

CHAPTER-4 : LAND REVENUE, STAMP DUTY AND REGISTRATION FEES

(A) LAND REVENUE

4.1 Results of Audit

Test check of records relating to assessment and collection of Land Revenue conducted during the year 2001-2002 revealed non-assessment, under-assessment, non-realisation and blockage of revenue amounting to Rs.21.07 crore in 1561 cases which may broadly be categorised as follows:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non-collection of premium etc. in respect of Government Land occupied by local bodies/private parties	23	11.45
2	Non/short realisation of royalty on minor minerals	94	8.91
3	Blockage of Government revenue due to non-finalisation of Orissa Land Reform (OLR) cases	767	0.32
4	Non-assessment/under-assessment and short collection of water rates	129	0.22
5	Miscellaneous/other irregularities	548	0.17
Total		1561	21.07

During the course of the year 2001-2002, the department accepted under-assessment etc. of Rs.2.34 lakh in 13 cases, which had been pointed out by audit in earlier years and had recovered the amount in full.

A few illustrative cases highlighting important audit observations involving Rs.3.42 crore are mentioned in the following paragraphs.

4.2 Short levy of interest on belated payment of premium etc. in alienation of Government land

Under the provisions contained in Revenue and Excise Department letter dated 2 February 1966 read with Board of Revenue, Orissa, letter Dated 7 August 1996, the occupier of Government land either with permission of Government or without permission is liable to pay interest at the rate of six *per cent* per annum upto 27 November 1992 and twelve *per cent* thereafter on the amount due to Government for the period from the date of occupation of the land till the date of payment of the said amount.

Test check of records of Rourkela Tahasil (December 2000) revealed that two lessees viz. Grid Corporation of Orissa (GRIDCO) and Employees State Insurance Corporation (ESI Corporation) were in occupation of Government land since 4 June 1975 and 20 July 1988 respectively. The lessees made payment of their dues belatedly and were therefore liable to pay interest from the date of occupation of the land. This led to short levy of interest of Rs.3.25 crore as shown below :

(R u p e e s i n l a k h)

Name of the lessee	Area leased out (in acre)	Date of occupation	Date of payment of Government dues	Interest leviable	Interest levied	Interest short levied
ESI Corporation, Rourkela	4.000	20 July 1988	24 October 2000	16.48	1.82	14.66
GRIDCO, Rourkela	50.035	4 June 1975	30 March 2000 and 2 April 2002	333.23	22.98	310.25
Total				349.71	24.80	324.91

On this being pointed out in audit (December 2000), the Tahasildar stated (between December 2000 and April 2002) that alienation case would be examined in detail and action will be taken accordingly.

The above matter was referred to Government (April 2002). Government in their interim reply stated (May 2002) that compliance will be furnished after verification of facts and figures.

4.3 Non-realisation of premium and ground rent for conversion of agricultural land

Under the Orissa Land Reforms Act, 1960, a raiyat is liable to eviction if he has used agricultural land for any purpose other than agriculture. Under the Orissa Land Reform (Amendment) Act, 1993 and the rules made thereunder, such land can, on an application made by him in the prescribed form, be resettled on lease basis on payment of premium at the rate prescribed plus ground rent at one *per*

cent of premium per annum. Such land is deemed to be settled on lease basis on payment of premium equal to fifty *per cent* of prescribed rate if conversion is made prior to the commencement (1 July 1994) of the amended Act.

Test check of records (between June 2000 and January 2002) of 3 Tahasils viz. Cuttack, Tangi-Choudwar and Karanjia revealed that as per the reports of the Revenue Inspectors, 7 conversion cases were booked (between July 1995 and July 1999) involving conversion of 10.12 acres of agricultural land for industrial/commercial purposes which have not been disposed. Due to delay in reporting the conversion cases after lapse of 1 to 8 years and non-disposal of cases pending in Tahasil offices, the department failed to protect the revenue interest of the State. This resulted in non-realisation of revenue amounting to Rs.8.82 lakh up to March 2002 as detailed below:

R u p e e s i n l a k h									
Sl. No.	Name of the Tahasil	No. of cases	Area converted (in acre)	Year of Conversion	Purpose of conversion	Premium	Ground rent	Amount paid	Amount to be realised
1	Cuttack Sadar	1	3.00	1987-88	Vehicle show room-cum-godown	4.50	0.63	Nil	5.13
2	Tangi-Choudwar	4	6.07	between 1992-1996	Coal depot and petrol pump	2.66	0.19	Nil	2.85
3	Karanjia	2	1.05	1995	Industry	0.79	0.05	Nil	0.84
Total		7	10.12			7.95	0.87	--	8.82

On this being pointed out in audit (June 2001), the Tahasildar, Cuttack stated that the amount would be recovered as arrear of land revenue. Tahasildar, Tangi-Choudwar stated (July 2002) that Rs.0.52 lakh was realised. Tahasildar, Karanjia stated that action would be taken after verification of the records.

