

**CHAPTER- VI**  
**OTHER TAX RECEIPTS**

**6.1 Results of Audit**

Test-check of records relating to stamp duty and registration fee, entertainment duty and electricity duty during the year 2002-2003 revealed non-assessment, underassessment and other losses of revenue amounting to Rs.57.72 crore in 10,031 cases which can broadly be categorised as under:

*(Rupees in Crore)*

Sl. No.		Number of cases	Amount
	<b>STAMP DUTY &amp; REGISTRATION FEES</b>		
1.	Determination of market value of properties for the purpose of levy of stamp duty	01	15.57
2.	Inordinate delay in finalisation of the cases	4,369	7.70
3.	Incorrect exemption from payment of stamp duty and registration fee	1,350	0.94
4.	Short-realisation of stamp duty and registration fee due to undervaluation of properties	586	1.59
5.	Loss due to mis-classification of documents	794	1.56
6.	Others irregularities	1,547	10.64
	<b>Total</b>	<b>8,647</b>	<b>38.00</b>
	<b>ENTERTAINMENT DUTY</b>		
1.	Non-recovery of entertainment duty	108	0.42
2.	Evasion of entertainments duty due to non-accountal of tickets	1	0.03
3.	Non/short deposit of entertainment duty on VCR and Video Cassette Players by proprietors	135	0.09
4.	Other irregularities	991	0.40
	<b>Total</b>	<b>1,235</b>	<b>0.94</b>
	<b>ELECTRICITY DUTY</b>		
1.	Under-assessment of electricity cess	21	2.35
2.	Non-realisation of electricity cess and interest	34	0.57
3.	Irregular exemption of electricity cess	20	0.11
4.	Illegal adjustment of electricity cess	64	14.76
5.	Other irregularities	10	0.99
	<b>Total</b>	<b>149</b>	<b>18.78</b>
	<b>Grand Total</b>	<b>10,031</b>	<b>57.72</b>

A few illustrative cases involving Rs.18.57 crore are discussed in the following paragraphs.

## STAMP DUTY & REGISTRATION FEES

### 6.2 Determination of market value of property for the purpose of levy of stamp duty

#### *Introduction*

**6.2.1** The receipts from stamp duty and registration fees in the State are regulated under the Indian Stamp Act, 1899, the Registration Act, 1908 as applicable to the State of Madhya Pradesh and Rules made thereunder, and the notifications/orders issued from time to time by the State Government.

Under section 47 A of the Indian Stamp Act (ISA), if the Registering Officer, while registering any instrument found that the market value of any property set-forth was less than the market value shown in the guidelines<sup>1</sup>, he should before registering such instrument, refer the same to Collector for determination of the correct market value of such property.

#### *Incorrect determination of market value*

**6.2.2** Test-check of records in 10 Sub-Registrar's<sup>2</sup> (S.Rs.) offices, revealed that in 46 instruments registered between June 2000 to February 2002, the market value of property was Rs.23.19 crore as against the registered value of Rs.8.17 crore. This resulted in short determination of market value by Rs.15.02 crore. The S.R. did not refer these cases to the concerned Collector for determination of correct value of the properties and duty leviable thereon. This resulted in short-realisation of revenue of Stamp duty of Rs.1.35 crore and registration fees of Rs.0.12 crore. A few illustrative cases are given in the table below:

*(Rupees in lakh)*

Sl. No.	Name of Sub-Registrar	Deed No. Month of Registration	Market value as per deed Stamp-duty & Registration fee (Levied)	Valuation as per market value guideline Stamp duty & Registration fees (Leviable)	Short-levy of stamp duty Registration fee
1.	2.	3.	4.	5.	6.
1.	Sausar (Chhindwara)	1 October 2001	70.74 7.56	156.43 16.11	8.55

As per guidelines, discount on market value is admissible at prescribed rates on small piece of agriculture land in urban area. No such discount is admissible on commercial land. However, S.R. allowed discount on commercial land. Besides, commercial land was valued at residential rates which are less than of commercial rates. This resulted in less determination of market value by Rs.85.69 lakh. This was pointed out in audit and S.R. accepted the audit objection and stated in October 2002 that the case would be referred to Collector.

<sup>1</sup> Statement showing average rates of land and building situated in every tahsil, corporation and local body of a district.

<sup>2</sup> Barwani, Bhopal, Dewas, Itarsi (Hoshangabad), Indore, Jabalpur, Khandwa, Sausar, (Chhindwara) Seoni and Ujjain.

