

CHAPTER-V : STAMP DUTY AND REGISTRATION FEES

5.1 Results of audit

Test check of the assessment records in the offices of Sub-Registrars/Dy. Collectors (VOP) conducted during 2007-08 disclosed underassessment of Rs. 91.09 crore in 284 cases. These cases fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Misclassification of documents	51	31.63
2.	Undervaluation of property	41	5.89
3.	Irregular acceptance of time barred cases resulting in postponement of realisation of duty	3	0.78
4.	Under assessment of stamp duty on instrument of mortgage deeds	16	0.32
5.	Other irregularities	172	52.05
6.	IT Review of implementation of Registration of Documents System	1	0.42
Total		284	91.09

During the year 2007-08, the department accepted under assessment of Rs. 5 crore in 281 cases and recovered Rs. 5.62 lakh in 11 cases.

An IT review of **implementation of Registration of Documents System** and few illustrative cases involving Rs. 77.79 crore are mentioned in the following paragraphs:

5.2 Implementation of Registration of Documents System

Highlights

The system software lacked adequate system security. The department has not laid down any security policies and procedures.

(Paragraph 5.2.7)

The input controls in system are inadequate and weak, which may cause misleading/loss of data, leading to loss of revenue. The system did not cover the requirement of classification of documents essential for determining the duty leviable.

(Paragraph 5.2.8)

The centralised data bank was not maintained. Adequate backup of database was also not maintained.

(Paragraph 5.2.12)

The department does not have any training plan to run the system by its staff.

(Paragraph 5.2.14)

5.2.1 Introduction

The Government of Gujarat (February 2005) implemented a new system 'Registration of Documents System', designed by NIC¹, in two sub-registrar offices (SROs) on pilot basis in August 2003. The system after initial implementation in 25 SROs was later extended to all the other SROs from April 2007.

The implementation of the system is outsourced to a service provider, who is responsible for providing, installing and maintaining the required hardware, system software, data entry, scanning of documents and maintaining data backup.

5.2.2 Registration of Documents system (system)

The system was to cover all the activities related to registration i.e. market value calculation of immovable property, calculation of stamp duty and registration fee, scanning of the documents and generation of various reports for administration as well as for public. The documents filed by the executants is registered; after due verification of the document by the sub-registrar and on payment of required registration fee and duties determined by him. The document is then scanned and data pertaining to the registration is entered in the system by data entry operator (DEO) and the original document is endorsed and returned to the applicant.

5.2.3 Organisational set up

The overall control on levy and collection of stamp duty and registration fees rests with the Revenue Department at the Government level. The Inspector General of Registration (IGR) is the head of the office and is assisted by one Deputy IGR, four Assistant IGRs and 25 Inspectors of Registration. The sub-

¹ National Informatics Centre

registrars report to the Inspector of Registration. There are 150 SROs in the State.

5.2.4 Scope of audit and methodology

The present review conducted in June 2008 covered the implementation of the system in IGR office during the period May 2005 to March 2008. During the review, data collected from three SROs in Ahmedabad (City, Paldi and Wadaj) for the period from May 2005 to March 2008 was analysed. Records/data were test checked using Standard Audit Analysis Software viz. Structured Query Language (SQL) and Interactive Data Extraction and Analysis (IDEA) package. Audit applied both substantive and compliance tests to evaluate the extent of reliability of various controls.

5.2.5 Audit objectives

The review was conducted with a view to:

- examine the implementation of system with respect to assessment and collection of stamp duty and registration fees;
- examine and evaluate the controls provided in system, for safeguarding the data and the programme, for their availability and effectiveness;
- analyse the data captured by system and other related sources to check for inconsistencies and resultant loss of revenue; and
- evaluate the audit trails as existing in system.

5.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the IGR office in providing necessary information and records for audit. Audit findings, on the review were reported to the Government in August 2008. Reply of the Government has not been received (November 2008).

Audit Findings

5.2.7 Access controls

Information Technology (IT) controls in a computerised system are the physical and programmed methods, policies and procedures that ensure the protection of the entity's assets, the accuracy and reliability of its records and the operational adherence to the management standards.

