

## CHAPTER-III: Stamp Duty and Registration Fee

### 3.1 Results of Audit

Test check of records of various registration offices conducted in audit during the year 2004-05 revealed non/short levy of stamp duty and registration fee amounting to Rs.6.53 crore in 4,153 cases which broadly fall under the following categories:

Sl. No.	Nature of irregularities	Number of cases	Amount (Rupees in crore)
1.	Short levy of stamp duty due to misclassification of deeds	1,242	4.90
2.	Short levy of stamp duty due to under-valuation of property	344	0.93
3.	Short levy of registration fee/stamp duty	1,716	0.09
4.	Irregular exemption of mortgage deeds	851	0.61
	<b>Total</b>	<b>4,153</b>	<b>6.53</b>

During the year 2004-05, the Department accepted under assessment of Rs.4.88 crore involved in 1,225 cases. An amount of Rs.0.05 crore in 18 cases had been recovered which pertains to earlier years.

A few illustrative cases involving Rs.1.47 crore are mentioned in this chapter.

### 3.2 Short levy of stamp duty and registration fee

Under provisions of the Indian Stamp Act, 1899 (IS Act) and clarifications/instructions issued thereunder in April 2000 by the Government, stamp duty on any release of ancestral property made in favour of brother or sister (children of renouncer's parent), son or daughter, father or mother, spouse or grand children, nephew or niece or coparcener of the renouncer is leviable at the rate of Rs.15 per instrument. In any other case, stamp duty shall be charged at the rate as applicable to a conveyance for the amount equal to the market value of the share, interest and part of claim renounced.

During test check of records of 42\* Registering offices of 12\*\* districts for the years 2002-2003 and 2003-2004, it was noticed that in 201 cases, releases of immovable properties valued at Rs.11.03 crore were made in favour of persons who had either no right in the ancestral property or were not entitled to concessional rate of stamp duty under the IS Act. These deeds were liable to be charged at the rates applicable to conveyance deeds and stamp duty of Rs.1.33 crore was leviable. However, the registering authority levied stamp duty of Rs.0.04 lakh treating these as release deeds. This resulted in short levy of stamp duty of Rs.1.33 crore. A few instances are given below:

	Deed No. and date	Area (in KM) ***	Value of property as per Collector's rate	Released in favour of	Stamp duty due (Amount in Rupees)	Stamp duty levied (Amount in Rupees)	Stamp duty short levied (Amount in Rupees)
<b>District Gurgaon</b>							
JSR Pataudi	155 20.05.02	(49-18)	2,71,500	No relation	2,10,565	50	2,10,515
JSR Farukh Nagar	421 18.06.02	(30-11)	11,46,000	Maternal uncle	1,43,250	25	1,43,225
<b>District Hisar</b>							
JSR Adampur	505 05.06.03	(67-2)	10,90,375	Maternal uncle	1,36,297	15	1,36,282
SR Adampur	37 09.04.02	(64-6)	7,31,156	Widow aunt to nephew, property not ancestral	1,30,609	15	1,30,594

\* **Ambala:** Sub-Registrar, Barara; **Bhiwani:** Sub-Registrars, Bawani Khera, Bhiwani, Bond Kalan, Charkhi Dadri, Loharu, Siwani, Tosham; **Gurgaon:** Sub Registrars, Farook Nagar, Ferozepur Zirka, Gurgaon, Nuh, Pataudi, Punhana, Sohana, Tawru; **Hisar:** Sub-Registrars, Adampur, Bass, Barwala, Hansi, Hisar, Narnaul, Uklana; **Jhajjar:** Sub-Registrars, Bahadurgarh, Beri, Jhajjar, Mathenhail; **Jhajjar:** Sub-Registrars, Bahadurgarh, Beri, Jhajjar; **Jind:** Sub-Registrars, Narwana, Saffidon; **Karnal:** Sub-Registrars, Assandh, Ballah, Indri; **Panchkula:** Sub-Registrar, Panchkula; **Rewari:** Sub-Registrar, Rewari; **Sonipat:** Sub-Registrars, Gannaur, Gohana, Kharkhoda, Sonipat; **Yamunanagar:** Sub-Registrar, Yamunanagar;

\*\* Ambala, Bhiwani, Gurgaon, Hisar, Jhajjar, Jind, Karnal, Panchkula, Rewari, Sonipat and Yamunanagar.

