

**CHAPTER-VI: OTHER TAX – NON TAX RECEIPTS****6.1 Results of audit**

Test check of records relating to stamp duty and registration fee, irrigation cum public health receipts, public works receipts etc., conducted during the year 2005-06, revealed non/short levy of stamp duty and registration fee, non recovery of water charges/damages and other irregularities amounting to Rs.35.58 crore in 402 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Non/short levy of stamp duty and registration fee	148	1.14
2.	Non recovery of water charges	25	19.26
3.	Non recovery of damages from unauthorised occupants	14	0.17
4.	Other irregularities	215	15.01
	<b>Total</b>	<b>402</b>	<b>35.58</b>

During 2005-06, the department accepted under assessments of Rs.4.16 crore involved in 668 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important observations involving financial effect of Rs.0.79 crore are given in the following paragraphs.

## **A Stamp Duty and Registration fee**

### **6.2 Misclassification of documents**

Under the Indian Stamp (Himachal Pradesh Amendment) Act, 1969 (as amended upto 1976) read with the Himachal Pradesh Land Records Manual, “release” is an instrument whereby a person renounces a claim upon another person or against any specified property. When one co-owner of a property, by a deed, relinquishes his right to possession and his title in favour of another co-owner, such deed is a release deed. The person in whose favour there can be a release, must possess a pre-existing right or interest in the property. It was also clarified that a widow cannot release her share in favour of her sons. She can only gift her share of the property which is charged same stamp duty/registration fee as conveyance deed.

During audit of the records of two sub registrars (SRs)\* it was noticed between September and December 2005 that in three\* cases, release deeds were executed between January and May 2004. In one case, a small portion of land, was transferred in July 2003 by the owner of the land in favour of his brother by executing a sale deed. Later on, the owner of the land transferred further portion of land to the concerned vendee through a deed of release in May 2004 which was incorrect as the vendee had no pre-existing right in the property and deed was to be classified as conveyance deed. In another case, a widow released her share in favour of her son through a release deed which was incorrect. In a third case, a father through release deed gave some portion of land in favour of his two sons who did not have any pre-existing right in the property. The deeds were to be classified as conveyance deed. Thus, misclassification of documents resulted in short levy of stamp duty and registration fee of Rs.12.91 lakh.

After this was pointed out, SRs stated between September and December 2005 that matter would be reviewed. Further report had not been received (September 2006).

The matter was reported to Government between October 2005 and January 2006; their reply had not been received (September 2006).

### **6.3 Incorrect determination of market value of property**

*Patwaris* are responsible for preparation of *partas*<sup>®</sup>. As per Inspector General Registration’s clarification (June 1998), the average price is to be calculated on the

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\*Nadaun: one case:Rs.9.98 lakh (including registration fee of Rs.0.25 lakh)  
and Paonta Sahib :two cases: Rs.2.93 lakh (including registration fee of Rs.0.26 lakh)

<sup>®</sup> It is a valuation report of the land prepared by the *patwari*. The market value is calculated on the consideration amount shown in the deed of the land sold for the preceeding year

basis of kind of land mentioned in the revenue records. Further, the average price is based on mutation done on sale deeds registered during the preceeding 12 months. The registering officer is also required to verify the consideration shown in the sale deeds with *partas* prepared by the concerned *patwari*. If the registering officer has reasons to believe that the value of the property or the consideration 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 of consideration and the proper duty payable.

**6.3.1** During audit of records of SR, Pachhad, it was noticed in August 2005 that a sale deed<sup>#</sup> of 38.17 bigha of land in village Tikkar was registered on 20 September 2004. Audit scrutiny revealed that the consideration of the property set forth in the registered document was much below the average price shown in *partas* prepared by the concerned *patwari* of the locality. The registering authority, however, while registering the deed failed to correlate the consideration of deed with that of *partas*. This resulted in short levy of stamp duty of Rs.16.81 lakh.