The above matter was referred to Government (April 2002). Government in their interim reply stated (July 2002) that compliance will be furnished after verification of facts and figures.

4.4 Short realisation of Ground Rent, Cess and Interest

As per Government orders issued in May 1963, February 1966 and April 1987 under Orissa Government Land Settlement Act, the Dhenkanal District Co-operative Milk Producers Union Ltd. was required to pay ground rent and cess at the prescribed rate for occupation of Government land annually. Interest is also payable at the prescribed rate from the date of occupation, on belated payment of Government dues.

Test check of records of Dhenkanal Tahasil revealed (October 2001) that the Society was in occupation of Government land measuring 7.70 acre since 1981. The Society was required to pay Rs.3.98 lakh towards ground rent and cess up to

March 2002 against which it paid only Rs.0.11 lakh in October 2000. The balance amount Rs.3.87 lakh was neither demanded nor paid by the Society. The Society was also liable to pay interest of Rs.4.07 lakh (March 2002). Thus, there was short realisation of Rs.7.94 lakh.

On this being pointed out in audit (October 2001), the Tahasildar raised the demand for the entire amount (July 2002).

The above matter was referred to Government (May 2002). Government in their interim reply stated (July 2002) that compliance will be furnished after verification of facts and figures.

(B) STAMP DUTY AND REGISTRATION FEES**4.5 Results of Audit**

Test check of records relating to Stamp duty and Registration fees in the offices of the District Sub-Registrars/Sub-Registrars during 2001-2002 revealed under-valuation, non/short levy of stamp duty, registration fees and irregular exemption of stamp duty and other irregularities amounting to Rs.59.21 crore in 40597 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Short levy and short collection of Stamp duty and Registration fees	1	30.95
2	Short levy of Stamp duty and Registration fees due to under-valuation of documents (47-A cases)	39653	26.76
3	Irregular exemption and other irregularities of Stamp duty and Registration fees	687	1.25
4	Non/short levy of Stamp duty and Registration fees due to misclassification	256	0.25
Total		40597	59.21

An illustrative case highlighting important audit observation involving Rs.57.02 lakh and findings of a review on "Levy and collection of Stamp Duty and Registration Fees" involving Rs.30.95 crore are mentioned in the following paragraphs.

4.6 LEVY AND COLLECTION OF STAMP DUTY AND REGISTRATION FEES

The findings of a review on "Levy and collection of Stamp duty and Registration Fees" that revealed loss and blockage of revenue are enumerated below :

4.6.1 Highlights

- ◆ **Non consideration of prevailing value of land led to undervaluation and consequent short levy of stamp duty and registration fees of Rs.92.08 lakh**

[Para 4.6.6(a)]

- ◆ **Non-adherence to guidelines of Inspector General of Registration regarding determination of value of document led to undervaluation and consequent short levy of stamp duty and registration fees of Rs.1.07 crore.**

[Para 4.6.6(b)(i)]

- ◆ **Undervaluation of documents and short realisation of stamp duty, registration fees and fines of Rs.58.30 lakh resulted from incorrect exhibition of kissam of land in documents in 19 units test checked.**

[Para 4.6.7(a)]

- ◆ **There was incorrect exemption of registration fees of Rs.1.20 crore to IDCO and Berhampur Development Authority.**

[Para 4.6.8(i)(ii)(iii)]

- ◆ **Due to misclassification of documents there was under-assessment of Rs.89.49 lakh of stamp duty and registration fees.**

[Para 4.6. 9(i)&(ii)]

4.6.2 Introduction

The levy of stamp duty on registration of instruments is regulated under the Indian Stamp Act, 1899 (Central Act), as adopted by the Government of Orissa and amendments made thereto from time to time. In addition to the stamp duty additional stamp duty is leviable under the Orissa Town Planning and Improvement Trust Act, 1956 and the Orissa Additional Stamp Duty Act, 1970. Under the Orissa Town Planning and Improvement Trust Act, 1956, a surcharge

at the rate of 2 *per cent* on the value of the property transferred, is to be collected in respect of the immovable property situated within a town planning area and at the rate of 3 *per cent* for the areas falling under the Orissa Development Authorities Act, 1982.

