

CHAPTER-VI STAMP DUTY AND REGISTRATION FEE

6.1 Tax Administration

Registration Department is one of the oldest departments in the state. The main objective of the law of registration is to provide conclusive proof of genuineness of document, afford publicity to transaction, prevent fraud, afford facility for ascertaining whether a property has already been transacted and afford security of title deeds and facility of providing titles in case the original deeds are lost or destroyed. Registration department at present is the third largest source of revenue to the state exchequer. Registration law governs documents rather than transactions.

6.2 Internal Audit

The Inspector General of Registration monitors the functioning of the Internal Audit Wing of the Department at State level and the Zonal Deputy Inspector Generals are responsible for monitoring it at the district level. The District Registrars (Audit) of the respective districts conduct the internal audit of Sub Registrar Offices (SROs). The internal audit team consists of one District Registrar and three senior clerks for each district. The auditee offices are selected giving higher weightage to the pendency of internal audit and anticipated retirement of staff in the respective offices. During 2021-22, out of the 306 units planned for audit, the IAW audited 277 units. During 2021-22, out of the 4,747 outstanding observations, the Department cleared 2,710 Audit observations (57.09 per cent).

6.3 Results of Audit

During the year 2021-22, out of the total 335 offices in the Registration Department, 57 offices including 46 SROs were test-checked. Short levy of Stamp Duty and Registration Fee due to misclassification of property, splitting up of property and other irregularities amounting to ₹10.75 crore were detected in 212 cases, which fall under the following categories as given in **Table - 6.1**.

Table – 6.1
Details of non/ short levy of Stamp Duty and Registration Fee
and other irregularities

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Short levy of Stamp Duty and Registration Fee due to misclassification of property	38	0.50
2	Short levy of Stamp Duty and Registration Fee due to splitting up of property	9	0.29

Sl. No.	Categories	No. of cases	Amount
3	Others	165	9.96
Total		212	10.75

During the course of the year, the Department accepted under-valuation and other deficiencies involving ₹0.15 crore in 4 cases. An amount of ₹0.05 crore pointed out in 3 cases was realised during the year 2021-22.

A few illustrative cases involving ₹0.08 crore are given in the following paragraphs.

6.4 Short collection of revenue due to splitting up of property

Section 45A (1) of the Kerala Stamp Act (KSA), 1959 stipulates that while registering an instrument transferring any land, the registering officer shall, verify whether the value of the land is the fair value of that land. As per Section 45B (1) of the KSA, 1959, if the Registering Officer, while registering any instrument transferring any property, has reason to believe that the value of the property, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value. Irregular splitting up of property resulting in short collection of stamp duty and registration fee is detailed in para 6.4.1 and 6.4.2.

Splitting up of property having Panchayat road access so as to avoid stamp duty resulted in undervaluation and short collection of stamp duty and registration fee amounting to ₹5.44 lakh.

6.4.1 In Sub Registrar Office, Muvattupuzha, a sale deed (Document No. 1533/2020) comprising landed property of 3.64 Ares was executed (12 June 2020) at a total consideration of ₹10.94 lakh adopting fair value of Rupees three lakh per Are⁵⁸. The property was classified as Residential plot with Panchayat road access and was executed by Shri N P Bajju in favour of Shri Deepak Narayanan Nair. Two other sale deeds were executed by the same executants and claimants on adjacent dates. One sale deed (Document No. 1639/2020) comprising landed property of 20.95 Ares executed on 23 June 2020 at a total consideration of ₹15.55 lakh adopting fair value of ₹0.74 lakh per Are. Another sale deed (Document No. 2315/2020) comprising landed property of 30.35 Ares executed on 25 August 2020 having a total consideration of ₹22.50 lakh adopting fair value of ₹0.74 lakh per Are. Both the properties were classified as Residential plot without road access; details of the property are shown in **Appendix XXV**.

Audit noticed (January 2022) that the executants and claimants in all the three documents are the same and these documents were registered within a period

⁵⁸ 1 Are = 2.47 cents.

of two months and the property belong to the same *thandaper*⁵⁹ No. 10955. The previous document of the three documents is a single document, Document 26/2000, which was first split up in to three in 2011 and same continued in 2020 as well. The Registering Authorities have not reported the case as undervaluation as required in Section 45 B of the Kerala Stamp Act 1959, either in 2011 or in 2020 though there was willful intention of splitting up of the property so as to avoid payment of stamp duty for the entire plot having panchayat road access. Further, the Joint Physical Inspection conducted (March 2022) along with the Sub Registrar and Village officer also confirmed that the three lands are a single plot having Muvattupuzha - Arakkuzha road at the eastern side of the plot.

Considering the fair value of residential plot with *Panchayat* road access, for valuing the property registered through document Nos 1639/2020 and 2315/2020, there were undervaluation to the extent of ₹27.40 lakh and ₹26.97 lakh respectively. This has resulted in a short levy of stamp duty and registration fee amounting to ₹5.44 lakh.

