveyed. In all these eight cases, valuation was to be done as per special instructions, at sital rates. However, the SRO concerned had valued the land at agricultural rates resulting in short-levy of Stamp Duty and Registration Fee of ₹ 44.04 lakh.

e. Application of general rates for specific projects

The market value guidelines prescribe general rates for areas within its jurisdiction and specific rates for individual properties wherever possible. Further, as per one of the special instructions, any *new* apartments, villas, layouts etc. are to be referred to the CVC for fixing of rates before Registration. Audit noticed twenty documents¹¹⁴ where commercial apartments in a project named Prestige Tech Park-III situated in Varthur hobli were conveyed. The SRO while registering these documents had applied general rates which were approximately ₹ 3,000 per sq.ft, since there were no specific rates prescribed in the market value guidelines. However, as per the recitals of the document, there were two other projects named Prestige Tech Park-I and Prestige Tech Park-II within the same campus with prescribed guidance value of ₹ 6200 and ₹ 6000 per sq.ft respectively. There were 14 Tech Parks including the above mentioned, in Varthur hobli, with specific market values stipulated against each Tech park and the lowest rate among the 14 was ₹ 5,900 per sq.ft. Hence, it is evident that value adopted by the SRO was lesser in comparison to all other Tech-parks in the area.

The SRO, instead of referring the matter to the CVC to get the rates prescribed, had applied general rates, which resulted in short-levy of Stamp Duty and Registration Fee of ₹ 70.69 lakh compared with the least (₹ 5900 per sq.ft) of the values prescribed in that area.

f. Non-application of prescribed specific rates

The market value guidelines prescribe general rates for all the areas within its jurisdiction and specific rates for individual properties wherever possible. These

¹¹² Sital rates means rates prescribed for sites in the market value guidelines.

¹¹³ SROs, K.R.puram and Hunsur.

¹¹⁴ SRO, Shivajinagar.

values are to be correctly applied while estimating the value of a property being conveyed.

Audit noticed three¹¹⁵ documents¹¹⁶ through which industrial land measuring 186 Acre and 27 Guntas situated in several survey numbers were conveyed. The market value guidelines pertaining to the jurisdictional SRO, Karwar, had assigned specific rates for this industrial land by its name¹¹⁷ at ₹ 234 per sq.ft. However, during valuation, these lands were valued by applying rates between ₹ 15 per sq.ft and ₹ 36 per sq.ft. The total value was arrived at ₹ 41.28 crore and Stamp duty and Registration Fee levied accordingly, whereas, the value worked out to ₹ 224 crore at ₹ 234 per sq.ft. as prescribed in the market value guidelines. This resulted in short-levy of Stamp Duty and Registration Fee of ₹ 12.19 crore.

g. Misclassification of document

As per the Karnataka Stamp Act, an instrument of Gift attracts Stamp Duty at the rate of conveyance (i.e. five *per cent* on the market value of the property) if it is between non-family members, whereas if it is between family members, a fixed sum ranging from ₹ 1000 to ₹ 5000 depending on the location of the property is levied as Stamp Duty.

Audit noticed one document¹¹⁸ where the President of an Educational Society had gifted land to the same Society. This did not constitute a transaction between the members of a family as defined in the Article. However, the SRO while valuing the document, treated it as between family members and levied Stamp Duty of ₹ 5,000, whereas Stamp Duty was to be levied at the rate of conveyance. This resulted in short-levy of Stamp Duty and Registration fee of ₹ 70.58 lakh.

After these cases were brought to the notice of the Department (January 2019) and the Government (April 2020), the IGR&CS replied that the Department has recovered ₹ 30.84 lakh in 16 cases and referred 31 cases to the District Commissioner for recovery as arrears of land revenue. In six cases, the parties involved had gone for appeals against the orders of the District Registrar and the DR has initiated action in the remaining cases (September 2020).

Recommendation: Audit recommends judicious utilisation of market value guidelines to enhance revenue realised through Stamp duty and Registration fee.

3.5 Short-levy of Stamp Duty and Registration Fee on Release deeds

As per Article 45 of the schedule to the Karnataka Stamp Act, 1957, a deed whereby a person renounces a claim upon another person or against any specified property is treated as a Release deed and SD and RF are charged as below:

¹¹⁵ SRO, Karwar.

