

CHAPTER-IV
STAMP DUTY AND
REGISTRATION FEE

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4.1 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 415¹ *ex-officio* SRs².

4.2 Internal audit

The Department has an Internal Audit Wing under the charge of the Financial Advisor and has six Internal Audit Parties. Planning for internal audit of units is done on the basis of relative importance and revenue realisation. The status of internal audit conducted during 2015-16 to 2019-20 is given in the **Table 4.1** below:

Table 4.1

Year	Total units due for audit	Total number of units audited	Unaudited units	Shortfall (<i>per cent</i>)
2015-16	523	180	343	66
2016-17	527	109	418	79
2017-18	340	81	259	76
2018-19	573	137	436	76
2019-20	328	88	240	73

Source: Information provided by the IGRS.

The shortfall in coverage of units due for audit ranged between 66 *per cent* and 79 *per cent* during 2015-16 to 2019-20. The Department stated that the arrear in audit was due to the shortage of posts.

It was noticed that 8,217 paragraphs of internal audit reports were outstanding at the end of 2019-20. Year-wise breakup of outstanding paragraphs of internal audit reports is given in the **Table 4.2** below:

Table 4.2

Year	Upto 2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Total
Paras	5,636	346	327	449	762	697	8,217

Source: Information provided by the IGRS.

1 As per Administrative report 2019-20 of IGRS.

2 *Tehsildars* and *Naib Tehsildars* have been declared as *ex-officio* SRs.

Out of 8,217 paragraphs, 5,636 paragraphs were outstanding for more than five years for want of compliance/corrective action. The reason stated by the 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 documents remains pending.

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

4.3 Results of audit

There are 544 auditable units³ in the Department, out of these, 89 Units (approximately 16 per cent of auditable units) were selected for test check during the year 2019-20. However, due to COVID-19 pandemic, 84 units (approximately 15 per cent of auditable units) could be audited wherein 7,85,850 instruments were registered. Of these, 1,70,591 instruments (approximately 22 per cent of instruments) were selected for test check. During scrutiny short/non-realisation of SD and RF of ₹ 25.61 crore in 1,028 instruments (approximately 0.6 per cent of sampled instruments) was noticed.

These cases are illustrative only as these are based on test check of records. Though audit pointed out similar omissions in earlier years, these irregularities persist and remain undetected till next audit is conducted. Irregularities noticed broadly fall under the categories in **Table 4.3** below:

Table 4.3

Sl. No.	Category	(₹ in crore)	
		Number of Cases	Amount
1	Incorrect determination of market value of properties	89	7.08
2	Non/short levy of SD and RF	870	18.21
3	Other irregularities related to:		
	(i) Revenue	66	0.32
	(ii) Expenditure	03	0.00
Total		1,028	25.61

During the year 2019-20, the Department accepted underassessment and other deficiencies of ₹ 45.94 crore pertaining to 2,043 cases, of which 376 cases involving ₹ 14.10 crore were pointed out during the year 2019-20 and the rest in the earlier years. The Department recovered ₹ 9.99 crore in 1,561 cases during the year 2019-20, of which 30 cases involving ₹ 0.43 crore related to the year 2019-20 and rest to the earlier years.

The State Government accepted the observations and recovered the entire amount of ₹ 64.96 lakh in seven cases of non-execution/registration of lease deeds (two cases pertaining to Office of the SR Bhiwadi) and transfer of mining leases (five cases pertaining to Office of the SR Banswara) after it was pointed out (between June 2019 and July 2019) by the Audit. These paragraphs have not been discussed in the Report.

³ 544 auditable units: 525 SRs (Registering authorities) and 19 administrative offices as per Audit Plan.

Few illustrative cases involving ₹ 10.73 crores are discussed in the succeeding paragraphs. It is pertinent to mention here that all these issues have been raised earlier and published in the CAG's Audit Report (Revenue Sector) of previous years wherein the Government accepted the observations and initiated action/recoveries. However, it is seen that the Department took action only in cases which were pointed out by audit. Recurrence of issues of similar nature points to weakness in the Internal Control system of the Department.

4.4 Non-levy of stamp duty on conversion of Companies into Limited Liability Partnerships

Three Private Limited Companies were converted into Limited Liability Partnerships, however, stamp duty, surcharge and registration fee on the value of assets possessed by Private Limited Companies so transferred to Limited Liability Partnerships were not levied.