5.2.7.1 Physical Access Controls

Audit observed that no physical access controls existed and any person could enter the area where computers were kept for recording the transactions. It was also observed in the three SROs in Ahmedabad (City, Paldi and Wadaj) that separate secured places were not provided for the server and data storage. The contract agreement with the service provider also did not mandate this.

5.2.7.2 Logical Access Controls

- The system software needs User ID and password to access the system, but the backend data base instance is not locked by NIC. Thus, the service

provider has full unrestricted access to the database, who can change any data without leaving any trace or track of the changes made.

- The IGR office did not have any system security policies and procedures regarding system security login, password etc.
- The software requires User ID and password for its access. The system software allows the password which can even be of just one character and only alphabets instead of the general password policy requirement of minimum six to eight characters and a combination of alphabets, number and special characters. In data analysis of the three SROs, it was observed that out of 57 users name created, 15 had single character passwords.
- The system software should be capable of maintaining audit trail of all functional activities in the system like login time, logout time, log of each changes made by user etc. An analysis of the login table in the SROs showed that the logout time was not recorded.
- Generally, the user rights should be based on need to know basis. In data analysis of the SROs (City, Paldi, Wadaj), it was however noticed that user were assigned rights to all modules except master and initial setup. A user name 'Guest' with a universal password 'g' and all rights except initial setup and master data was found in all places where the system was installed.
- A secure system should restrict the login time based on the server system time. An analysis of the log tables revealed login at odd hours like 00:24 etc. In SRO, Wadaj, the records show that 1,591 logins were made outside office working hours (*i.e.* 10:00 am to 6:00 pm) out of which 1,519 instances were Guest login.

5.2.8 Input controls and data validation

The system operation is handled by the DEO of the service provider who had unrestricted access to the system and its backend data. The department do not have mechanism to check/validate the data entered by the DEO. As such possibility of cases of under valuation or misuse or fraud cannot be denied. The following input control weakness was observed in the system.

5.2.8.1 Incomplete master database tables pertaining to Jantri

The system has no provision for verification of the *jantri* (schedule of rates) entered in the master tables while calculating market value of property. In several cases, in the absence of integration of *jantri* rates into the system, these were fed manually where the possibility of human error cannot be denied.

5.2.8.2 Land classification data not maintained

Master database has no provision for entry of the details of purpose of the non-agricultural land ('residential', 'commercial', 'industrial' etc.) for which permission is granted by the Collector. Due to lack of this information, sub-registrar has to rely upon the information furnished by the executants for the purpose of valuation.

5.2.8.3 Mutation of ownership data not maintained

There is no provision for integration of the system with the Collector/Mamlatdar offices to give effect to the changes in the ownership by mutation entries due to application of Section 2 (g) of the Bombay Stamp Act.² As such incorrect mutation entries and consequent evasion of stamp duty and registration fees could not be ruled out.

5.2.9 Processing controls

5.2.9.1 No provision for entry of documents containing distinct matters

The software does not have provision for registration under more than one article as provided under Section 5 of the Bombay Stamp Act, 1958. Some instances where such document has been registered under one Article only resulting in short levy of stamp duty and registration fees of Rs. 42.15 lakh is detailed in Annexure II.

5.2.9.2 Inadequate validation checks

In the receipt of registration fees module, it was observed that stamp duty, registration fee and other fees, though displayed by the system, can be edited by the DEO. In the test data fed with a consideration of Rs. 2,50,000, the system accepted the change in registration fee as Rs. 25,000 and printed the receipt. In the office of the SRO, Paldi, it was observed that even the rates of registration and stamp duty were not displayed on the receipt.

5.2.10 Output controls

In the generation of reports meant for Income Tax Department, for enabling them to catch offenders of income tax evasions, the software throws an error message and quits. Also in consolidated reports which involve data for more than a day, the system generated the reports after prolonged time or just hangs.

5.2.11 Change management system

It was observed from the version table that the software had five version changes after its implementation from April 2005. No formal system of approval of changes by the IGR was established.