1.	2.	3.	4.	5.	6.
2.	Jabalpur	<u>2</u> September 2001	<u>210.87</u> 19.34	<u>281.43</u> 25.41	6.07
<p>The valuation of a hotel in operation was done partly at residential rates, while the entire building was to be valued at commercial rates, resulting in less determination of market value by Rs.70.56 lakh.</p> <p>This was pointed out to the S.R. in October 2002 who stated valuation report was approved by Collector before registration of document. The reply is not tenable as ISA provides for no such prior determination of valuation report by Collector unless formal request was made by the executants to the Collector.</p>					
3.	Ujjain	<u>2</u> October 2001	<u>12.20</u> 1.31	<u>71.22</u> 8.03	6.72
<p>Land measuring 0.050 hectare to 0.200 hectare was valued incorrectly due to application of incorrect rates of guidelines resulting in less determination of market value of Rs.59.02 lakh.</p> <p>This was pointed out to the S.R. in June 2002 who stated that issue related to guidelines and S.R. was not competent for this. The reply is not tenable as the issue relates to application of rates prescribed in the guidelines.</p>					
4.	Itarsi (Hoshangabad)	<u>2</u> March 2001	<u>26.83</u> 2.77	<u>64.68</u> 6.91	4.14
<p>Two plots measuring 7,025 sq. ft. was valued at residential rates instead of commercial rates though located in commercial area resulting in less determination of market value by Rs.37.85 lakh.</p> <p>This was pointed out to the S.R. in October 2002 who stated that as plots were lying vacant these could not be valued as commercial. The reply is not tenable as the land was located in commercial site and should be valued as such.</p>					
5.	Dewas	<u>1</u> June 2000	<u>118.60</u> <u>12.22</u>	<u>238.97</u> <u>24.61</u>	12.39
<p>As per the records of the Income Tax Department the value of a factory was Rs.238.97 lakh while it was registered for Rs.118.60 lakh.</p> <p>This was pointed out to the S.R. in July 2001 who accepted the audit objection and stated that the case was being reconsider for revaluation.</p>					

***Under valuation in documents executed in favour of co-operative housing societies***

**6.2.3** According to the provision of the Indian Stamp Act, 1899, market value of any property which is the subject matter of conveyance by the Primary Co-operative Housing Society (society) shall be the value as shown in the instruments. However, as per existing instructions of the Department, property registered with effect from 15 November 1997 shall be valued at the price, which in the opinion of Collector or the Appellate Authority, as the case may be, it would have fetched if sold in the market.

Test-check of records of two S.Rs. of Bhopal and Indore revealed that 328 plots were sold by co-operative societies after 15 November 1997. However, these instruments were registered between April 2000 and March 2001 at rates lesser than the rates that prevailed in market at that time. The cases were not referred to Collector for

determination of true market value. This resulted in short realisation of stamp duty of Rs.28.95 lakh and registration fees of Rs.2.36 lakh.

This was pointed out in audit and the concerned Registrars stated between June 2002 and March 2003 that action to determine market would be/had already been taken in 302 cases. Reply in respect of the other cases had not been received. (June 2004)

#### ***Delay in disposal of the case referred to Collector***

**6.2.4** Under the provisions of Indian Stamp Act, 1899 Collector of Stamps has been authorised to determine market value of property and amount of leviable stamp duty thereon in cases of under valuation referred to him by the concerned S.R. A maximum period of nine months has been fixed for disposal of the cases referred to him by the registering authorities.

Test-check of records of 32 S.Rs<sup>3</sup> revealed that 4,217 documents referred to the Collector between April 1987 and December 2001 for determination of market value of properties had not been finalised between February 2001 and October 2002 though, the period of 9 months had already elapsed. The difference of stamp duty and registration fees recoverable on these documents based on the market value proposed by the S.Rs. worked out to Rs.12.20 crore. Thus, non-finalisation of these cases resulted in blockage of government revenue to that extent.

#### ***Delay in finalisation of impounded instrument***

**6.2.5** Any instrument chargeable with duty produced before the S.R. during the course of performance of his functions should be impounded, if it appeared to him that such instrument was not duly stamped. Such instrument is required to be referred to the Collector of stamps for levy of duty and penalty. A register in Form-18 was required to be maintained by the S.R. to keep watch on the disposal of such cases. The Department's instructions further provided that S.Rs. should send reminders periodically to the Collector for early disposal of the cases. However, no time limit had been prescribed for disposal of such cases.