After this was pointed out, department stated in February 2006 that no more stamp duty was recoverable and in support thereof furnished a *parta* for the period 19 October 2004 to 18 October 2005. Departmental reply was however, not based on facts as furnished *parta* was for a nearby village *mauja* Barol instead of *mauja* Tikkar and that too for the subsequent period of 19 October 2004 to 18 October 2005 and was thus not applicable in this case. The rates shown in *parta* attached with the registered deed was for the period from 21 September 2003 to 20 September 2004 which was applicable in this case and case should have been referred to district collector for correct determination of market price.

The matter was reported to Government in September 2005; reply had not been received (September 2006).

**6.3.2** During audit of records of 30<sup>@</sup> SRs, it was noticed between May 2005 and March 2006 that consideration of properties set forth in 133 documents registered between June 2003 and December 2004 was much below the price shown in *parta* prepared by the concerned *patwaris* of the localities. Against market value of Rs.4.97 crore, the value set forth in the deeds was Rs.2.92 crore. This resulted in short realisation of stamp duty of Rs.24.81 lakh and registration fee of Rs.3.28 lakh.

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<sup>#</sup> No. 330/4

<sup>@</sup> Amb, Ani, Aut, Barsar, Bhoranj, Bijhari, Chamba, Churah, Dalhousie, Dharamsala, Hamirpur, Indora, Kullu, Kumarsain, Mandi, Manali, Moorang, Nahan, Nirmand, Nurpur, Palampur, Rajgarh, Rampur, Rohroo, Sainj, Sarkaghat, Solan, Sundernagar, Suni and Una

After this was pointed out, six<sup>^</sup> SRs intimated between November 2005 and August 2006 that an amount of Rs.1.54 lakh had been recovered in 15 cases. Reply from remaining SRs was however, awaited .

The matter was reported to the department/Government between May 2005 and April 2006; their replies had not been received (September 2006).

#### **6.4 Incorrect exemption**

The Himachal Pradesh Co-operative Agricultural and Rural Development Bank Act, 1979, provides that loans other than short term may be advanced by the bank for different agricultural purposes and no registration fee is to be charged in these cases. Government also clarified in November 1997 that stamp duty and registration fee was leviable in all cases where loans had been secured for purposes other than agricultural purpose.

During audit of records of 23<sup>§</sup> SRs it was noticed that 67 instruments were executed during 2003 and 2004 in the name of individuals for obtaining loans from the Agricultural and Rural Development Bank. The loans of Rs.2.04 crore were for non agricultural purposes viz. purchase of truck/mini trucks/mini buses/jeeps/construction of shops/opening of dhabas and construction of LPG store room etc. The SRs, however, while registering these documents levied stamp duty and registration fee of Rs.1.39 lakh instead of Rs.7.07 lakh. This resulted in short realisation of stamp duty and registration fee of Rs. 5.68 lakh.

After this was pointed out, three<sup>@</sup> SRs intimated between November 2005 and July 2006 that Rs.0.44 lakh had been recovered in nine cases. Reply from remaining SRs was awaited.

The matter was reported to the department/Government between May 2005 and March 2006; their replies had not been received (September 2006).

#### **6.5 Incorrect exemption on housing loans**

Mortgage deeds executed for taking advance for dwelling purposes from banks, by employees of other States\* and their public sector undertakings, autonomous

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<sup>^</sup> Barsar, Bhoranj, Dalhousie, Manali, Rampur and Sainj

<sup>§</sup> Ani, Arki, Bababaroh, Baijnath, Bangana, Banjar, Barsar, Bhoranj, Bijhari, Ghumarwin, Indora, Kamrau, Kandaghat, Karsog, Khudian, Kumarsain, Nahan, Nirmand, Pachhad, Pooh, Sangrah, Sarkaghat and Thural

<sup>@</sup> Barsar, Bhoranj and Pooh

\* Employees other than that of Himachal Pradesh Government, its public sector undertakings and autonomous bodies

bodies, banks and Central Government employees were not exempted from stamp duty and registration fee.

Test check of records of 29<sup>##</sup> SRs revealed that the registering authorities allowed exemption from payment of stamp duty and registration fee in the case of 88 employees of Central Government/Central Government autonomous bodies/other States/banks, who secured house building advances of Rs.2.97 crore during 2004. The exemption granted was incorrect and resulted in non realisation of stamp duty and registration fee of Rs.10.38 lakh.