¹¹⁶ These three sale-deeds were noticed during check of an amalgamation deed registered during the year 2017-18.

¹¹⁷ BILT area-Ballarpur Industries Limited.

¹¹⁸ SRO, Bommanahalli.

- i) Where the release is **not** between family members, SD is charged at five percent and RF at one percent on the market value of the property on which claim is renounced or on the consideration taken for such release, whichever is higher.
- ii) Where the release is between family members, SD is charged at fixed rates¹¹⁹ ranging from ₹ 1,000 to ₹ 5,000 depending on the place where the property is situated, and RF at a fixed rate of ₹ 500;

Family is defined in *Explanation*¹²⁰ below the Article.

During audit of three Sub-Registrar Offices¹²¹ between May 2018 and November 2018, Audit test checked 153 documents (5 per cent out of 3063) titled as Release deeds and noticed 23 cases (15 per cent of the audited sample) of short-levy of SD and RF as detailed below.

a. Application of fixed rates for release between non-family members

In two Sub-Registrar Offices, Karkala and Mahadevapura, Audit noticed nine cases wherein SD was charged at fixed rates treating the document as between family members. Scrutiny of the documents revealed that the executants were not within the definition of the family under the Article in five cases and hence SD and RF were to be charged on the market value of the property. In the remaining cases, the executants contained both family and non-family members. In these cases, the SD and RF were to be charged on the market value of the property being released, proportionate to the share of the non-family members. However, in all these cases SD and RF were charged treating the documents as between family members. Consequent short-levy of SD and RF amounted to ₹ 65.79 lakh.

b. Application of incorrect rates

Audit noticed 13 cases in SRO, Karwar and one case in SRO, Karkala wherein properties were conveyed between parties through deeds titled as 'Relinquishment/Release deeds'. On verification of the recitals of the documents, Audit found that all these cases were sale of agricultural land. Hence, these cases were to be treated as sale-deeds and SD and RF were to be levied on the market value of the property or the consideration whichever was higher. It was, however, noticed that in nine cases, the documents were registered by collecting SD and RF on the consideration stated therein instead of the market value which was higher. In the remaining five cases, values of the properties were estimated by applying incorrect guidance values. This resulted in short-levy of SD and RF of ₹ 24.39 lakh.

¹¹⁹ Within BBMP, BMRDA or City Corporation limits-₹5000; within City, Town Municipal Council or Town Panchayath Area-₹ 3,000; and other than these two limits-₹ 1000.

¹²⁰ Explanation under Article 45 defines Family for the purpose of Release deed as – Husband, Wife, Son, Daughter, Father, Mother, Brother, Wife/Children of predeceased Brother, Sister, Husband and Children of predeceased Sister, Wife of predeceased Son and Children of a predeceased Son or Daughter.

¹²¹ SROs – Karkala, Karwar and Mahadevapura.

After these cases were brought to the notice of the Department (June 2019) and the Government (February 2020), the IGR&CS has replied that the District Registrars concerned have initiated action in all the cases under Section 45(A)(3) and 46 (A) of the KS Act, 1957 (September 2020).

Recommendation: Audit recommends that the Sub-Registrars may adhere to the definition of ‘family’ while charging duty on Release deeds comprising of family and non-family members.

3.6 Short-levy of Stamp Duty and Registration Fee on Joint Development Agreements

Joint Development Agreement is an arrangement between a Developer and a Land Owner, where the Developer forms a layout or builds apartments on the land belonging to the Owner. As per the arrangement, a portion of the developed layout or the apartments is transferred to the Owner, after development.

As per Article 5(f) of the Karnataka Stamp Act, 1957, Joint Development Agreements (JDA) for a property are to be levied Stamp Duty at two *per cent* on the market value of the share of the developer in the land transferred for development or the market value of the developed property transferred to the owner, whichever is higher, including money advanced, if any. Registration Fee¹²² is also leviable at one *per cent ad-valorem*.

During audit of five¹²³ Sub-Registrar Offices (SRO) between March 2018 and October 2018, Audit test-checked 155 JDAs (50 *per cent* out of 311 JDAs) pertaining to the period 2016-17 and 2017-18 and noticed 50 JDAs (32 *per cent* of the audited sample) wherein Stamp Duty and Registration Fee were short-levied. It was noticed that four JDAs pertained to development of layouts and 46 JDAs pertained to construction of apartments.