Test-check of records of eight S.R. Offices<sup>4</sup> revealed that 434 instruments, impounded and referred to Collector of Stamps between March 1991 and March 2003 were not finalised. Out of these, in 124 cases necessary details like the value of the property, stamp duty leviable were not recorded by the S.Rs. in the register. The remaining 310 cases involving of Rs.1.13 crore were not disposed of. Consequently, government revenue to that extent remained unrealised. It was further seen that periodical reminders were not sent by the S.Rs to the Collector for disposal of the cases.

The above points were reported to the Government between 2002 and March 2003; their reply had not been received. (June 2004)

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<sup>3</sup> Ashok Nagar (Guna), Agar (Shahjapur), Barnagar (Ujjain), Begamganj (Raisen), Berasiya (Bhopal), Barwani, Burhanpur (Khandwa), Bhopal, Chhindwara, Datia, Deori (Sagar), Dhar, Ganj Basoda (Vidisha), Guna, Harda, Itarasi (Hoshangabad), Jabalpur, Katni, Katangi (Balaghat), khandawa, Pawai (Panna), Rajpur (Khargone), Ratlam, Rewa, Sehore, Sendhwa (Barwani), Shajapur, Shujalpur (Shajapur), Susner (Shajapur), Shivpuri, Ujjain, and Wara Seoni (Balaghat).

<sup>4</sup> Bhopal, Indore, Khandawa, Nagda (Ujjain), Neemuch, Sanwer (Indore), Shivpuri and Ujjain.

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### 6.3 Short-levy of stamp duty and registration fees due to misclassification

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

Test-check of records of 15 Sub-Registrar offices<sup>5</sup> revealed that 355 instruments valued at Rs.10.23 crore registered between April 1999 and March 2002 were misclassified resulting in short-levy of stamp duty of Rs.60.97 lakh and registration fees of Rs.5.90 lakh. A few instances are given below:

(Rupees in lakh)

Sl. No.	Name of Sub-Registrar office	No. of document Consideration/loan amount (Rs. in crore)	Nature of observation	Stamp duty and Registration fees	
				<u>Leviable/levied</u>	Short-levied
1.	2.	3.	4.	5.	6.
1.	<u>Ujjain</u>	<u>225</u> Rs. 21.76	Mortgage deed misclassified as deposit of title deed	<u>10.88</u> 3.51	7.37
2.	Indore, Jabalpur, Khachrod (Ujjain), Sanwer (Indore) and Ujjain	<u>11</u> Rs 1.34	Release deeds were treated as consent deeds	<u>6.48</u> <u>0.02</u>	6.46
3.	Bhopal, Dindori, Indore, Mandla and Shahdol	<u>19</u> Rs. 1.09	Agreement to sale with possession misclassified as without possession	<u>8.73</u> 0.64	8.09
4.	<u>Ujjain and Seoni</u>	<u>3</u> Rs.0.52	Declaration of Trust Cum gift misclassified as Trust	<u>5.59</u> 0.33	5.26
5.	Bhopal Shivpuri	<u>17</u> Rs.90.66	Gift deeds treated as settlement deeds	<u>8.62</u> 3.59	5.03
6.	Bhopal	<u>1</u> Rs.21.91	Gift deeds treated as partition deeds	<u>2.28</u> 0.35	1.93

<sup>5</sup> Bhopal, Barwani, Dindori, Indore, Itarsi (Hoshangabad), Jabalpur, Khachrod (Ujjain), Mandla, Neemuch, Pipriya (Hoshangabad), Sanwer (Indore), Shahdol, Seoni, Shivpuri and Ujjain

This was pointed out in audit and the S.Rs. Bhopal and Shahdol in respect of 6 deeds stated that necessary action for recovery would be taken. In 15 cases, the Sub-Registrar, Bhopal stated that action would be taken after obtaining guidance from the Collector. Reply in the remaining cases had not been received. (June 2004)

The matter was reported to the Government between March 2002 and May 2003, their reply had not been received (June 2004).

#### **6.4 Loss of revenue in instruments executed by/in favour of co-operative housing societies**

As per Government notification dated 24 October 1980, instruments executed in favour of societies for acquisition of land for housing purpose were remitted from payment of stamp duty.

Test-check of records of the Sub-Registrar offices Bhopal, Indore, Jabalpur and Ujjain, loss of revenue aggregating Rs.1.09 crore in 75 instruments registered between September 1985 and March 2002, executed by/in favour of societies was noticed as under:

- In 37 instruments of conveyance, there was no mention that land, valued at Rs.8.91 crore, purchased between May 2000 and March 2002 by societies was for housing purposes of its members. However, these instruments were incorrectly exempted from payment of stamp duty and registration fee of Rs.83.31 lakh treating the purchase of land for housing purposes.
- In 38 instruments of conveyance, land purchased for housing purpose was remitted from payment of stamp duty and registration fee between September 1985 and May 2001. Later, the same land was sold/utilised for commercial purposes/other than housing purpose through 24 sale deeds, registered between June 2001 and March 2002. No action was taken by the Department to recover the remitted amount of Rs.25.91 lakh.