The case was reported to the Government (November 2022) and the Government stated (January 2023) that on perusal of documents and its boundaries it was seen that the documents come under the classification as ‘residential plot without vehicular access’. As the Sub Registrar had not any reason to believe that true value was not set forth in the documents, they were not reported for undervaluation. However, the District Registrar had initiated *suo-motu* proceedings for under valuation.

Further progress awaited as the case was reported for undervaluation.

Splitting up of property having NH road access so as to avoid stamp duty resulted in undervaluation and short collection of stamp duty and registration fee amounting to ₹3.08 lakh.

6.4.2 Scrutiny of documents (December 2021) in Sub Registrar Office, Kasaragod revealed that a sale deed⁶⁰ was executed on 7 February 2019 by Sri. N M Aboobacker and others in favour of Sri. A M Abdul Ashraf conveying 2.02 Ares of land⁶¹ for a total consideration of ₹31 lakh at the rate of ₹15.35 lakh per Are. The property has a boundary of National Highway on the Northern side. Audit also observed that another sale deed⁶² was executed on 22 June 2020 by Sri. N M Aboobacker and others in favour of Sri. A M Abdul

⁵⁹ It is a unique number that helps the authorities of the revenue department to identify the total land in possession by a person.

⁶⁰ Doc.No.2883/1/2019 dated 07 August 2019.

⁶¹ 2.02 Are of land in survey No. 150/5APT14 Kasaragod Municipality at Kasaragod village in Kasaragod Taluk.

⁶² Doc.No.1389/1/2020 dated 22 June 2020.

Ashraf conveying 4.96 Ares of land⁶³ for a total consideration of ₹45.35 lakh at the rate of ₹9.14 lakh per Are, considering that there was no road access. In both the cases, the executants and claimants were the same.

Scrutiny of the two sale deeds revealed that the previous document⁶⁴ of these two documents is same and the landed property of 6.98 Are (4.96 + 2.02) in Survey No.150/5APT14 at Kasaragod village was a single plot having a boundary of National Highway on the northern side. A single plot of land having NH Road access was split and sold as two pieces in order to evade stamp duty. Not considering 4.96 Ares of land as plot having NH road access, there occurred a loss of revenue amounting to ₹3.08 lakh being short collection of stamp duty and registration fee. The case was not seen reported to the District Registrar as undervaluation as required in Section 45B of KSA, 1959.

On this being pointed out (November 2022), the Government stated (January 2023) that the Sub Registrar was not authorised to deny the registration of document on the ground that the fair value for commercially important plot was not adopted. However, the District Registrar has initiated *suo-motu* undervaluation proceedings and preliminary notice has been send to the party concerned. Further reply awaited.

It is recommended that at the time of registration the previous documents should be given due attention so as to avoid splitting up of land intentionally in order to evade stamp duty and registration fee. Responsibility must be fixed on the registering officer for causing loss to the exchequer.

Response to Audit by the Departments/ Government

The Audit observations disclosed in Chapter I, II, III, IV, V and VI clearly depicts lack of internal control on the part of the Departments/ Government to comply with the relevant Acts/ Rules as concluded below:

- Though Audit observations are intimated to Department in the preliminary stage through Inspection Reports, during 2021-22 Audit did not receive even first replies for 117 IRs within four weeks from the date of issue of the IRs from six heads of offices (detailed in para 1.7.1 of chapter I).
- No Audit Committee meetings were held in respect of Stamps and Registration, State Lotteries, Motor Vehicles, Finance, Planning and Economic Affairs and State Goods and Services Tax Department despite having 16,796 pending audit observations.

⁶³ 4.96 Are of land in survey No. 150/5APT14 Kasaragod Municipality at Kasaragod village in Kasaragod Taluk..

⁶⁴ Doc.No.2856/1996 dated 12 July 1996.

- The large pendency of IRs due to non-receipt of replies shows the failure of monitoring mechanism for clearing the pending audit observations by the Audit Monitoring Committees at Secretary level and Apex Committees at Chief Secretary level.
- Action Taken Notes on PAC recommendations have not been received in respect of 110 out of 120 recommendations of the PAC from four Departments i.e., Taxes, Excise, Transport and Revenue and Disaster management.

Keeping in view of the above, Audit recommends that

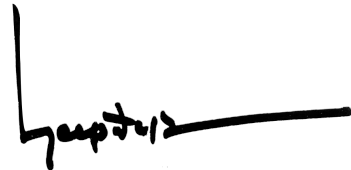
- Government should issue strict instructions to the departments to devise periodic action plans to clear all the outstanding paragraphs in a time bound manner by conducting regular Audit Committee Meetings.
- Government should take effective steps to submit action taken explanatory notes to Legislature Secretariat within two months of tabling the Audit Report of the Comptroller and Auditor General of India, for consideration of the PAC.

Thiruvananthapuram,
The 15 AUG 2023



(Dr. BIJU JACOB)
Principal Accountant General
(Audit II)

Countersigned



New Delhi,
The 16 अगस्त 2023
AUG

(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India