As per State Government's notification (March 2017), SD on the instrument executed on or after 31 March 2009 relating to conversion of partnership firm, private limited company or unlisted public limited company into Limited Liability Partnership (LLP) under LLP Act, 2008 shall be chargeable at the rate of 0.5 *per cent* of value of assets so transferred. Surcharge is chargeable at the rate of 10 *per cent* on SD with effect from 9 March 2011 and 20 *per cent* with effect from 8 March 2016. RF is also chargeable at the rate of one *per cent* of market value subject to maximum of rupees ten thousand.

During test check (September 2019) of registration records of Office of the Sub-Registrar (SR) Jaipur-VII, it was noticed that immovable properties were purchased (December 2010 and October 2013) by two Private Limited Companies and another private limited company possessed (January 2013) an immovable property. These companies were registered under Companies Act 1956. Thereafter lease deeds/amended lease deeds were issued (December 2015, December 2016 and August 2017) by the Jaipur Development Authority (JDA) in favour of three LLPs and the same were registered (December 2015, February 2017 and August 2017) by SRs⁴.

Information regarding conversion of these Private Limited Companies into LLP was called for (March 2020 and June 2020) by audit from Office of the Registrar of Companies (RoC), Jaipur. Scrutiny of the information revealed that these Private Limited Companies were converted into LLP and the same have been registered (July 2014, March 2015 and July 2017) by the RoC, Jaipur.

The immovable properties were purchased by the Private Limited Companies and transferred to LLPs. Therefore, SD, surcharge and RF of ₹ 23.75 lakh⁵ at the rate of 0.5 *per cent* of the value of ₹ 42.38 crore of assets so transferred from Private Limited Companies to LLPs was to be charged as per notification *ibid*. However, the SR concerned did not detect the irregularity at the time of registration of lease deeds/amended lease deed which resulted in non-levy of SD, surcharge and RF amounting to ₹ 23.75 lakh.

4 SR Jaipur-I, Jaipur-II and Jaipur-VIII.

5 ₹ 23.75 lakh: SD of ₹ 21.19 lakh, RF of ₹ 0.30 lakh and Surcharge of ₹ 2.26 lakh.

The matter was reported to the State Government (June 2020). The Government replied (July 2020) that notices for recovery have been issued to the executants. Further progress of recovery is awaited (March 2021).

Lack of flow of information regarding conversion in the legal status of entities from RoC and issuing of lease deeds to such entities from JDA to the Department results in such cases of revenue leakages. The Department may establish a formal mechanism for such flow of information from RoC and JDA on a regular basis to plug the revenue leakage.

4.5 Short levy of stamp duty on instruments of Power of Attorney

Failure to take cognizance of the recitals of the documents resulting in short levy of stamp duty on instruments of Power of Attorney

As per explanation (i) given under Article 21 of the Schedule to the Rajasthan Stamps (RS) Act, 1998, an agreement to sell an immovable property or an irrevocable Power of Attorney (PoA) or any other instrument executed in the course of conveyance or lease, in case of transfer of the possession of such property before, at the time of or after the execution of any such instrument, be deemed to be a conveyance and the SD thereon shall be chargeable at the rate of conveyance *i.e.* 5 per cent on the market value of such property. Further as per Article 44 (ee) of the Schedule to the RS Act, 1998, when power of attorney is given, without consideration to sell immovable property to:

- (i) father, mother, brother, sister, wife, husband, son, daughter, grand-son or grand-daughter of the executants, SD of ₹ 2,000 would be chargeable;
- (ii) any other person, SD at the rate of two per cent of the market value of the property, which is the subject matter of power of attorney, would be chargeable.

During test check (September 2019 and October 2019) of records of Office of the SRs Palsana (Sikar) and Jaipur-II, it was noticed that four instruments of irrevocable PoA and one instrument of revocable PoA were executed between March 2010 and January 2017 (registered between May 2016 and March 2019). The Office of the SR Palsana (Sikar) classified three instruments as PoAs executed in favour of family members and SD of ₹ 2,000 was charged in two cases and ₹ 100 in one case. However, scrutiny of the PoAs revealed that these PoAs were irrevocable and therefore should have been classified as conveyance and SD at the rate of five per cent of market value of the property was chargeable.