According to Government notification of March 1988 the value for consideration of levy of stamp duty should be the value which the registrable document would fetch on the date of its execution. The Inspector General of Registration in his guidelines (September 1993) for determination of value of land instructed that highest sale price of a land during last 3 years preceding the year of execution should be taken as value of land for the purpose of levy of stamp duty and registration fees.

The details of deeds/consideration such as value of land, name of Mouza, KISSAM etc. are noted in a register called Valuation Register which is the basic record to ascertain the value of property in a particular area.

4.6.3 Organisational set up

The Inspector General of Registration under Revenue Department is the administrative head of Registration Wing and is designated as the Chief Revenue Controlling Authority. He is assisted by a Joint Inspector General, 3 Deputy Inspectors General and 30 Registrars at the district level and 146 Sub-Registrars at the unit level, who have been empowered to exercise the powers of the collector for prompt disposal of undervaluation cases in the interest of revenue.

4.6.4 Scope of audit

With a view to evaluating the effectiveness of the system of determination of value of property, levy and collection of stamp duty and registration fees, a review was conducted during May 2001 to February 2002 covering the period 1998-1999 to 2000-2001. Records of Revenue Department, Inspector General of Registrations, Orissa and 45³³ out of 176 unit offices of District Sub-Registrars (DSR) and Sub-Registrars (SR) were test checked. Statistical data were collected for the last five years with effect from 1996-97 to 2000-2001.

33 All 30 D.S.Rs. and S.Rs. Basta, Basudevpur, Berhampur (Urban), Dharmasala, Dharmagarh, Dolipur, Jagatpur, Jaleswar, Jaleswarpur, Jatni, Khandagiri, Khurda, Panposh, Salepur, Soro.

4.6.5 Trend of Registration of documents and of revenue

The position of number of documents registered, stamp duty and registration fees collected, budget estimates and the variations between budget estimates and the actual collection for the last five years ending March 2001 is indicated in the table below:

Year	Number of documents registered	Budget Estimates	Actuals	Variation increased (+) shortfall (-)	Percentage of variation.
		(R u p e e s i n c r o r e)			
1996-1997	3,35,520	80.00	68.52	(-) 11.48	(-) 14.35
1997-1998	3,19,195	90.00	76.77	(-) 13.23	(-) 14.70
1998-1999	3,38,508	100.00	87.59	(-) 12.41	(-) 12.41
1999-2000	3,17,114	100.00	102.01	(+) 02.01	(+) 02.01
2000-2001	3,47,223	120.00	108.52	(-) 11.48	(-) 09.57

It would be seen from the above that there is a variation ranging from (-) 09.57 per cent to (-) 14.70 per cent except for 1999-2000. Variations have been attributed to non-registration of documents.

4.6.6 Short realisation of stamp duty and registration fees due to undervaluation of properties

(a) Non adherence to Government notification

As per Section 27 of the Indian Stamp Act, 1899 as adopted by Government of Orissa the consideration if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein.

According to Government notification of March 1988 the value for consideration of levy of stamp duty should be the value which the registrable document would fetch on the date of its execution. As per executive order issued by IGR during September 1993 for determination of value of land, highest sale value of preceding 3 years will be taken into consideration for execution of documents.

Test check of 1373 documents registered between 1998 and 2000 in 33 offices³⁴ of the District Sub-Registrars and Sub-Registrars revealed that the higher value³⁵ which the property would have fetched on the date of registration as required under Government notification of March 1988 was not considered for levy of stamp duty and registration fees. Thus non-implementation of Government notification resulted in short levy of stamp duty and registration fee of Rs.92.08 lakh. A few instances are given below:

(Amount in Rupees)