5.2.12 Internal controls

5.2.12.1 No segregation of duties

The service provider had engaged a single or double DEO for the entire operation. The single DEO has unrestricted access to all the system modules and backend data also, which increases the risk of data mishandling and fiddling.

5.2.12.2 Non-maintenance of the centralised data bank

The system envisaged creation of a centralised data bank to provide a decision support system for the department. However neither a central database nor a

² As per explanation 1, in case of transfer of property by a co-owner to another co-owner of the property, the transactions are liable to stamp duty and registration fees.

database at district levels has been created, depriving the department of a decision support system and data security.

5.2.13 Outsourcing

5.2.13.1 The service provider has to transfer the data on daily basis to the servers at district level and in the IGR office. However, the service provider did not send the same to IGR office but sent only soft copy of scanned documents on monthly basis.

5.2.13.2 The agreement with the service provider does not provide for delivery of the MS-SQL server data to the sub-registrar on termination/expiry of the agreement.

5.2.14 Training

5.2.14.1 The system after initial implementation and maintenance by the service providers for five years was to be run by departmental staff. However, the Department has neither created pool of sufficiently trained IT staff nor has any plans for training of the staff in the new system.

5.2.14.2 As per the system requirement, the DEO can access the system only after the sub-registrar using his User ID and password starts the system. Further, master data like rates of duty, *jantri* etc. can be accessed only by the sub-registrar. However, the department had not conducted any training for the sub-registrars for the use of the system.

5.2.14.3 The DEOs and the service providers need to be well conversant with the system for the smooth operation of the system. Department had not imparted any training to the service providers and their DEOs.

5.2.15 Business continuity plan and disaster recovery plan

5.2.15.1 The IGR office has not drawn up a formal business continuity and disaster recovery plan.

5.2.15.2 There was no record in the IGR office indicating that the backup of scanned documents had ever been tested.

5.2.15.3 As the sub-registrar or the IGR office does not have the back up of the SQL database in the absence of any alternate arrangement in case of loss of data or termination of the services of the service provider, the database cannot be restored.

5.2.16 Summary of recommendations

Following recommendations are proposed to improve the system.

- the department must have IT strategy to keep abreast with changing Information and Communication Technology environment;
- the system should have proper controls to ensure security by implementing password policy, restricted access to sensitive database;
- the reliability of data can be maintained by making necessary changes in various modules;
- integrity of data can be safeguarded by having a sound policy, train departmental staff to reduce dependency on outside agency; and

- urgent steps need to be taken to incorporate provisions for maintaining backup with IGR.

5.3 Non-realisation of stamp duty due to non-execution of lease deed

The Petroleum and Natural Gas Rules, 1959 empower the State Government to grant a mining lease of petroleum and natural gas on land within the State, with the approval of the Central Government. The Registration Act, 1908, requires that deeds conveying lease hold rights for period beyond one year should be registered compulsorily. The Bombay Stamp Act, 1958 (BS Act), applicable to Gujarat, provides for levy of stamp duty in case of lease of mines in which royalty or share of produce is received as rent or part of a rent at the prescribed rate on average annual royalty. The Superintendent of Stamps has additionally issued instructions which provide for levy of stamp duty in case of lease of mines on aggregate of annual dead rent, annual royalty payable during the first year, surface rent and deposit.

Test check of the records of the Director of Petroleum, Gandhinagar for the period between 2002-03 and 2006-07 revealed that the Government of Gujarat had sanctioned 102 mining leases of oil and natural gas to ONGC Ltd. and three³ private oil companies during the period from 1 April 2002 to 31 March 2007, with the condition that the lessee shall execute the prescribed lease deed. In another 12 cases, the Director of Petroleum allowed extraction of oil and natural gas to ONGC Ltd. without the sanction of the State Government. In none of these 114 leased mining sites, did the Director of Petroleum get the lease deeds executed by the lessees, leading to loss of stamp duty and registration fees totaling Rs. 70.63 crore. The loss of revenue would be much more if all the mining leases sanctioned through the Director of Petroleum are taken into account beyond the cited period covered by audit, as audit found no systemic arrangement in place either with the Director of Petroleum or with the Superintendent of Stamps to capture this revenue.