In case of the other two cases pertaining to SR Jaipur-II though one of the instrument was irrevocable, instead of being deemed as conveyance, it was notarized with stamps of ₹ 500 only and in the other case, the instrument of the PoA was revocable but the instrument was notarized with stamps of ₹ 100 only while SD was leviable at the rate of two per cent of market value of the property. The SR while registering these lease/sale deeds executed on the basis of these PoAs, failed to take cognizance of the fact that the instruments were not duly stamped.

This resulted in short levy of SD, surcharge and RF of ₹ 1.44 crore.

The matter was reported to the State Government (July 2020). The Government stated (August 2020) that notices for recovery have been issued to the executants in three instruments and cases had been registered with Collector (Stamps) in two instruments. Further progress is awaited (March 2021).

4.6 Irregular exemption of Stamp Duty under Rajasthan Investment Promotion Scheme

Irregular exemption of Stamp Duty allowed under Rajasthan Investment Promotion Scheme on production of wrong entitlement certificates

According to Clause 3 of Rajasthan Investment Promotion Scheme (Scheme)⁶ 2014, the Scheme shall be applicable for new and existing enterprises making investment for setting up new units, existing enterprise making investment for expansion and sick enterprises making investment for their revival provided that the enterprise shall commence commercial production or operation during the operative period of the Scheme. Clause 4 of the Scheme provides that an enterprise to which Entitlement Certificate (EC) has been issued shall be eligible to claim 50 *per cent* exemption on the SD payable on the instruments executed for the purchase or lease of land. Further, Clause 15 stipulates that in case of breach of any of the conditions mentioned anywhere in the Scheme, the benefits availed under the Scheme, shall be withdrawn by the appropriate Screening Committee and on its recommendations, the concerned Department shall recover the benefits availed by the enterprise along with interest at the rate of 18 *per cent* per annum from the date from which the benefits have been availed.

According to notification dated 19 April 2018 issued by the Finance Department, Government of Rajasthan, SD on lease deed or sale deed executed by Rajasthan State Industrial Development and Investment Corporation Limited (RIICO) in respect of land allotted or sold through public auction shall be chargeable on the amount of purchase money.

During test check (July 2019) of records of Sub-Registrar office, Jaipur-III, it was noticed that a lease deed was executed (May 2018) between RIICO, Vishwakarma Industrial Area (VKIA), Jaipur (lessor) and a company (lessee) for 3848.57 square metres of the industrial plot number E-100 situated at VKIA, Jaipur. The plot was purchased (valuing ₹ 18.37 crore) through public auction by the lessee. An amended lease deed was also executed (January 2019) between the same lessor and the lessee for the remaining 337.68 square metres area of the same plot (valuing ₹ 1.61 crore). Thus, the total area of the plot *i.e.* 4186.25 square metres was allotted to the lessee through the amended lease deed.

Scrutiny of recitals of the lease deed/amended lease deed revealed that 50 *per cent* exemption *i.e.* SD and surcharge of ₹ 59.93 lakh was granted at the time of registration (May 2018 and January 2019) of lease deed/amended lease deed on presentation of ECs issued by the District Industries Centre, Jaipur/Commissioner of Industries, Jaipur under the Scheme for setting up an industrial unit for manufacturing of wooden *fanti*/chips, *etc.* However, the

⁶ A Scheme to promote investment and employment opportunities in the State.

purpose of the allotment of plot described in the lease deed was manufacturing of C.I. Casting which the enterprise started in May 2018. Therefore, the exemption of SD and surcharge of ₹ 59.93 lakh was irregular and is recoverable along with ₹ 17.04 lakh interest.

The matter was reported to the State Government (August 2020). The Government informed (September 2020) that an amount of ₹ 5.66 lakh had been recovered. Regarding the remaining recovery, the Department stated (November 2020) that the case is under legal examination. Further progress is awaited (March 2021).

4.7 Transfer of lease by way of assignment

Short recovery of Stamp Duty on instruments of transfer of lease by way of assignment

According to Article 55 of the Schedule to the Rajasthan Stamp (RS) Act, 1998, in case of instrument of transfer of lease by way of assignment, the SD is chargeable as a conveyance on the market value of the property which is the subject matter of transfer. Further, the Inspector General of Registration and Stamps, Rajasthan vide circular number 06/2009 clarified that the instrument executed for change in the partnership/dissolution of firm/change in legal entity of firm should come in the category of transfer of lease by way of assignment.