After this was pointed out between May 2005 and March 2006, SR Sihunta intimated in July 2006 that Rs.0.24 lakh had been recovered. Other concerned SRs stated that relevant deeds will be reexamined and action will be taken according to law.

The matter was reported to the department/Government between May 2005 and April 2006; their replies had not been received (September 2006).

## **B IRRIGATION-CUM-PUBLIC HEALTH DEPARTMENT**

### **6.6 Non recovery of water charges**

As per provisions of Himachal Pradesh Water Supply Act, 1968, recovery of water charges shall be effected from individuals on the basis of flat rate or on the basis of metered connections. The rates levied shall, if not paid when due, be recovered as arrears of land revenue.

During test check of records of 20<sup>\*</sup> irrigation cum public health divisions, it was noticed between May 2005 and March 2006 that water charges amounting to Rs.12.37 crore for the period falling between 1963-64 and 2004-05, remained unrealised as on 31 March 2005. Further analysis in respect of nine divisions revealed the following age wise arrears:

<b>(Rupees in lakh)</b>	
More than 20 years	0.18
Between 10 & 20 years	0.51
Between 5 & 10 years	3.72
Between 3 & 5 years	325.68
Less than 3 years	842.62
<b>Total</b>	<b>1,172.71</b>

<sup>##</sup> Amb, Ani, Aut, Baijnath, Bangana, Bharwain, Bhoranj, Bijhari, Chachoit, Dadahu, Dharamsala, Indora, Jaisinghpur, Jawali, Junga, Kalpa, Khundian, Kumarsain, Kullu, Mandi, Nurpur, Palampur, Rampur, Sainj, Shahpur, Sihunta, Sujampur, Thural and Una

<sup>\*</sup> Barsar, Baggi, Bilaspur, Dharamsala, Dehra, Ghumarwin, Hamirpur, Kullu Div. No. 1, Mandi, Nalagarh, Nerwa, Padhar, Sarkaghat, Shimla Div. No.II, Solan, Sundernagar, Suni, Thural, Una Div. No. 1 and Una Div. No. 2

Yearwise details of Rs. 64.63 lakh in respect of 11<sup>#</sup> divisions was not available.

After this was pointed out, Sarkaghat division stated that outstanding amount of water charges of Rs.1.81 lakh had been recovered. The details of recovery were, however, not furnished. Replies from remaining divisions were awaited. Effective steps had not been taken for the recovery of balance amount of Rs.12.35 crore.

The matter was reported to the department/Government between May 2005 and April 2006; their replies had not been received.

## **C PUBLIC WORKS DEPARTMENT**

### **6.7 Non recovery of damages from unauthorised occupants**

The Himachal Pradesh Allotment of Government Residences (General Pool) Rules, 1994, provide that if a residence remains in occupation of an allottee beyond permissible period of retention of residence, such an allottee shall be liable to pay damages, for use and occupation of the residence, at the rate of Rs.12 per sqft. Permissible period of retention of residence is four months in case of retirement and maximum two months in case of outstation transfer.

During test check of records of two public works divisions, it was noticed between September 2005 and October 2005 that three<sup>§</sup> allottees retained Government residences beyond the permissible period. But damages of Rs. 5.31 lakh for the period from March 2003 to August 2005 were not recovered from these unauthorised occupants. No action was taken to evict the occupants after expiry of permissible period of retention of Government residences.

After this was pointed out, the Executive Engineer, Shimla division intimated in December 2005 that matter was being pursued with concerned allottees to vacate

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<sup>#</sup> Baggi, Dehra, Hamirpur, Ghumarwin, Mandi, Nalagarh, Nerwa, Sarkaghat, Sundernagar, Thural and Una Division No. 1

<sup>§</sup> Shimla B&R Dn.III: two cases: Rs. 2.57 lakh and Sangrah Dn.: one case: Rs. 2.74 lakh

the accommodation retained unauthorisedly and to deposit the damages. Reply from Sangrah division was awaited.

The matter was reported to the department/Government between October 2005 and November 2005; their replies had not been received (September 2006).

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