

CHAPTER 5: OTHER TAX RECEIPTS

5.1. Results of audit

Test check of records relating to land revenue, stamp duty and registration fee, electricity duty etc. conducted in audit during 2002-2003, revealed non/short deposit of revenue and other irregularities amounting to Rs.1.91crore in 235 cases, which broadly fall under the following categories:-

(Rupees in crore)

		Number of cases	Amount
1.	Non/short deposit of revenue	27	0.23
2.	Non/Short-levy of stamp duty and registration fee	96	1.23
3.	Other irregularities	112	0.45
	Total	235	1.91

During 2002-2003, the Department accepted under-assessments etc., of Rs.2.49 crore involved in 83 cases which had been pointed out in audit in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs.59.51 crore are given in the following paragraphs.

A. Land Revenue

5.2. Non-deposit of revenue

Under the Himachal Pradesh Land Revenue Act, 1954, as amended from time to time and the rules framed thereunder, collection of land revenue and cesses made for the *rabi* and *kharif* harvests is required to be credited to Government account by 15th July and 28th February respectively, each year. Failure on the part of the *Lambardars* to deposit these collections into Government treasury attracts coercive recovery process against them and the defaulting *lambardars* are liable to removal from office and forfeiture of *lambardari* “Pachotra”.

During audit of the records of the Tehsildar, Chamba, it was noticed in June 2002 that land revenue and cesses amounting to Rs.2.27 lakh pertaining to *Kharif 1999 to Rabi 2001* crops had not been deposited into government treasury till June 2002 by the *lambardars*. The Department, though required to take coercive action for recovery of the overdue land revenue and cess, had not initiated any action against the defaulting *lambardars*.

On this being pointed out in June 2002, the Collector, Chamba stated in July 2003 that out of Rs.2.27 lakh, land revenue and cess amounting to Rs.0.40 lakh pertaining to *Rabi 2001* crop had been remitted whereas Rs.0.45 lakh were recovered and efforts were being made to recover the remaining amount of Rs.1.42 lakh. Further report has not been received (August 2003).

The matter was reported to the Department and to the Government in July 2002; replies have not been received (August 2003).

B. Stamp Duty and Registration Fee

5.3. Under valuation of immovable property

The Indian Stamp Act, 1899, as amended (vide Himachal Pradesh Act No. 7 of 1989) in its application to Himachal Pradesh provides that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty shall be fully and truly set forth therein. 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 the consideration and the proper duty payable. Any person intending to defraud the Government, if executes any instrument concealing the complete facts is punishable with fine which may extend to five thousand rupees. The responsibility of calculation of average price according to the classification of land has been entrusted to Patwaris by the Government.

5.3.1. During audit of records of Sub Registrar, Hamirpur and Kasauli, it was noticed that the consideration of the properties set forth in 20 conveyance deeds valued at Rs.2.19 crore was much below the average price certified by the concerned Patwaris of the locality. The Registering Officers, after registering these instruments did not refer these cases to the Collectors for determination of the market value. This resulted in short levy of stamp duty and registration fee amounting to Rs.26.72 lakh.

On this being pointed out, the Inspector General of Registration stated in January 2003 that in one case the amount had been recovered and in remaining cases notices were issued to the concerned vendees. Further report of recovery has not been received (August 2003).

The matter was reported to the Department and to the Government between September 2002 and February 2003; replies have not been received (August 2003).

5.3.2. During audit of four[#] Sub Registrars it was noticed that in 24 cases registered between January 2000 and December 2001, the value of the properties set forth in the deeds of conveyance was Rs.16.93 lakh while those shown in the agreements to sell and recorded with the document writers was Rs.82.88 lakh. This resulted in evasion of stamp duty and registration fee amounting to Rs.9.03 lakh. Fine up to Rs.1.20 lakh could also be levied.

On this being pointed out, the Sub Registrar, Jogindernagar intimated that in three cases, Rs.0.49 lakh had been recovered in June 2002. Report of recovery in other cases had not been received (August 2003).

The matter was reported to the Department and to the Government between February and August 2002; reply had not been received (August 2003).

[#] Indora, Jogindernagar, Mandi and Sundernagar

5.4. Irregular exemption/ short determination of stamp duty and registration fee

Stamp duty and registration fee are payable on documents executed for mortgage of immovable property (without possession) for securing loan advanced or to be advanced or for an existing or future debt. Mortgage deeds executed by Central Government employees and employees of the Himachal Pradesh Government, Public Sector Undertakings and Autonomous bodies for repayment of house building advances received by them from their employers for the purpose of construction or purchase of a dwelling house for their own use were exempted in April 1989 from payment of stamp duty. No such exemption was admissible in case of loans raised from co-operative banks.

5.4.1. During audit of the records of seven* Sub Registrars, it was noticed between July and December 2002, that 121 mortgage deeds amounting to Rs.2.34 crore executed during the year 2001 by the employees of state government/ local bodies/ corporations/ boards, on the basis of House Building loans raised from cooperative banks, were incorrectly exempted from the levy of stamp duty and registration fee amounting to Rs.8.18 lakh.