During test check (September 2019) of registration records of Sub-Registrar Office, Jaipur-II, it was noticed that three instruments were registered as amended lease deeds executed by Rajasthan State Industrial Development and Investment Corporation Ltd. (RIICO⁷). In one instrument, legal entity of the partnership firm was changed to proprietary firm and in another instrument, legal entity of the proprietary firm was changed to partnership firm. In the third instrument, four out of six partners had taken retirement from the partnership firm thus changing nature of the partnership in the firm. Thus, changes were made in the legal entity of these three firms, which should have been categorised as transfer of lease by way of assignment and SD, surcharge and RF of ₹ 19.14 lakh⁸ was recoverable on the market value of the properties. However, the Registering Authorities while registering the amended lease deeds recovered SD, surcharge and RF of ₹ 3.15 lakh⁹ resulting in short recovery of ₹ 15.99 lakh¹⁰.

The matter was reported to the State Government (August 2020). The Government replied (September 2020) that cases have been registered with Collector (Stamps). Further progress is awaited (March 2021).

7 Two amended lease deed executed by RIICO, Jhotwara and one by RIICO, Sitapura (Sanganer).

8 ₹ 19.14 lakh: SD of ₹ 13.48 lakh, Surcharge of ₹ 2.69 and RF of ₹ 2.97 lakh.

9 ₹ 3.15 lakh: SD of ₹ 1.40 lakh, Surcharge of ₹ 0.28 lakh and RF of ₹ 1.47 lakh.

10 ₹ 15.99 lakh: SD of ₹ 12.08 lakh, Surcharge of ₹ 2.41 lakh and RF of ₹ 1.50 lakh.

4.8 Short levy of Stamp Duty on developer agreements

Short levy of Stamp Duty, Surcharge and Registration Fee on developer agreements executed between landowners and developers

According to the provisions of Article 5 (bbbb) and 5 (e) of the Schedule to the RS Act, Stamp Duty (SD) was chargeable on an agreement or memorandum of agreement, if relating to giving authority or power to a promoter or a developer, by whatever name it may be called, for construction on, or development of any immovable property, at the rate of one *per cent* upto 25 March 2012, five *per cent* from 26 March 2012 to 5 March 2013 and one *per cent* from 6 March 2013 on the market value of the property. It was further revised from 14 July 2014 to one *per cent* on owner's share and two *per cent* on developer's share and reduced to one and half *per cent* on developer's share from 6 March 2018 on market value of land. Surcharge is chargeable on the SD at the rate of 10 *per cent* w.e.f. 9 March 2011 and at the rate of 20 *per cent* w.e.f. 8 March 2016. The Registration fee (RF) is chargeable at the rate of one *per cent* of the value or consideration subject to maximum rupees fifty thousand w.e.f. 9 April 2010. The maximum limit was removed w.e.f. 9 March 2015 but was again fixed as rupees three lakh w.e.f. 12 February 2018.

Scrutiny of records (between July 2019 and September 2019) for the year 2018-19 of five SR¹¹ offices, disclosed short levy of SD in seven documents of developer agreements executed between January 2011 and November 2018 (registered between April 2018 and March 2019) between land owners and developers. In one document registered with SR office, Neemrana (Alwar), the property was valued at ₹ 2.78 crore instead of the market value of ₹ 25.40 crore. In two documents of SR office, Ajmer-II and one document of SR office, Bhilwara-I, the land excluding space for amenities was considered for valuation instead of the total land contributed for development, though the space for amenities belonged to the developer exclusively. In another case of SR office, Bhilwara-I, the document was valued at prevailing DLC rate and SD at one *per cent* of that value was charged instead of one *per cent* on owner's share and two *per cent* on developer's share. In the case of SR office, Jodhpur-I, developer agreement executed between Jodhpur Development Authority and a developer was notarised on stamp paper of ₹ 100 only instead of one *per cent* of market value of the property. In the remaining case of SR office, Jaipur-VII, developer agreement executed between land owners and a developer was notarised on stamp paper of ₹ 500 only instead of SD recoverable at the rate of one *per cent* of market value of the land on owners share and one and half *per cent* on developer's share.