Audit reported the matter to the department in December 2007 and to the Government in May 2008. The reply of the Government (July 2008) does not touch upon the essential audit point of not getting the lease deed executed from the mining lessees.

5.4 Non-levy of stamp duty on instruments of amalgamation of the companies

The Indian Registration Act (IR Act), 1908 provides that instruments of conveyance should be registered compulsorily after payment of the registration fees. Further, Section 394 of the Companies Act, 1956 provides that every amalgamation order of the High Court is to be filed with the Registrar of Companies (RoC) within 30 days for registration of the amalgamated company. The BS Act provides that stamp duty on conveyance, relating to an order of the High Court in respect of amalgamation of companies, is leviable at the prescribed rate on the market value of shares/immovable property on the appointed date mentioned in the scheme of amalgamation.

³ Joshi Technology International Incorporation, Niko Resources Ltd. and Selan Exploration Technology Ltd

Test check of the records of the Superintendent of Stamps (SoS), Gandhinagar in January 2008 revealed that the department did not set up system for obtaining periodical information of amalgamation of companies from the RoC. From the records available with the RoC it was noticed that 91 cases of amalgamation were registered with the RoC from 2004-05 to 2006-07. Cross checking of these cases with those adjudicated by the SoS revealed that in 48 cases, the transferor companies did not pay stamp duty and registration fees on orders issued for reconstruction or amalgamation as these orders were never presented before the SoS for adjudication. This resulted non-levy of stamp duty and registration fees of Rs. 32.68 crore in 10 cases. In remaining 38 cases, non-levy could not be quantified in absence of details of consideration paid and true market value of the property transferred.

The matter was reported to the department in January 2008 and the Government in May 2008; their reply has not been received (November 2008).

5.5 Short levy of stamp duty and registration fees due to misclassification of deeds

Section 3 of the BS Act provides that every instrument mentioned in Schedule I shall be chargeable with duty at the prescribed rates. For the purpose of levy of stamp duty, an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title. Registration fees on such documents are also to be charged *ad valorem* on the amount of the purchase money/loans.

During test check of the records of 22 SROs⁴ and Additional Superintendent of Stamps, Gandhinagar, it was noticed that 138 documents registered between 2005 and 2006 were classified on the basis of their titles and stamp duty and registration fees were levied accordingly. Scrutiny of recitals of these documents revealed that these documents were misclassified. This resulted in short levy of stamp duty and registration fees of Rs. 24.58 crore as mentioned below:

(Rupees in crore)

Sl. No	Location	No. of documents	Consideration/ amount of loan	Short levy	Nature of irregularity
1.	Ahmedabad, Bhavnagar, Gandhinagar and Vadodara	66	282.05	21.47	Though agreements contain recitals such as, possession of the property will be handed over after execution of the agreement, all taxes will be born by purchasers henceforth, vendor will execute irrevocable power of attorney in favour of purchasers, etc., duty was levied as agreement instead of as conveyance.

⁴ Ahmedabad II, III, and VII, Bhavnagar I, Dabhoi, Dhandhuka, Gandhinagar, Jamnagar II, Kadi, Kalol, Kalol (NG), Mehsana, Navsari, Palanpur, Sanand, Savali, Surat II, Surendranagar, Vadodara I, II and IV and Waghodia

2.	Ahmedabad, Banaskantha, Gandhinagar, Jamnagar, Mehsana, Navsari and Vadodara	31	41.20	2.79	Though recitals in respect of handing over possession, acceptance of money by developers from prospective buyers, payment of all taxes by developers after execution of agreement, giving irrevocable power of attorney to developers etc. clearly indicated conveyance of property, stamp duty was levied as development agreements.
3.	Ahmedabad, Gandhinagar, Mehsana, Navsari, Surat, Surendranagar and Vadodara	40	26.09	0.26	Though recitals contained conditions such as payment of compound interest, handing over demand promissory note, power of attorneys, etc., clearly indicating creation of charge over properties, the document was classified as equitable mortgage instead of mortgage.
4.	Gandhinagar	1	230.50	0.06	Though recitals indicated creation of further charge on an already existing mortgage on the property on a portion of loan, duty was levied on entire amount of loan treating the property under a new mortgage.
Total		138	579.84	24.58	

