

CHAPTER V : OTHER TAX RECEIPTS

5.1 Results of Audit

Test check of records relating to stamp duty, registration fee, entertainment duty, assessment and collection of land revenue during the year 2004-05 revealed non-assessment/underassessment of revenue and non raising of demand amounting to Rs.197.96 crore in 1,19,765 cases which can broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
A: STAMP DUTY & REGISTRATION FEES			
1.	Inordinate delay in finalisation of cases	2,773	10.99
2.	Short realisation of stamp duty and registration fee due to under valuation of properties	136	0.67
3.	Incorrect exemption from payment of stamp duty and registration fees	762	0.68
4.	Loss due to misclassification of documents	113	0.66
5.	Other irregularities	591	2.20
	Total	4,375	15.20
B: ENTERTAINMENT DUTY			
1.	Non/short deposit of entertainment duty by the proprietors of VCR's and VCP's	110	0.12
2.	Non recovery of security deposit/ entertainment duty from cable operators	406	0.31
3.	Non recovery of entertainment duty	-	-
4.	Others	173	0.19
	Total	689	00.62
C: LAND REVENUE			
1.	Delay in collection of revenue against Revenue Recovery Certificate	25,670	67.08
2.	Non/short assessment and non revision of diversion rent and premium	4,372	24.16
3.	Non levy of <i>Panchayat</i> cess and non realisation of fines and penalties	44,123	22.44
4.	Others	40,536	68.46
	Total	1,14,701	182.14
	Grand Total	1,19,765	197.96

During the year 2004-05, the Department accepted underassessment of tax of Rs.194.54 crore involving 1.19 lakh cases of which 1.15 lakh cases involving Rs.181.95 crore had been pointed out in audit during 2004-05 and rest in earlier years. An amount of Rs.0.35 lakh had been recovered in one case.

A few illustrative cases involving Rs.8.75 crore are mentioned in this chapter.

A. STAMP DUTY AND REGISTRATION FEES

5.2 Loss of revenue on instruments executed in favour of co-operative housing societies

As per Government notification of 24 October 1980, instruments executed in favour of primary co-operative housing societies (Societies) for acquisition of land for housing purpose are exempted from payment of stamp duty. Department directed in August 2001 to review all such cases where the societies were granted exemption from payment of stamp duty as conveyance deeds and later on the land was used for purpose other than housing to its members. In such cases, stamp duty and registration fees which were exempted at the time of purchase of such land were to be recovered.

Test check of records in sub registrar (SR) office, Bhopal and Gwalior between May and June 2004 revealed loss of revenue of Rs.16.44 lakh in seven instruments executed by or in favour of societies as under:-

- Land valued at Rs.95.80 lakh purchased between April 2002 and March 2003 for housing purpose in four instruments was not utilised for housing purpose of the members of the societies and was subsequently disposed of in 2003-04 to other societies/individuals. The exemption of stamp duty and registration fee of Rs.10.28 lakh granted, therefore, became recoverable. However, action to recover the amount was not taken.
- In three instruments valued at Rs.57.06 lakh, there was no mention of purchase of land for housing purpose. However, exemption from payment of stamp duty and registration fee of Rs.6.16 lakh was given, treating the purpose as housing.

After this was pointed out in audit, the SR Bhopal stated May 2004 that deficiencies would be made good after execution of correction deed in favour of societies. The reply is not tenable, as the duty is payable on the instruments presented and registered. The SR Gwalior stated in July 2004 that cases would be referred to Collector for necessary action.

The matter was reported to Inspector General of Registration and Superintendent of Stamps (IGR) and Government (between October 2004 and February 2005); their reply had not been received. (December 2005)

5.3 Non recovery of stamp duty

Article 15 of schedule 1 of Indian Stamp Act, 1899 (IS Act) as applicable to the state of Madhya Pradesh, provides for levy of stamp duty at four *per cent* of amount or value of bond executed in terms of section 2(5) of the Act.

Information obtained from Director Town and Country Planning revealed that Chief Executive Officer Special Area Development Authority, Gwalior executed two bonds on 16 March 2001 and 20 May 2002 in favour of Director, Town and Country Planning MP, Bhopal in lieu of repayment of loan of Rs.10.74 crore and Rs.18 crore respectively without payment of leviable stamp duty of Rs.1.15 crore. This resulted in short realisation of Government dues to the extent of Rs.1.15 crore.

After this was pointed out in November 2004 the Collector of Stamps, Gwalior stated that a case against the defaulter has been registered and demand notice for recovery has been issued in January 2005.

The matter was brought to notice of IGR and Government between November 2004 and February 2005; their reply had not been received. (December 2005)

5.4 Instrument relating to several distinct matters

According to section 5 of IS Act, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of stamp duty with which separate instruments each comprising or relating to one of each matter would be chargeable under the Act.

Test check of records of SRs Bhopal and Indore revealed between June 2004 and October 2004 that two vendors purchased a flat and bungalow for Rs.39 lakh. Scrutiny of deeds executed by the vendors with the builder further revealed that builder had purchased land from another person on execution of sale agreement/exchange basis. The recitals of the deed indicate that possession and other rights of property were given to the vendors. These instruments were required to be classified as conveyance deed instead of sale agreement/exchange. This resulted in short realisation of stamp duty and registration fee Rs.1.80 crore.

After this was pointed out in audit, the SR Indore stated in October 2004 that document under question was agreement of sale of land with builder and further sale of flat constructed on the said land to sub purchaser and accordingly the stamp duty was charged on the sale of flat only. The reply of Department was not tenable as the recital of land was transferred to the builder on the basis of sale agreement dated 20 July 1994.