Name of the DSR- Bhubaneswar							
Document No./Date	Area	Consideration as per Government Notification	Consideration as per document IGR guidelines	Stamp duty leviable/levied	Registration Fee leviable/levied	Deficit Stamp duty/Registration fee	Total
Referral document³⁶ No.4299 Dated 31.7. 2000, Ac. 0.040.17-Rs. 2,63,000 Kissam-Homestead, Rate/Acre-Rs.65,47,175. (Urban)							
4977/31.8.00	Ac.0.550	36,00,946	<u>16,50,000</u> 13,77,442	<u>6,37,367</u> 2,92,050	<u>72,020</u> 33,000	<u>3,45,317</u> 39,020	3,84,337
5115/8.9.00	Ac.0.550	36,00,946	<u>17,00,000</u> 13,77,442	<u>6,37,367</u> 3,00,900	<u>72,020</u> 34,000	<u>3,36,467</u> 38,020	3,74,487
Referral document No.-4493 Dated 9.8. 2000, Ac. 0.048.21-Rs. 3,55,500 Kissam-Gharabari-II, Rate/Acre-Rs.73,73,989. (Urban)							
5195/13.9.00	Ac.0.072	5,30,927	<u>4,32,000</u> 4,00,000	<u>93,974</u> 76,464	<u>10,620</u> 8,640	<u>17,510</u> 1,980	19,490
7010/18.12.00	Ac.0.123.97	9,14,153	<u>4,98,000</u> 4,00,000	<u>1,61,805</u> 88,146	<u>18,290</u> 9,960	<u>73,659</u> 8,330	81,989
Name of the DSR- Puri							
Referral document No.-1813 Dated 17.5.2000, Ac.0.012.25-Rs.1,55,000, Kissam-Gharabari, Rate/Acre-Rs.1,26,53,061.(Urban)							
3142/11.8.00	Ac.0.070	8,85,714	<u>1,90,000</u> 1,80,460	<u>1,56,771</u> 33,630	<u>17,720</u> 3,800	<u>1,23,141</u> 13,920	1,37,061
1899/22.5.00	Ac.0.015	1,89,796	<u>90,000</u> 76,425	<u>33,594</u> 15,930	<u>3,800</u> 1,800	<u>17,664</u> 2,000	19,664

On this being pointed out, the department stated that for calculation of valuation the previous three calendar years excluding the year of presentation was taken into consideration as per guidelines issued by IGR and if the value of property in the current year is taken into consideration the calculation of valuation of property will have to be made everyday. The reply is not tenable since it violates the provisions of Government notification of March 1988. Further audit has observed that even the IGR guidelines have not been followed as discussed in the succeeding para.

(b) Non-adherence to IGR guidelines.

(i) The Inspector General of Registration issued guidelines in the executive order (September 1993) for determination of value of land that the highest sale price of a land during last 3 years preceding the year of execution should be taken as value of land for the purpose of levy of stamp duty and registration fees. While such highest sale is taken, care has to be taken that value of comparable land

³⁴ Balasore, Baripada, Basta, Basudevpur, Berhampur (Urban), Bhawanipatna, Bhubaneswar, Bolangir, Cuttack, Deogarh, Dharmagarh, Dharmasala, Dolipur, Jagatpur, Jajpur, Jaleswar, Jaleswarpur, Jatni, Jeypore, Jharsuguda, Khandagari, Khurda, Malkangari, Nayagarh, Nabarangpur, Panposh, Puri, Phulbani, Rayagada, Salepur, Sonpur, Soro, Sundargarh.

³⁵ Value calculated on the basis of consideration value on similar property situated in the same area registered around the same period.

³⁶ Document considered for working out value of property as at 33

adjacently located is taken into consideration. For the purpose of proper valuation the Sub-Registrar/District Sub-Registrars are required to be provided with copy of the finally published village maps and Records of Right (ROR) as per IGR circular of November 1993. In the absence of any documentary evidence to verify value of the adjacent plots, the Registering Officers should go for highest sale price of land during last three years preceding the years of execution for the purpose of levy of stamp duty and registration fees.

It was noticed during test check of 25 offices³⁷ that 652 documents were registered between 1998 and 2000 at a lower rate compared to the highest sale price of land during last 3 years. No reference was made to village maps, Records of Rights and Valuation Register for proper valuation of the documents. Thus, non-adherence to IGR guidelines resulted in undervaluation of land and consequent short levy of stamp duty and registration fees of Rs.1.07 crore. A few instances are given below:-

(Amount in Rupees)