After the cases were pointed out between May 2006 and January 2007, the department accepted audit objection of Rs. 4.64 lakh in eight cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.6 Non/short recovery of stamp duty on notes sent by brokers/sub-brokers to their principals intimating purchase/sale of shares

The BS Act provides to levy stamp duty at the prescribed rate on note sent by a broker/sub-broker to his principal intimating purchase/sale of shares on account of the principal. Further, non-payment of appropriate stamp duty attracts interest at the rate of 15 *per cent* per annum on the amount due.

During test check of the records of two Dy. Collectors⁵ (VOP) it was noticed between August and September 2007 that five brokers/sub-brokers of shares carried out cash/delivery based transaction and forward contract worth Rs. 19,151.44 crore on account of their respective principals between 2003-04 and 2006-07 and sent notes to that effect to their respective principals. However, the departmental officials either did not recover stamp duty or

⁵ Surat I and Vadodara I

recovered it at incorrect rate resulting in non/short recovery of stamp duty and interest of Rs. 6.43 crore.

After the cases were pointed out between August and September 2007, the department accepted (November 2007) the audit observation involving Rs. 4.05 crore in three cases. A report on recovery and reply in remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.7 Short levy of stamp duty and registration fees on documents comprising several distinct matters

Section 5 of the BS Act provides that any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties for which such separate instrument would be chargeable under the Act.

During test check of the records of 29 Sub-Registrars⁶, it was noticed between May 2006 and January 2008 that 143 documents comprising several distinct matters of immovable properties valued at Rs. 79.85 crore were charged to stamp duty and registration fees for only one matter/transaction resulting in short levy of stamp duty and registration fees of Rs. 5.66 crore. Some important cases noticed in 118 documents involving short levy of Rs. 5.18 crore in properties valued at Rs. 61.47 crore are mentioned below:

(Rupees in lakh)

Sl. No.	Location	No. of documents	Value of property	Short levy	Remarks
1.	Ahmedabad, Banaskantha, Bhavnagar, Gandhinagar Mehsana, Porbandar, Vadodara and Valsad	60	3,575.59	289.02	As documents contained two distinct matters, deemed conveyance between vendor and developer for entire property as mentioned in the document and present conveyance of property by vendor and developer to ultimate purchaser, stamp duty (SD) and registration fees (RF) were leviable on both the matters. It was levied only on the second matter.
2.	Ahmedabad, Banaskantha Bhavnagar, Kheda, Mehsana, Navsari, Panchmahal, Patan and Vadodara	45	1,800.57	157.69	As documents contained two distinct matters, deemed conveyance between mortgagor (the defaulting company) and mortgagee (the Bank) and present conveyance of property by the Bank through auction to the purchaser, SD and RF were leviable on both the matters. It was levied only on second matter.

⁶ Ahmedabad III, IV, V and VII, Ankleshwar, Bhavnagar I, Bhuj, Dabhoi, Deesa, Gandevi, Gandhinagar, Godhara, Jamnagar, Kadi, Kalol, Kheda, Nadiad, Padra, Palanpur, Patan, Porbandar, Vadodara I, II, III and IV, Valsad, Vijapur, Visnagar and Waghodia

3.	Vadodara	13	771.20	71.11	The documents contained two distinct matters <i>i.e.</i> execution of a power of attorney for consideration and present conveyance of land and hence SD and RF were leviable on both matters. It was levied only on the second matter.
Total		118	6,147.36	517.82	

The payment of stamp duty and registration fees for only one matter/transaction resulted in less receipt of Rs. 5.66 crore (November 2008).

The matter was reported to the department between January and August 2006 and the Government in May 2008; their reply has not been received (November 2008).