The matter was brought to notice of IGR and Government between November 2004 and February 2005; their reply had not been received. (December 2005)

5.5 Misclassification of instruments

Under the IS Act, 1899 stamp duty is leviable on instruments as per their classification at the rate specified in the schedule or as prescribed by the Government through notifications issued from time to time.

Test check of the records of SR Bhopal revealed that 16 instruments registered between June 2001 and March 2004 were misclassified by treating eight of them valued at Rs.72 lakh as power of attorney instead of settlement cum power of attorney while other eight instruments valued at Rs.24 lakhs were treated as settlement deeds instead of gift deeds. Consequently stamp duty and registration fee of Rs.1 lakh was levied instead of Rs.5.91 lakh. This resulted in short realisation of government revenue of Rs.4.91 lakh. Similarly, two instruments valued at Rs.4.36 crore registered in Jabalpur and Lateri were treated as agreement to sale without possession though in both cases possession was granted and it should have been treated as agreement to sell with possession. Due to incorrect classification stamp duty and registration fee of Rs.0.80 lakh was levied instead of Rs.38.44 lakh. This resulted in short realisation of Government revenue of Rs.37.64 lakh.

After this was pointed out between March 2004 and May 2004 the registering authorities accepted the audit observation. Further action taken has not been received.

5.6 Delay in disposal of cases

Under the provisions of the IS Act, Collector of Stamps has been authorised to determine market value of the property and the amount of duty earnable thereon in the cases referred to him by SRs. The Government of Madhya Pradesh prescribed in March 1977 a maximum period of nine months for disposal of such cases.

Test check of records of 14 SRs¹ revealed (between September 2003 and November 2004) that 1,625 documents referred to Collector of Stamps between April 1999 and January 2004 for determination of market value of the properties had not been finalised. This resulted in non realisation of revenue amounting to Rs.5.16 crore as proposed by the concerned SRs.

After this was pointed out in audit (between September 2003 and November 2004) all the SRs stated that Collector of Stamps would be requested for early disposal of cases.

The matter was reported to the Department and the Government (between November 2003 and February 2005); their reply had not been received (December 2005).

¹ *Badnagar, Bhind, Chhindwara, Depalpur (Indore), Dhar, Harda, Hoshangabad, Jabalpur, Katni, Kalaras(Shivpuri), Pandhana (Khandwa), Satna, Ujjain and Shajapur*

B. ENTERTAINMENT DUTY

5.7 Non recovery of entertainment duty from cable operators

Madhya Pradesh Entertainments Duty and Advertisement Tax Act, 1936 and Rules made thereunder provide that every proprietor of cable television network and hotel or lodging house providing entertainment through cable service shall pay entertainment duty at prescribed rates.

Test-check of records of eight² Assistant Commissioners Excise/district excise offices revealed between February and November 2004 that entertainment duty of Rs.16.88 lakh from 320 cable operators and six proprietors of hotels or lodging houses providing entertainment through cable service during the period from May 1999 to October 2004 was not recovered by the Department. This resulted in non recovery of entertainment duty of Rs.16.88 lakh.

The matter was reported to the Government between February and March 2005; their reply had not been received (December 2005).

C. LAND REVENUE

5.8 Non registration of Revenue Recovery Certificates

Madhya Pradesh Land Revenue Code, 1959 and *Madhya Pradesh Lokdhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam* and Rules made thereunder provide that the recovery officer shall register a case on receipt of the revenue recovery certificate (RRC) in revenue case register and issue a notice of demand within 15 days to the defaulter.

Test check of records of nine tahsils³ revealed between January and August 2005 that 1,393 RRCs involving recovery of Rs.4.84 crore received during the period 2001-02 to 2004-05 were either lying unregistered or no further action was taken. As a result, outstanding dues remained unrecovered for a period ranging from 05 to 48 months.

After this was pointed out all the tahsildar stated that cases will be registered after verification of records and audit would be intimated accordingly.

The matter was reported to the Commissioner Land Records and Government between April 2004 and August 2005; their reply had not been received. (December 2005).

² Damoh, Katni, Panna, Rewa, Seoni, Shahdol, Sagar and Shajapur

³ Betul, Bhind, Badnagar (Ujjain), Chitrangi (Sidhi), Indore, Katni and Keshli (Sagar), Morena, Lahar (Bhind)

5.9 Non recovery of process expenses

Under the provisions of *Lokdhan Adhiniyam*, 1987 and notification issued on 23 March 1995 by the Directorate, Institutional Finance, the banking authority who issues RRC is responsible for paying the cost of process expenses at the rate of three percent of the principal amount recovered and depositing it into the treasury by challan. This is a statutory requirement.

Test check of records of eight tahsils⁴ and recovery figures furnished by lead banks revealed between February 2003 and January 2004 that an amount of Rs.6.58 crore was realised between April 1999 and March 2005 against RRCs issued. Process expenses of Rs.19.74 lakh were neither included by recovery officers nor deposited by the bank. There exists no system to monitor that the process expenses are deposited by the banks.

After this was pointed no reply has been received.

The matter was reported to Commissioner Land Records and Government between February 2004 and August 2005; their reply had not been received (December 2005).

⁴ Barwani, Betul, Bhind, Ganj Basoda (Vidisha), Hatta (Damoh), Lahar (Bhind), Morena and Sendhwa (Barwani)