Name of the DSR- Puri							
Document No./Date	Area	Valuation as per IGR Guidelines.	Consideration value	Stamp duty leviable/levied	Registration fee leviable/levied	Deficit Stamp duty/Registration fee.	Total
Referral document No.-1202 Dated 31.03.1999, Ac.0.013-Rs.1,08,333, KISSAM-GHARBAR, Rate/Acre-Rs.83,33,308 (Urban)							
3138/10.8.00	Ac.0.030	2,50,000	80,000	44,250 14,160	5,000 1,600	30,090 3400	33,490
4242/6.11.00	Ac.0.017	1,41,666	45,900	25,075 8,124	2,840 920	16,951 1,920	18,871
Referral document No.-4656 Dated 16.2.1999, Ac.0.003-Rs.20,000, KISSAM-GHARBAR, Rate/Acre-Rs. 66,66,667. (Urban)							
184/17.1.00	Ac.0.050	3,33,333	2,00,000	59,000 35,400	6,670 4,000	23,600 2,670	26,270
1170/06.4.00	Ac.0.150	10,00,000	4,98,165	1,77,000 88,175	20,000 9,970	88,825 10,030	98,855
Referral document No.-3651 Dated 9.9.1998, Ac.0.008-Rs.50,000, KISSAM-GHARBAR, Rate/Acre-Rs.62,50,000.(Urban)							
889/15.3.00	Ac.0.029	1,81,250	1,45,000	32,081 25,665	3,630 2,900	6,416 730	7,146

On this being pointed out, the Department stated that the value of adjacent plots were taken into consideration during the valuation of the property. Contention of the Department is not acceptable since the required documents like village maps ROR etc. are not available with the registering authority. Although the valuation register is available the highest value of the similar land during preceding three years was also not considered while working out the consideration money for levy of stamp duty and registration fees.

It would be seen that neither the Government notification nor the IGR guidelines are being followed uniformly throughout the state.

37 Bargarh, Baripada, Bhadrak, Bhawanipatna, Bhubaneswar, Bolangir, Chhatrapur, Dharmagarh, Dharmasala, Dolipur, Jajpur, Jatni, Jeypore, Khandagiri, Khurda, Malkangiri, Nayagarh, Nuapada, Panposh, Phulbani, Puri, Rayagada, Sambalpur, Sonepur and Sundargarh.

(ii) Loss of stamp duty and registration fees in Cuttack city

The Government of Orissa, Revenue and Excise Department in their order of July 1989 with a view to prevent undervaluation of documents, fixed market value of land in respect of Cuttack city. The order was withdrawn during February 2001. The market value was however not revised during the period of 12 years when the order was in force, although the value of land and property were ever increasing in Cuttack city.

During test check of the records of DSR, Cuttack (Mouza-Kusunpur) it was noticed that 10 documents valued at Rs.24.62 lakh were registered between 1998 and 2000 at the rates given in the Government order of July 1989 and stamp duty/registration fees of Rs.3.95 lakh were levied. But as per the guidelines issued by the IGR (September 1993) the value of the land for these 10 documents was Rs.72.45 lakh as against Rs.24.62 lakh set forth in the documents. Thus non-review of the market value and non-application of I.G.R. guidelines led to potential loss of revenue in the form of short levy of stamp duty and registration fees amounting to Rs.10.32 lakh.

4.6.7 Under-valuation due to change in Kissam (Classification) of land

As per section 64 of the Indian Stamp Act, 1899, any person who intends to defraud the Government shall be punishable with fine which may extend to five thousand rupees. He shall also be liable to pay the deficit amount of stamp duty i.e. the difference between amounts of stamp duty payable and paid.

(a) On cross verification of the records of Tahasil Offices with reference to 379 documents registered in 19 units³⁸ it was noticed that the kissam of land was incorrectly set forth in the documents. Documents were undervalued due to change in kissam of land which resulted in short realisation of stamp duty and registration fees of Rs.39.35 lakh. Besides the fine of Rs.18.95 lakh for setting forth of incorrect kissam of land in those documents was also chargeable.

(b) Non consideration of value of land fixed by Government (GA Department)

Government of Orissa, General Administration Department fixed (May 1998) the rate of premium of Government land for different purposes i.e. residential, industrial and commercial etc. within Bhubaneswar Municipal area taking into consideration, the extent of development, the carrying capacity of the land and market realities.

38 Basta, Basudevpur, Bhadrak, Bhubaneswar, Bolangir, Dharmasala, Dolipur, Jagatpur, Jajpur, Jaleswar, Jatni, Kendrapara, Khandagiri, Khurda, Nayagarh, Nuapada, Puri, Salipur and Soro.