5.8 Non-levy of service charge

Section 46(2) of the BS Act provides that all duties, penalties, interest and other dues required to be paid under the Act may be recovered by the Collector as arrears of land revenue. Further, Rule 117C of Gujarat Land Revenue Rules, 1972 provides that in cases, where recovery proceedings are to be initiated because of default in payment, five *per cent* of the dues recoverable as arrears of land revenue shall be recovered as service charge from the defaulters.

During test check of the records of eight Dy. Collectors⁷ (VOP), it was noticed between March and September 2007 that Rs. 29.35 crore was recovered in 28,301 cases during 2006-07 as arrears of land revenue from the defaulters. However, service charge was neither levied nor collected from such defaulters. This resulted in non-levy of service charge of Rs. 2.54 crore.

After the cases were pointed out between March and September 2007, the department accepted the audit observation involving of Rs. 56.62 lakh in 6,930 cases. A report on recovery and reply in remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.9 Short levy of stamp duty and registration fees due to incorrect application of rate

The BS Act provides that lease including under lease or sublease and any agreement to let or sublet for a term in excess of 10 years but not more than 30 years attracts duty at the rate applicable to conveyance for twice the amount of average annual rent reserved. In case of lease of movable property, the Act provides to levy duty at the rate of two *per cent* on the amount of average annual rent.

During test check of the records of Additional Superintendent of Stamps, Gandhinagar, it was noticed in January 2007 in two adjudicated cases that lease agreements executed in February 2005 and May 2005 between two companies

⁷ Ahmedabad I and II, Bhuj, Gandhinagar, Jamnagar, Navsari, Surat and Vadodara

for 24 years and 11 months, and 26 years to provide facility for setting of power plants by a company at annual rent of Rs. 70.47 crore. Though lease agreements related to immovable property, duty was levied at the rate applicable to movable property. This resulted in short levy of stamp duty and registration fees of Rs. 2.47 crore.

The matter was reported to the department in December 2007 and the Government in May 2008; their reply has not been received (November 2008).

5.10 Short levy of stamp duty due to undervaluation of properties

Provisions of the BS Act stipulates that if the officer registering the instrument has reasons to believe that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall, before registering the document, refer the same to the Dy. Collector (VOP) for determining the market value of the property. The market value of the property is to be determined in accordance with the Bombay Stamp (Determination of Market Value of the Property) Rules, 1984.

During test check of the records of two Dy. Collectors⁸ (VOP) and 20 Sub-Registrars⁹, it was noticed between May 2007 and January 2008 that the market value of the property was determined incorrectly in 92 documents registered between 2003 and 2006. This resulted in short levy of stamp duty and registration fees of Rs. 1.47 crore as mentioned below:

(Rupees in lakh)

Sl. No.	Location	No. of documents	Short levy	Nature of irregularity
1.	Amreli, Banaskantha, Bharuch, Gandhinagar, Godhara, Jamnagar, Navsari, Surat and Vadodara	60	97.37	The Government has prescribed <i>jantri</i> for determining market value of land and constructed properties respectively. Instead of adopting <i>jantri</i> , lesser value of the properties as shown in the documents was accepted.
2.	Mehsana	3	17.67	While calculating market value, entire cost of transaction is required to be taken into consideration. In these documents, additional amount to be paid by purchaser in the form of premium was not taken into consideration.
3.	Sabarkantha	1	10.39	The Sub-Registrar (SR) did not adopt general value of non-agricultural land in the vicinity which was higher than the rate adopted.

⁸ Gandhinagar and Navsari

⁹ Ankleshwar, Bharuch, Dahod, Deesa, Gandhidham, Gandhinagar, Godhra, Himatnagar, Jamjodhpur, Jamnagar II, Kadi, Kalol(NG), Kunkavav, Navsari, Padra, Palsana, Rajkot I, Vadodara I and IV and Vagra