The matter was reported to the Government between October 2002 and May 2003; their reply had not been received. (June 2004).

### **6.5 Incorrect remission of stamp duty**

Government notifications issued in September 1978 and March 1982 exempted from payment of stamp duty, mortgage/hypothecation deeds executed for securing loan from specified banks for agricultural purposes when executed by (i) *bhoomiswami*/lease holders belonging to Scheduled Castes/ Scheduled Tribes and (ii) other *bhoomiswami*/lease holders holding land not exceeding ten hectares. Departmental instructions dated August 1989 required that the specific agriculture purpose viz. purchase of electric pump, tractor and digging of well etc. for which the loan had been taken, be mentioned in the deeds for seeking exemption. In the absence of specific purpose, remission of stamp duty was not admissible.

Test-check of records of nine Sub-Registrar Offices<sup>6</sup> revealed that 259 mortgage deeds were executed between June 1999 and March 2003 for loans amounting to Rs. 2.58 crore. These deeds were exempted from payment of stamp duty though the purpose for which remission was allowed was either not mentioned or when mentioned was not agricultural and as such, no exemption was admissible. This resulted in loss of stamp duty of Rs.12.91 lakh.

This was pointed out in audit and the S.Rs. Bhensdehi, Bhopal, Damoh, Kurwai Shahdol and Sehora stated between March to October 2002 that necessary action would be taken after enquiry from concerned banks. Reply in the remaining cases had not been received (June 2004).

The matter was reported to the Government between June 2002 and May 2003; their reply had not been received (June 2004).

### **6.6 Under assessment of stamp duty on instruments of release**

Under the Indian Stamp Act, 1899, stamp duty is leviable on release instruments at the rate of four per cent of the amount of consideration or the market value of the entire property, whichever is higher, in respect of which the claim is relinquished.

Test-check of records of three Sub-Registrars offices<sup>7</sup> revealed that in 38 instruments of release registered between May 2000 and March 2002, stamp duty was levied on the value of share of the executant and not on the market value of the property over which the claim was relinquished. This resulted in loss of stamp duty and registration fee of Rs.9.40 lakh.

This was pointed out in audit and the Sub-Registrar, Bhopal stated that necessary action would be taken after obtaining guidance from higher authorities. Final action taken and reply of the remaining registrars had not been received (June 2004).

The matter was reported to the Government between June 2002 and May 2003; their reply had not been received (June 2004).

<sup>6</sup> Bhopal, Betul, Bhensdehi (Betul), Damoh, Indore, Kurwaie (Vidisha), Sehora (Jabalpur), Shahdol and Ujjain

<sup>7</sup> Bhopal, Indore and Ujjain

### **6.7 Non-registration of lease deeds**

As per the provisions of the Registration Act, 1908, lease deeds for periods exceeding one year are to be registered compulsorily. Besides, the registration fee, these documents are chargeable with stamp duty under the Indian Stamp Act, 1899. as per the RBC, if the lessee fails to execute the lease deed within a reasonable time, the Government may enforce execution of the lease deed in court of law.

Test-check of records of the Collectorate (Nazul section), Ratlam and Tahsil, Malhargarh Distt. Mandsaur, revealed that in respect of eight leases sanctioned for thirty years between 1997-98 and 2000-01, lease deeds were neither executed nor registered. This resulted in non-realisation of stamp duty and registration fees of Rs.7.76 lakh.

This was pointed out in audit and the Nazul Officer, Ratlam stated in October 2001 that action for execution of lease deeds in seven cases was being taken. In the remaining case, the Tahsildar, Malhargarh stated in October 2001 that the documents were not got registered as there was no condition in the sanction order of leases. The reply is not tenable as these were lease deeds for periods exceeding one year and as per the provision of the Registration Act, 1908 and RBC, the lease deeds were required to be compulsorily registered.

The matter was reported to the Government between February 2002 and March 2003; their reply had not been received. (June 2004)

## **ENTERTAINMENT DUTY**

### **6.8 Non-recovery of entertainment duty from cable operators**

According to the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (Act) and Rules made thereunder, 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 six District Excise offices (DEO)<sup>8</sup> revealed that entertainment duty of Rs.16.14 lakh from 410 cable operators and 17 proprietors of hotels or lodging houses providing entertainment through cable service during the period from April 1999 to September 2002 was not recovered. This resulted in non-recovery of entertainment duty of Rs.16.14 lakh.