In these seven developer agreements SD, surcharge and RF totaling ₹ 4.10 crore were to be levied. However, only ₹ 0.78 crore was levied resulting in short recovery of ₹ 3.32 crore.

The matter was reported to the State Government (August 2020 and December 2020). The Government replied (December 2020) that cases have been registered with Collector (Stamps) in five instruments, recovery is pending in

11 Ajmer-II, Bhilwara-I, Jaipur-VII, Jodhpur-I and Neemrana (Alwar).

one case and remaining case is under legal examination. Further progress is awaited (March 2021).

4.9 Short levy of Stamp Duty on transfer of immovable properties

Registering Authorities failed to levy and recover Stamp duty and Surcharge on the transfer of immovable properties

According to the Section 37 of the Rajasthan Stamps (RS) Act, 1998 every person in-charge¹² of a public office before whom any instrument chargeable with SD is produced or such an instrument comes to his notice in performance of his functions, shall examine every such instrument, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed. When such person, during the course of inspection or otherwise, detects from an instrument or copy that the instrument is not duly stamped, he shall make a reference to the Collector (Stamps) in that matter. The State Government has notified the offices of Registrar of Firm (RoF), Notary public and Sub- Registrar (SR) as public offices *vide* notification dated 16 December 1997.

4.9.1 Contribution of immovable properties to partnership firms

According to Article 43 (1)(c) of the Schedule to the RS Act, in case of an instrument of partnership, where share contribution is brought in by way of immovable property, the SD shall be chargeable as on conveyance on the market value of such property.

(i) During test check (June 2019 and July 2019) of records of Office of the two Registrar of Firms¹³ (RoF), it was noticed that four instruments relating to partnership were registered as partnership deeds between May 2014 and August 2017. Scrutiny of these deeds revealed that immovable properties valued at ₹ 3.68 crore owned by the individuals were transferred to partnership firms on which SD of ₹ 18.43 lakh¹⁴ was leviable. However, these were notarized in the office of Notary Public with stamps worth ₹ 5,000¹⁵ only. In these cases, the RoF and the Notary public neither impounded the instruments nor referred the same to Collector (Stamps) office which resulted in short levy of SD and surcharge of ₹ 18.38 lakh¹⁶.

The matter was reported to the State Government (August 2020). The Government replied (September 2020) that cases had been registered with Office of the Collector (Stamps) in two instruments and recovery is pending in two instruments. Further progress is awaited (March 2021).

12 Means any officer whom the State Government notified as person incharge of a public office.

13 RoF: Bharatpur (three cases) and Jodhpur (one case).

14 ₹ 18.43 lakh: SD of ₹ 16.53 lakh and Surcharge of ₹ 1.90 lakh.

15 ₹ 5,000: ₹ 2,000 each in two cases and ₹ 500 each in two cases.

16 ₹ 18.38 lakh: SD of ₹ 16.48 lakh and Surcharge of ₹ 1.90 lakh.

(ii) During test check (June 2019) of records of Office of the Sub Registrar (SR), Sanganer-I for the period 2018-19, it was noticed that a sale deed was executed (June 2018) for a flat constructed upon a property between three partners of a partnership firm (seller) and a purchaser. Scrutiny of the sale deed revealed that individual *pattas* of these plots were issued by the Jaipur Development Authority in favour of these partners in July 2001. These partners then established a partnership firm in October 2013 and transferred the said property to the partnership firm due to which SD and surcharge of ₹ 16.41 lakh¹⁷ were leviable on market value of the property of ₹ 2.98 crore¹⁸ under Article *ibid*. However, the Registering Authority did not take this into account at the time of registration of the sale deed resulting in non-levy of SD and surcharge amounting to ₹ 16.41 lakh.

The matter was reported to the State Government (July 2020). The Government replied (September 2020) that the case had been registered with Office of the Collector (Stamps). Further progress is awaited (March 2021).

4.9.2 *Transfer of immovable properties on retirement of partners (s)*

According to Article 43 (2)(a) of the Schedule to the RS Act, if on retirement of a partner any property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership, the SD is chargeable as on conveyance on the market value of such property.