In all these cases the market value of the developed property transferred to the owner was higher and hence Stamp Duty and Registration Fee were to be levied on the share of the owner. However, out of the aforesaid 50 documents, in 28 cases, Stamp Duty and Registration Fee were levied on the Developer’s share in land which was lower in market value than the owners’ share in the developed property. In the remaining cases, though the owners’ share was adopted for valuation, either the rates applied to compute the market value were not correct¹²⁴ or the percentage of share transferred to the owner was adopted incorrectly resulting in short-computation of market value. Consequent short-levy of Stamp Duty and Registration Fee worked out to ₹ 9.44 crore.

After these cases were brought to the notice of the Department (February 2019) and the Government (November 2019), the IGR&CS replied that the Department has recovered ₹ 32.15 lakh in three cases and referred 20 cases to the District Commissioner for recovery as arrears of land revenue. In four cases, the parties involved had gone for appeals against the orders of the District Registrar and the DR has initiated action in the remaining cases (September 2020).

¹²² Registration Fee limited to ₹ 1.50 lakh.

¹²³ Chitradurga, Mahadevapura, Mangaluru, Shivajinagar and Varthur.

¹²⁴ Agricultural rates were applied instead of sital rates/general rates were not enhanced by 30 *per cent* even though property was being developed for commercial purposes.

Recommendation: Audit recommends clarificatory orders from IGR&CS in respect of computation of shares in JDA as a significant percentage of JDAs are undervalued.

3.7 Incorrect application of rates resulted in undervaluation of Sale-Deeds

Guidance Market Values (GMV) are prescribed for properties situated in the State by the Central Valuation Committee (CVC) under Section 45-B of the Karnataka Stamp Act, 1957. These values are to be correctly applied during valuation to arrive at the proper market value of the property. This forms the basis for estimation of market value by the Registering Officer while registering documents. Whenever, the value estimated by the Sub-Registrar is not accepted by the parties concerned, the Sub-Registrar shall keep the process of registration pending and refer the matter to the Deputy Commissioner for determination of proper market value, as per Section 45 A of the Act *ibid*.

During test-check of records of Sub-Registrar Office Belagavi during April 2018, Audit noticed nine sale deeds wherein individual un-divided shares of the vendors in a property totally measuring 1,18,320 sq. yards were conveyed to a purchaser. As per the recitals of the documents, this property was situated in the city corporation limits of Belagavi and abutted the Old Pune-Bangalore Road. The Belagavi City Corporation had assigned City Title Survey (CTS) number (CTS nos.3928, 3929, 3929/1, 3929/2 and 3929/5) and the CTS numbers 3928 and 3929/2 were assigned specific rate of ₹22,540 per square metre as per the GMV prescribed for the jurisdiction of SRO, Belagavi. However, all the remaining CTS numbers along with 3928 and 3929/2 share the same boundaries as per the schedule of the document, since the whole property was one contiguous block and it commanded a similar valuation. Besides, from the tax-paid receipts, it was noted that the property had buildings of both commercial and residential nature.

However, during valuation, the SRO did not consider the specific rate prescribed in GMV, contiguous nature of the property and the existence of buildings in the property and estimated the value on agricultural basis, which is the lowest valuation under GMV. The estimated value of the Sub-Registrar was ₹ 13.75 crore, whereas the consideration stated in the document was ₹78.00 crore on which SD and RF of ₹ 5.15 crore was charged. The difference between valuation and consideration itself indicated the error in assessment of value by the Sub-Registrar.

Based on the specific value assigned in the GMV, the value of the property was ₹ 222.92 crore on which SD and RF of ₹ 14.71 crore was chargeable. Non-adoption of specific rates during estimation led to under valuation of documents and resultant short-levy of SD and RF of ₹ 9.56 crore.

This was brought to the notice of the Sub-Registrar concerned. The Sub-Registrar in reply, endorsed by the District Registrar, stated that the land was agricultural in status without conversion and that it was un-developed without any civic amenities, and hence the value estimated was correct.