4.	Godhara, Jamnagar and Vadodara	5	7.98	Though the deeds were executed for conveyance of non-agricultural land, while determining market value of land, rates prescribed for agricultural land were considered.
5.	Bharuch	3	2.91	While calculating market value, entire cost of transaction is required to be taken into consideration. In these documents, frontage charge to be paid by purchasers was not taken into consideration.
6.	Bharuch, Dahod and Rajkot	4	2.88	While calculating market value, entire area of land is required to be taken into consideration. In these documents, some portion of land was excluded while calculating market value.
7.	Bharuch	1	2.80	While calculating market value, neither the rate prescribed in the <i>jantri</i> was adopted nor the discount given to purchaser was taken into consideration.
8.	Vadodara	1	2.58	In case of sale of property of a company, value of property as fixed by Board of Director and mentioned in the document was not adopted while calculating market value.
9.	Sabarkantha	13	1.48	While calculating market value, the SR adopted incorrect/lowest rate of <i>jantri</i> and excluded certain portion of the land.
10.	Godhara	1	0.72	While calculating market value, only value of land was considered and value of properties attached to land was omitted.
Total		92	146.78	

After the cases were pointed out between May 2007 and January 2008, the department accepted audit observation of Rs. 11.01 lakh in 16 cases and recovered Rs. 1.75 lakh in seven cases. A report on recovery and reply in remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.11 Non-realisation of revenue due to non-registration of documents

Section 17 of the IR Act, 1908 provides that registration of every document of sale, mortgage, lease or exchange of the property of the value of Rs. 100 or more is compulsory. Further, the BS Act empowers every person in charge of a public office to impound any instrument, produced before him in the performance of his functions, if it appears that such instrument is not duly stamped.

During test check of the records of three Collectors¹⁰ and three district development offices¹¹, it was noticed between November 2006 and January 2007 that in 13 cases, the concerned Collectors/District Development Officers, while according permission for non-agricultural purposes, did not impound the unregistered/unstamped irrevocable powers of attorney of properties valued Rs. 9.33 crore produced by the parties before them. Failure on the part of the departmental officials to exercise the powers conferred upon them under the BS Act, resulted in non-realisation of revenue in the form of stamp duty and registration fees of Rs. 82.46 lakh.

After the cases were pointed out between November 2006 and January 2007, the department accepted audit observations involving Rs. 15.61 lakh in four cases and recovered Rs. 2.61 lakh in three cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.12 Non/short levy of stamp duty on allotment of Government land

As per the amendment to the BS Act in 2002, every instrument executed by or on behalf of the Government is chargeable to stamp duty at the rates specified in the Act. Accordingly, the Revenue Department instructed (April 2002) all competent authorities allotting Government land to state undertakings, corporations, companies, private parties to insert condition of payment of proper stamp duty in allotment letters.

During test check of the records of four Collector offices¹² and three taluka development offices¹³, it was noticed between February and November 2007 that in 274 cases of allotment of Government land measuring 4.80 lakh sq. mts. relating to period 2002-03 to 2006-07, condition of payment of stamp duty was not inserted in the *sanads*¹⁴. Possession of land was also handed over without realising stamp duty. *Sanads* executed between revenue officers and allottees of the land were not registered. This resulted in non/short levy of stamp duty and registration fees of Rs. 46.54 lakh.

After the cases were pointed out between February and November 2007, the department accepted audit observations involving Rs. 7.57 lakh in 260 cases and recovered Rs. 1.26 lakh in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

¹⁰ Anand, Junagadh and Vadodara

¹¹ Anand, Bharuch and Kheda

¹² Bhavnagar, Rajkot, Surat and Surendranagar

¹³ Jodia, Rapar and Vanthali

¹⁴ Sanad is an agreement in prescribed form containing conditions and restrictions of usage of land.

5.13 Non/short levy of stamp duty and registration fees on dissolution of partnership

The BS Act provides that where any immovable property is taken as share on dissolution of partnership by a partner other than a partner who brought that property as a share or contribution to partnership, stamp duty is leviable at the rate applicable to conveyance. In all other cases of dissolution of partnership, stamp duty is leviable at a fixed rate of Rs. 100 per document.

During test check of the records of two Sub-Registrars¹⁵, it was noticed between May and December 2007 that in four documents, though at the time of dissolution of partnership, the partner distributed among themselves immovable properties purchased by their respective firms, the departmental officials did not levy stamp duty at the rate applicable to conveyance. This resulted in non/short levy of stamp duty and registration fees of Rs. 27.36 lakh.

