

## CHAPTER V: STAMPS AND REGISTRATION FEES

### 5.1 Results of audit

Test check of the documents registered in the offices of the sub-registrars, conducted in audit during the year 2007-08, disclosed underassessment of stamp duty and registration fees amounting to Rs. 2.73 crore in 63 cases, under the following categories:

**(Rupees in crore)**

Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of stamp duty	32	1.25
2.	Short levy due to undervaluation of properties	3	1.01
3.	Short levy of stamp duty and registration fees	26	0.42
4.	Short levy due to incorrect classification/ exemption	2	0.05
<b>Total</b>		<b>63</b>	<b>2.73</b>

During the course of the year 2007-08, the department accepted underassessment of Rs. 1.08 crore in 12 cases and recovered Rs. 2.64 lakh involved in four of them which had been pointed out in audit in the earlier years.

A few illustrative cases involving Rs. 2.44 crore are mentioned in the following paragraphs.

## 5.2 Non/short realisation of stamp duty

The Karnataka Stamp (KS) Act, 1957 prescribes that all instruments chargeable with duty as per the schedule to the Act and executed by any person in the State of Karnataka shall be stamped before or at the time of execution. No system exists in the department to ensure that appropriate stamp duty has been realised for instruments not presented for registration.

**5.2.1** As per Article 32A(ii) of the schedule to the KS Act, licences of immovable or movable properties granted by the owner or authority for a rent or fee or by whatever name called, attracts stamp duty at the prescribed rates depending on the term for which the licence is given and the consideration for the licence.

As per the information obtained from the Karnataka Electricity Regulatory Commission (KERC), KERC issued 27 licences during the period 2002-03 to 2006-07 to Karnataka Power Transmission Corporation Limited (five licences) for transmission of electricity, to five<sup>1</sup> electricity supply companies (17 licences) and to a rural electricity co-operative society<sup>2</sup> (five licences) for distribution of electricity. The licences issued were valid for a period of one year and the licence fee paid by the licensees amounted to Rs. 5.22 crore. The stamp duty leviable on these licences amounted to Rs. 26.10 lakh at the rate of five *per cent* which was not realised.

**5.2.2** Under the KS Act, lease of immovable properties include any instrument by which tolls of any description are let. As per Article 30(1)(c) of the schedule to the KS Act, stamp duty to be levied is based on the consideration for the lease and the term for which the lease is given.

Test check of the records revealed that during the year 2002-03 to 2007-08, five agreements were entered into between four<sup>3</sup> national highway divisions and five contractors granting sole and exclusive authority to the contractors to collect tolls on specified bridges/highways for periods ranging from one to three years for a total bid amount of Rs. 12.38 crore in addition to the monthly rent. The contractors were liable to pay stamp duty of Rs. 98.66 lakh but leases were executed on stamp paper of Rs. 650 only. This resulted in short realisation of stamp duty of Rs. 98.65 lakh.

The matter was referred to the Inspector General of Registration and Commissioner of Stamps in March 2008 and the Government in April 2008; their reply has not been received (November 2008).

## 5.3 Short levy due to undervaluation

Under the KS Act, if the registering officer while registering any instrument has reason to believe that the market value of the properties has not been truly set forth, he shall estimate the market value and upon payment of duty on such market value, register the document. Further, under the provisions of the KS Act, the Government constituted committees for estimation of guideline

<sup>1</sup> Bangalore Electricity Supply Company, Chamundeshwari Electricity Supply Company, Gulbarga Electricity Supply Company, Hubli Electricity Supply Company, Mangalore Electricity Supply Company,

<sup>2</sup> Hukkeri Electricity Rural Society.

<sup>3</sup> Bangalore, Chitradurga, Karwar, Mangalore.

market values of properties which were published from time to time for the purpose of levy of stamp duty and registration fee.

Test check of the records of five<sup>4</sup> sub-registries, between May 2007 and March 2008 revealed that seven documents had been registered between May 2006 and May 2007 on which stamp duty of Rs. 95.85 lakh and registration fees of Rs. 11.25 lakh were levied. Stamp duty was levied on the estimated market value of Rs. 11.25 crore which was less than the guideline market value of Rs. 23.92 crore. Stamp duty of Rs. 2.02 crore and registration fees of Rs. 23.92 lakh were leviable in these cases. This resulted in short levy of stamp duty of Rs. 1.07 crore and registration fee of Rs. 12.67 lakh.

After the cases were pointed out between May 2007 and March 2008, the Sub-Registrar (SR), Mangalore and Hoskote reported in May/June 2008 recovery of Rs. 3.33 lakh and the SR, Basavanagudi reported in October 2007 that orders had been passed to initiate action to collect the deficit amount. The department reported in April 2008 that directions had been issued to District Registrar concerned to review the cases relating to SR, Gandhinagar and Bangalore (South).

The cases were reported to the Government in April 2008; their reply has not been received (November 2008).

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<sup>4</sup> Bangalore (Basavanagudi), Bangalore (Gandhinagar), Bangalore (South), Hoskote, Mangalore.