This reply is not accepted because the error in valuation of property based on agricultural rates was already evident from the difference in valuation made by

SRO and the consideration stated in the document. Though the land was stated to be agricultural in status, the SRO was bound by the specific values assigned by the CVC. If the values as estimated were not agreed to by the parties concerned, the documents were to be forwarded to the District Registrar for valuation, and not mere endorsement, as was noticed in the present case. However, the SRO did not follow the process and failed to consider the contiguous nature of the property and existence of buildings of residential and commercial nature in the property and make a fair estimation.

After this was brought to the notice of the Department (January 2019) and the Government (September 2019), the IGR&CS has replied that the District Registrar concerned has initiated action under Section 46 (A) of the KS Act and 80 (A) of the Registration Act (September 2020).

Recommendation: Audit recommends to consider the advantage of the location and price of adjacent lands to evaluate properties appropriately.

3.8 Non-remittance of Demand Drafts and cash into Government Account indicating possible misappropriation of Government Revenue

Article 4 of the Karnataka Financial Code, 1958 stipulates that transactions to which any Government Servant in his official capacity is a party must, without any reservation, be brought to account, and all moneys received should be paid in full without undue delay, in any case within two days, into Government treasury, to be credited to the appropriate account and made part of the general treasury balance.

Article 329(v) of the KFC requires that 'when Government money in the custody of a Government Officer is paid into the Treasury or the bank, the Head of the Office making such payments should as soon as possible after the end of the month, obtain from the treasury, a consolidated receipt of all the remittances made during the month which should be compared with the postings in the cash book'.

Stamp Duty (SD) and Registration Fee (RF) are collected in the Sub-Registrar office by way of DDs and cash. These are entered in the 'A' register, which is closed each day. Entries of amounts from the 'A' register are taken to Remittance Register for crediting into the treasury branch of Bank. At the end of each month these remittances are verified with that of treasury schedules (KTC-25), to ensure that the figures appear in the Government Account.

During test check of records in the Office of the Sub-Registrar (SRO), Karwar in April 2018, Audit noticed that, between the period July 2017 and April 2018, DDs amounting to ₹ 5.90 crore and cash amounting to ₹ 2.37 crore were collected towards SD, RF, etc., and entered in the 'A' register. However, out of the above, DDs amounting to ₹ 3.89 crore and cash amounting to ₹ 1.05 crore only were remitted to the nodal banks for realization into the Government account. Thus, DDs and cash amounting to ₹ 2.01 crore and ₹ 1.32 crore respectively, during the above period were not remitted to the nodal bank. The DDs were kept under custody of the Sub-Registrar (In-charge) and cash, though entered in the remittance register, was not found remitted to the Government Account. Thus, an amount of ₹ 3.33 crore was not remitted into the Government

Account. This was not only in contravention to the articles of the KFC but also raised the possibility of mismanagement of the money collected. Though the DDs were less susceptible for any misuse, the misappropriation of cash cannot be ruled out and Department needs to conduct appropriate investigation to fix the responsibility on the persons involved in the mismanagement of Government money.

As per provisions of KFC, the Departmental Officers are supposed to reconcile the remittances with the treasury schedule every month to ensure revenue realization into the Government Account. The supervisory control in this respect rests with the Departmental Controlling Officers through accounts and returns from their subordinates. Audit noticed that monthly reconciliation was not conducted at the Office and this fact was not noticed and rectified at the level of Departmental Controlling Officers. This indicated lapses in the due remittance of the Revenue realised in the Office and also in the monitoring process by the Departmental Controlling Officers as a result of which non-remittance of ₹ 3.33 crore remained unnoticed. Such lapses in the control procedures in place to ensure timely remittance of Government Revenue, kept the system exposed to the risk of frauds and non-realization of Government money.

After this was brought to the notice of the Department (March 2019) and the Government (May 2020), the IGR&CS has replied that departmental proceedings were underway against the SRO concerned and that the Department has recovered ₹ 1.97 crore pertaining to DDs and ₹ 50.00 lakh pertaining to cash (September 2020).

Recommendation: Audit recommends that the IGR&CS must take a periodic review of the process of Revenue Reconciliation under the Offices which collect revenue to mitigate the risk of malpractices which lead to non-remittance of revenue.