The matter was reported to the department between December 2007 and February 2008 and the Government in May 2008; their reply has not been received (November 2008).

5.14 Non-levy of stamp duty due to incorrect exemption

The BS Act empowers the Government to reduce or remit stamp duty on any instrument or class of instrument from prospective or retrospective effect by an order published in the official gazette. The Government vide notification issued on 20 January 2001, exempted payment of stamp duty for a period of three years on conveyance or lease of land executed in favour of developer for development of info city project notified by the Government.

During test check of the records of Sub-Registrar Gandhinagar, it was noticed in October 2006 that a company executed three subleases cum conveyance deeds in favour of developers between October 2004 and January 2005 for an info city project at Gandhinagar. Though period of exemption was over, the departmental officials allowed exemption from payment of stamp duty on these subleases, which resulted in non-recovery of duty of Rs. 23.95 lakh.

The matter was reported to the department in July 2007 and the Government in May 2008; their reply has not been received (November 2008).

5.15 Loss of revenue due to grant of irregular benefit of amnesty scheme

The Government vide order in April 2006 introduced an amnesty scheme for the period between 1 May and 30 July 2006 by which 50 *per cent* of stamp duty and entire amount of interest were waived off, if the party paid the remaining amount of 50 *per cent* of stamp duty within the period of the scheme. The scheme was applicable to instruments which were presented for registration prior to 1 April 2000 and wherein order under Section 32A of the BS Act had been passed prior to 1 February 2006.

During test check of the records of two Dy. Collectors¹⁶ (VOP), it was noticed between August and September 2007 that in three cases, though parties did not

¹⁵ Rajkot I and Vadodara I

¹⁶ Navsari and Valsad

pay 50 per cent of the deficit duty within the prescribed time limit, the departmental officials granted the benefit of the amnesty scheme. This resulted in loss of revenue of stamp duty and interest of Rs. 10.34 lakh.

After the cases were pointed out between August and September 2007, the department accepted the audit observations involving Rs. 2.31 lakh in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.16 Non/short levy of stamp duty on delivery order

5.16.1 The BS Act provides to levy stamp duty on instrument entitling a person to the delivery of any goods lying in any dock or port or in any warehouse in which goods are stored. By an amendment made in April 2006, the Government of Gujarat enhanced rate of stamp duty on delivery of such goods from a fixed rate of Rs. 20 to Re. 1 for every Rs. 1,000 or part thereof.

During test check of the records of the Dy. Collector (VOP) Jamnagar, it was noticed in August 2007 that a cement company had taken delivery of coal and petcoke¹⁷ valued Rs. 66.23 crore lying at Bedi port between April and September 2006. The departmental officials did not levy stamp duty at prescribed rate on these delivery orders. This resulted in non-levy of stamp duty of Rs. 6.62 lakh.

The matter was reported to the department in December 2007 and the Government in May 2008; their reply has not been received (November 2008).

5.16.2 By an amendment made in April 2006, the Government of Gujarat enhanced rate of stamp duty on delivery of goods lying in any dock or port or in any warehouse in which goods are stored, from a fixed rate of Rs. 20 to Re. 1 for every Rs. 1,000 or part thereof. Further, Superintendent of Stamp, Gandhinagar issued instructions in April 2006 to levy stamp duty on gross value of goods shown in delivery orders.

During test check of the records of two Dy.Collectors¹⁸ (VOP) it was noticed between August and September 2007 that in 22 delivery orders, the departmental officials did not include amount of custom duty, insurance charges, freight charges, educational cess etc. in the gross value of the goods while calculating stamp duty. Gross value includes all charges incurred on goods lying in any dock or port or warehouse till the time of delivery of goods from such place. This resulted in short levy of stamp duty of Rs. 6.24 lakh.

The matter was reported to the department between December 2007 and February 2008 and the Government in May 2008; their reply has not been received (November 2008).

¹⁷ Petcoke is a carbonaceous solid derived from oil refinery coker units or other cracking processes.

¹⁸ Bhuj and Jamnagar