On this being pointed out in audit, the Sub Registrar, Dharamsala, stated in November 2002 that recovery amounting to Rs.8,200 had been made and that efforts were being made to recover the remaining amounts. Further report had not been received (August 2003).

5.4.2. During audit of the Sub Registrar, Hamirpur, it was noticed in January 2003 that in the case of 27 mortgage deeds executed during the year 2001 by the employees of the state government/corporation/board on the basis of House building loans raised from Kangra Central Cooperative Bank, stamp duty of Rs.400 only was levied instead of Rs.1.88 lakh. This resulted in short determination of stamp duty and registration fee amounting to Rs.1.87 lakh.

The above matter was reported to the Inspector General of Registration/Government between August 2002 and February 2003. Further developments are awaited in audit (August 2003).

5.4.3. According to the Indian Stamp (Himachal Pradesh Amendment) Act 1991, stamp duty at the rate of 12 *per cent* is chargeable on sale deed with effect from 24th April 1991. Under the Indian Registration Act, 1908, as applicable to Himachal Pradesh, registration fee, at the rate of 2 *per cent* on the value of consideration, subject to a maximum of Rs.25,000 is also leviable.

During audit of the Sub Registrar, Kasauli, it was noticed that the Himachal Pradesh Housing Board sold three flats to the Himachal Pradesh State Cooperative and Consumer Federation Limited, Shimla, in July 2001 for a consideration of Rs.24.89 lakh on which stamp duty and registration fee of Rs.3.48 lakh though leviable was incorrectly exempted resulting in non realisation of Government revenue to that extent.

*Bajjnath, Bilaspur, Dharamsala, Palampur, Nadaun, Solan and Thural

On this being pointed out, the Department stated in March 2003 that notices were issued to the concerned vendee but the amount had not been deposited and that coercive processes were being initiated to effect the recovery. Further reply has not been received (August 2003).

The matter was reported to the Government in September 2002; reply has not been received (August 2003).

5.4.4. During audit of the records of Sub Registrar, Udaipur, it was noticed that land measuring two bighas and three biswas was sold by an individual in November 2001 to the Himachal Pradesh Bus Stand Management and Development Authority for a consideration of Rs.10.75 lakh, but stamp duty and registration fee amounting to Rs.1.50 lakh was not levied.

The matter was reported to the Department and to the Government in July 2002; replies had not been received (August 2003).

5.4.5. Under the Indian Stamp Act, 1899, as applicable to Himachal Pradesh the Government may reduce or remit, the duties with which any instruments, when executed by, or in favour of, any particular class of persons, are chargeable. By a notification issued in March 1988, the State Government exempted instruments executed by or on behalf of a co-operative society or by an officer or member thereof and relating to the business of such society, from stamp duty.

The Government clarified in November 1997 that the stamp duty and registration fee was leviable where loans had been secured for purposes other than agricultural purposes.

During audit of five* Sub registrars it was noticed that 34 instruments were executed during 2000-2001, for obtaining loans from bank for purchase of medium/light motor vehicles, printing machine/ construction of marketing yards/establishment of industry, business/opening of dhaba/ goldsmith shop/tailoring shop/bangles shop/photography unit/furniture shop etc. Though the loans secured through these documents were meant for commercial purposes, and were not related to land improvement or productive purposes, the Sub-registrars while registering the documents did not levy any stamp duty and registration fee thereon. This resulted in loss of revenue amounting to Rs.2.97 lakh.

The matter was reported to the Department and to the Government between June 2002 and January 2003; replies have not been received (August 2003).

* Dehra, Kasauli, Mandi, Sarkaghat and Solan

C. Electricity Duty

5.5. Non-recovery of electricity duty

According to the Himachal Pradesh Electricity (Duty) Act, 1975 and the Rules made thereunder, electricity duty was leviable on the electrical energy supplied by the Himachal Pradesh State Electricity Board to consumers. Under the rules *ibid*, the duty collected by the Board in monthly bills for the energy supplied shall be deposited into Government account half yearly i.e. in April and October every year. The rules also require that the Board shall submit to the Electrical Inspector by the last day of May and November a statement in the prescribed form.

It was noticed in audit that electricity duty amounting to Rs.29.47 crore during the period April 2002 to September 2002, required to be deposited in October 2002, had not been deposited by the Board till June 2003. Information regarding the electricity duty due to Government during subsequent period October 2002 to March 2003 was not available in June 2003 with the Chief Electrical Inspector. A return for this period showing details of electricity duty had not been furnished to the Electrical Inspector.

On this being pointed out in June 2003, the Chief Electrical Inspector confirmed the non receipt of electricity duty and stated that State Electricity Board was being reminded for its payment. The Inspector also intimated in August 2003 that Board was asked to furnish half yearly return of electricity duty. In the absence of this return no demand for electricity duty could be raised by the Department. Keeping same figure of receipt of Rs.29.47 crore for the period October 2002 to March 2003, minimum revenue on account of electricity duty of Rs.58.94 crore remained out side the Government account.

The matter was reported to the Department and to the Government in August 2003; reply has not been received (August 2003).