During test check (between June 2019 and December 2019) of records of Offices of the two SRs¹⁹ and RoF, Bharatpur, it was noticed that four instruments relating to change in partnership due to retirement of partner(s) were registered (between January 2013 and July 2017) as partnership deeds/amended lease deeds. Scrutiny of these instruments revealed that immovable properties valued at ₹ 11.73 crore owned by the retiring partners were transferred to the existing/new partners of the partnership firms on which SD and surcharge of ₹ 64.86 lakh²⁰ were leviable. However, these were notarized in the office of Notary Public on stamps worth ₹ 3,500²¹ only. In these cases, the RoF, SRs and Notary public neither impounded the instruments nor referred the same to Collector (Stamps) which resulted in short levy of SD and surcharge of ₹ 64.83 lakh²².

The matter was reported to the State Government (August 2020). The Government replied (September 2020) that cases had been registered with Office of the Collector (Stamps) in two instruments and recovery is pending in two instruments. Further progress is awaited (March 2021).

17 ₹ 16.41 lakh: SD of ₹ 14.92 lakh and Surcharge ₹ 1.49 lakh.

18 ₹ 2.98 crore: 2132.23 square metre X 12720 per square metre as per prevalent DLC rate+ 10% extra (corner).

19 SRs: Bilara (Jodhpur) and Jaipur-V.

20 ₹ 64.86 lakh: SD of ₹ 58.64 lakh and Surcharge of ₹ 6.22 lakh.

21 ₹ 3,500: ₹ 2,000 in one case and ₹ 500 each in three cases.

22 ₹ 64.83 lakh: SD of ₹ 58.61 lakh and Surcharge of ₹ 6.22 lakh.

4.10 Amalgamation/reconstruction of companies

Short levy of Stamp Duty, Surcharge and Registration Fee on amalgamation/ reconstruction of companies

According to Article 21(iii) of the Schedule to the Rajasthan Stamp Act (RS) Act, 1998, an order under Section 394 of the Companies Act, 1956 in respect of amalgamation, demerger or reconstruction of a company is chargeable with Stamp Duty (SD). The State Government *vide* notification dated 14 July 2014 determined SD at the rate of two *per cent* on the proportion of the net worth equal to proportion of the value of immovable property situated in Rajasthan to the value of the entire immovable property of the transferor company. This SD is in addition to the SD paid on the instruments elsewhere.

Subsequently, the State Government amended (*vide* notification dated 08 March 2016) the provisions subject to a maximum of ₹ 25 crore at the following rate:

(i) An amount equal to four *per cent* of the aggregate amount comprising the market value of shares issued or allotted or cancelled in exchange of or otherwise, or on the face value of such shares, whichever is higher and the amount of consideration, if any, paid for such amalgamation, demerger or reconstruction, or

(ii) An amount equal to four *per cent* of the market value of the immovable property situated in the State of Rajasthan of the transferor company, whichever is higher.

During test check (between June and July 2019) of the registration records of Office of the Sub-Registrar (SR), Bharatpur and Barmer for the year 2018-19, it was noticed that in SR, Bharatpur, a company with market value of ₹ 9.14 crore was reconstructed into subsidiary company for which an amended lease deed was registered (February 2016). However, the Registering Authority (RA), had charged SD, Surcharge and RF totaling ₹ 3.02 lakh²³ while registering the amended lease deed instead of ₹ 29.25 lakh²⁴ leviable on the market value of the property resulting in short levy of ₹ 26.23 lakh²⁵.

Similarly, in Office of the SR, Barmer, two documents were registered (January 2019) as amended lease deeds. Scrutiny of documents revealed that five companies were amalgamated into one company *vide* order passed (July 2011) by the Hon'ble Bombay High court. One of the amalgamated companies had 111.4 *bigha* of agricultural land situated at village Adarsh Basti Vishala (District Barmer). The concerned RA charged SD, Surcharge and RF amounting to ₹ 3.74 lakh²⁶ on the market value of the land (₹ 64.56 lakh) whereas ₹ 25.38 lakh²⁷ was leviable on consideration value (₹ 4.66 crore²⁸),

23 ₹ 3.02 lakh: SD of ₹ 2.33 lakh, Surcharge of ₹ 0.23 lakh and RF of ₹ 0.46 lakh.