\*\*\* **K** means Kanal and **M** means Marla.

After this was pointed out between December 2003 and September 2004, six Sub Registrars (SRs) admitted the facts and stated between January 2004 and November 2004 that notices of recoveries would be issued to the concerned parties. Eleven SRs intimated that cases had been sent to the Collectors concerned for decision, while no reply had been received from the remaining 25 SRs. Final report had not been received (August 2005).

The matter was brought to the notice of the Government between March 2004 and November 2004; reply had not been received (August 2005).

### **3.3 Non realisation of stamp duty**

Under provisions of the IS Act, separate rates have been prescribed for different type of instruments. The classification of an instrument depends upon the nature of the transaction recorded therein. In case the possession of the property is handed over after receipt of full amount of consideration, the instrument becomes a conveyance deed and stamp duty becomes leviable under the provisions of the Act.

During test check of the records of the SRs, Tohana and Fatehabad, it was noticed that four instruments conveying the possession and right of the property valued at Rs.20.96 lakh to the vendee were executed between May and August 2003. In all these cases the vendors had received full payment in lieu of the property sold. The deeds were liable to be treated as conveyance deed and a stamp duty of Rs.2.99 lakh was leviable. However, the registering authority registered the deeds as agreement to sell charging a stamp duty of Rs.12 which was incorrect. This resulted in short realisation of stamp duty of Rs.2.99 lakh.

After this was pointed out in November 2004, the Department admitted the facts and stated that notices will be issued to the concerned parties. Further progress of recovery had not been received (August 2005).

The matter was referred to the Government in January 2005; reply had not been received (August 2005).

### **3.4 Non levy of stamp duty on Exchange of Property**

As per IS Act, stamp duty on exchange of property is chargeable as a conveyance deed. Government of Haryana further clarified in September 1996 that compromise decrees which create for the first time right, title or interest in the said immovable property in favour of any party to the suit, will require registration. The stamp duty on such instruments is also chargeable as conveyance deed for a consideration equal to the value of the property or the value set forth in such instrument, whichever is higher.

During test check of records in two offices of SRs, Kalanwali and Sirsa, it was noticed between July and August 2004 that three compromise decrees, registered between June 2003 and January 2004, created for the first time right, title or interest in the said immovable property valued at Rs.15.71 lakh, were registered for the exchange of property without levying stamp duty of Rs.2.23 lakh.

After this was pointed out in July and August 2004, the Collector directed the SRs in November 2004 to recover the amount of stamp duty immediately. Sub Registrar Sirsa, however, intimated in December 2004 that all such deeds had been sent to Collector for decision. Further report had not been received (August 2005).

The matter was referred to the Government in October 2004; reply had not been received (August 2005).

### **3.5 Short levy of stamp duty due to incorrect application of rate of tax**

In order to check the evasion of stamp duty in the sale deeds, Government issued instructions in November 2000 to all registering authorities in the State that agricultural land sold with area less than 1,000 sq. yards in the urban areas and near the residential areas in the villages be valued at the rates fixed for the residential property of that locality for the purpose of levying stamp duty.

During test check of the records of the Sub Registrars, Thanesar, Pehowa and Shahbad in Kurukshetra district for the year 2003-04, it was noticed that 13 sale deeds of plots with area less than 1,000 sq. yards were registered between February 2003 and January 2004. The deeds were liable to be assessed for Rs.86.55 lakh based on the rates fixed for residential areas and stamp duty of Rs.13.31 lakh was chargeable. However, the registering authority incorrectly assessed the deeds for Rs.27.26 lakh on the rate fixed for agricultural land and levied stamp duty of Rs.3.92 lakh. This resulted in short levy of stamp duty of Rs.9.39 lakh.

After this was pointed out between July and August 2004, the Department admitted the facts and stated that notices for recovery would be issued to concerned parties.

The matter was referred to the Government in October 2004; reply had not been received (August 2005).