This was pointed out in audit and the DEOs stated between September 2001 and November 2002 that the action for recovery would be taken. Further reply was awaited (June 2004).

The matter was reported to the Government between October 2001 and May 2003; their reply had not been received. (June 2004).

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<sup>8</sup> *Chhatarpur, Katni, Rajgarh, Sagar, Sidhi and Ujjain*



### **6.9 Non-levy/recovery of Advertisement Tax**

The Act provides that every proprietor of an entertainment shall pay advertisement tax on every advertisement exhibited at a rate not exceeding Rs.50 per month.

Test-check of records of two DEOs<sup>9</sup> revealed that advertisement tax for the period from May 1999 to September 2002 was neither paid nor recovered from 428 cable operators. This resulted in non-levy of advertisement tax of Rs.8 lakh.

This was pointed out in audit and both the DEOs stated between June and October 2002 that action would be taken after receiving instructions from higher authorities. The reply is not tenable as provisions for levy of the tax are already contained in the Act. Further reply was awaited. (June 2004)

The matter was reported to the Government between September 2002 and May 2003; their reply had not been received (June 2004).

### **6.10 Non-levy of entertainment duty**

The Act (amended in 1999) provides that no duty shall be levied for providing facilities by the proprietor to persons admitted in a cinema house on such amount not exceeding one rupee per ticket as determined by the Collector of the District. If the Collector is not satisfied with the facilities provided, he may recover the duty on the amount allowed for such facilities.

Test-check of records of ACEs (Entertainment) Bhopal and Ujjain revealed that 24 proprietors of cinema houses had collected Rs.69.43 lakh between May 1999 and August 2002 for providing facilities to persons admitted in the cinema hall, without getting these determined from the Collector. Entertainment duty leviable on the amount collected for providing facilities was also not levied. This resulted in non-levy of entertainment duty amounting to Rs.31.25 lakh.

This was pointed out in audit and the AECs, Bhopal and Ujjain stated between June and October 2002 that action would be taken after determination of the amount recoverable by Collectors for providing facilities. Further reply was awaited (June 2004).

The matter was reported to the Government between September 2002 and May 2003; their reply has not been received (June 2004).

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<sup>9</sup> *Bhopal and Ujjain*

## **ELECTRICITY DUTY**

### **6.11 Short-realisation of development cess**

Madhya Pradesh *Upkar (Dwitiya Sanshodhan) Adhiniyam* 2001 provides that every distributor of electrical energy shall pay electrical development cess to the Government at the revised rate of 10 paise per unit with effect from 15 November 2001 for electrical energy sold or supplied to any consumer or consumed by himself or his staff.

Test-check of records of the Superintending Engineer (SE) (Electricity and Safety) (E&S), Indore revealed that the Executive Engineer, Operation and Maintenance (O&M) Division M.P. Electricity Board, Indore (West) had deposited cess on 6,31,73,652 units of electricity sold/consumed between November 2001 and January 2002 at pre-revised rates. This resulted in short-realisation of cess of Rs.56.86 lakh.

This was pointed out in audit and the SE (E&S) Indore stated in December 2002 that recovery would be made after examination of the case. Further reply was awaited (June 2004).

The matter was reported to the Government in March 2003; their reply had not been received (June 2004).

### **6.12 Loss due to non-inspection of electric installations**

According to the Indian Electricity Act, 1910 and Indian Electricity Rules, 1956 fees at prescribed rates are leviable for inspection of electric installations according to their categories. Periodicity for conducting inspections of electric installations of medium voltage is triennial and in other cases, it is annual.

Test-check of the records of the Executive Engineer (EE) (Electric Safety) Khandwa, and the Superintending Engineer (SE) (E&S) Indore revealed that inspections of 5,793 high voltage electrical installations and 45,912 medium voltage electrical installations were not be carried out as per prescribed norms during the period from 1997-98 to 2001-02. This resulted in loss of Rs.26.90 lakh on account of inspection fee.

This was pointed out in audit and the EE, Khandwa stated in December 2002 that inspections as per targets fixed could not be conducted due to shortage of technical staff. The SE (Electrical & Safety), Indore, however, stated in December 2002 that departmental enquires had been instituted against two defaulting Sub-Engineers for non-conducting of inspections as per government orders. Further replies had not been received (June 2004).

The matter was reported to the Government between January and May 2003; their reply had not been received. (June 2004)