24 ₹ 29.25 lakh: SD of ₹ 18.28 lakh, Surcharge of ₹ 1.83 lakh and RF of ₹ 9.14 lakh.

25 ₹ 26.23 lakh: SD of ₹ 15.96 lakh, Surcharge of ₹ 1.59 lakh and RF of ₹ 8.68 lakh.

26 ₹ 3.74 lakh: SD of ₹ 2.58 lakh, Surcharge of ₹ 0.51 lakh and RF of ₹ 0.65 lakh.

27 ₹ 25.38 lakh: SD of ₹ 18.65 lakh, Surcharge of ₹ 3.73 lakh and RF of ₹ 3.00 lakh.

28 ₹ 4.66 crore: Newly issued 9,94,987 equity shares of face value ₹ 10 each and 3,66,803 cancelled preference shares of face value ₹ 100 each.

being higher than the market value of the property, resulting in short levy of ₹ 21.64 lakh²⁹.

The matter was reported to the State Government (September 2020). The Government replied (October 2020) that in one instrument stay has been granted by Rajasthan High Court, Jaipur bench against recovery order passed by Office of the Collector (Stamps) and in another instrument a case has been registered with Office of the Collector (Stamps). Further progress is awaited (March 2021).

4.11 Undervaluation of immovable properties

Undervaluation of immovable properties resulted in short levy of Stamp Duty, Surcharge and Registration Fee

According to Article 21(i) of the Schedule to the Rajasthan Stamps Act, 1998, SD³⁰ on the instrument of conveyance relating to immovable property shall be levied on market value of the property. Rule 58 of the Rajasthan Stamps Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the District Level Committee or the rates approved by State Government, whichever is higher. Surcharge is chargeable on the SD at the rate of 10 *per cent* with effect from 9 March 2011 and at the rate of 20 *per cent* with effect from 8 March 2016

The RF is chargeable at the rate of one *per cent* of the valuation with effect from 9 March 2015. The maximum limit of RF was fixed as rupees four lakh w.e.f. 8 March 2017, which was revised to rupees three lakh w.e.f. 12 February 2018.

During test check (between June 2019 and March 2020) of records at the offices of 13 SRs³¹, it was noticed that 35 instruments were registered as sale deeds/lease deeds/developer agreements pertaining to agricultural/residential/industrial/commercial/farm house land(s) during April 2015 to February 2019.

Scrutiny of these instruments revealed that the concerned Registration Authorities (RAs) had assessed the market value of these properties at ₹ 145.08 crore instead of correct valuation of ₹ 219.36 crore due to incorrect adoption of rates w.r.t. location of properties, area of properties, DLC rates/reserve price, calculation of incidental charges, *etc.* The RAs thus, levied SD, surcharge and RF of ₹ 6.38 crore³² instead of ₹ 9.71 crore³³, resulting in short levy of ₹ 3.33 crore³⁴.

29 ₹ 21.64 lakh: SD of ₹ 16.07 lakh, Surcharge of ₹ 3.21 lakh and RF of ₹ 2.36 lakh.

30 SD: At the rate of five *per cent* with effect from 8 July 2009.

31 SR: Baran (one case), Bhiwadi (three cases), Chauth ka Barwada (Sawai Madhopur) (three cases), Hurda (Bhilwara) (nine cases), Jaipur-II (five cases), Jaipur-V (two cases), Jaisalmer (one case), Kelwada (Baran) (one case), Ratangarh (Churu) (two cases), Roopangarh (Ajmer) (one case), Shahbad (Baran) (one case), Talera (Bundi) (four cases) and Udaipur-I (two cases).

32 ₹ 6.38 crore: SD of ₹ 4.90 crore, surcharge of ₹ 0.78 crore and RF of ₹ 0.70 crore.

33 ₹ 9.71 crore: SD of ₹ 7.54 crore, surcharge of ₹ 1.14 crore and RF of ₹ 1.03.

34 ₹ 3.33 crore: ₹ 9.71 crore (-) ₹ 6.38 crore.

The matter was reported to the State Government (between July 2020 and October 2020). The Government stated (between August 2020 and December 2020) that complete recovery has been affected in three instruments, notices for recovery have been issued to the executants in 14 instruments, cases have been registered with Office of the Collector (Stamps) in 15 instruments and recovery is pending in remaining three instruments. Further progress is awaited (March 2021).