During test check in 2 units³⁹ it was noticed that 57 documents in respect of private land in Bhubaneswar Municipality area were registered during the period between 1998 and 2000 at a value of Rs.30.33 lakh as against Rs.50.15 lakh as per rate fixed by the Government of Orissa. This undervaluation of documents resulted in short realisation of stamp duty and registration fees of Rs.4 lakh.

4.6.8 Incorrect grant of exemption from payment of stamp duty and registration fees

(i) Government of Orissa, Co-operation Department in their Notification of December 1997 exempted stamp duty and registration fees in respect of the Co-operative Societies under the Orissa Co-operative Societies Act, 1962 for registration of specified documents, viz : (i) Mortgage deed on loan (ii) Hypothecation deed on loan (iii) Collateral security on loan (iv) Agreement deed on loan (v) Bonds on loan. However lease deeds are not exempted from payment of stamp duty/registration fees under the notification.

A test check of record of DSR, Sonapur and Puri revealed that 2 lease deeds valued at Rs.35.75 lakh registered during 1998 and 1999 were exempted from payment of stamp duty and registration fees in violation of the above notification. This resulted in non-realisation of stamp duty and registration fees of Rs.3.37 lakh.

On this being pointed out, the Government of Orissa Revenue Department (February 2002) directed Inspector General of Registration, Orissa, Cuttack to offer his comments on the subject. Their reply is awaited.

(ii) Government of Orissa, Revenue and Excise Department in their notification of April 1998 exempted Stamp duty in excess of 5 per cent land value transferred from Government to Industrial Infrastructure Development Corporation (IDCO) and IDCO to Industrial Units. However registration fees has not been exempted by the Government.

Test check of the records of 5 District Sub-Registrars/Sub-Registrars revealed that 96 deeds transferring land from Government to IDCO and from Berhampur Development Authority (BDA) to Private Bodies were executed between 1997-98 to 1999-2000. Though registration fee of Rs.49.72 lakh was leviable on the consideration of Rs.24.85 crore, it was neither demanded nor recovered. This resulted in short levy of registration fees of Rs.49.72 lakh.

On this being pointed out, the SR, Khandagiri stated that IDCO has been requested to deposit the amount. DSR, Rayagada stated that registration fees are

39 Bhubaneswar, Khandagiri.

not leviable. This contention is not acceptable that as per the Government letter of January 1998, the registration fees is not exempted in such cases.

(iii) During test check of records in 14 units⁴⁰ it was noticed that in 128 instruments, executed by IDCO valued at Rs.14.93 crore registered between 1997 and 2000 the rate of stamp duty was not correctly computed. This resulted in short levy of stamp duty of Rs.67.13 lakh.

On this being pointed out, in audit D.S.R., Jharsuguda replied that reference has been made to IDCO to deposit the deficit stamp duty.

4.6.9 Under-assessment of stamp duty and registration fees due to misclassification of documents

(i) Under the Indian Stamp Act, 1899, stamp duty is leviable on instruments as per schedule thereto or as prescribed by the Government through notifications issued from time to time. An agreement to lease is chargeable as a lease even though it mentions of the formal lease deed later. The formal lease deed executed later according to the agreement stamped as lease should be chargeable as an ordinary agreement.

On scrutiny of records in 14 units⁴¹ it was noticed that Orissa State Housing Board executed 466 deeds valued at Rs.4.16 crore registered between 1998 and 2000 titled as Agreement to lease. The Registering Authority while registering the document levied stamp duty/registration fees of Rs.3.88 lakh. The instruments were liable to be charged stamp duty/registration fees of Rs.85.44 lakh as that of lease. This resulted in short levy of Rs.81.56 lakh

(ii) In ten registering offices it was noticed that 30 instruments valued at Rs.1.16 crore registered between 1998-2000 were misclassified resulting in short levy of stamp duty and registration fees amounting to Rs.7.93 lakh as detailed below:

(A m o u n t i n r u p e e s)					
Name of Sub-Registrar/ District.	No. of instruments Date of execution Consideration value	Nature of misclassification	Stamp duty and Registration fees leviable	Stamp duty and Registration fees levied.	Stamp duty and Registration fees short-levied.
Baripada, Jeypore, Khurda, and Rayagada	5 14.10.98 to 30.3.2000 5,12,560	Gift deed misclassified as release deed.	92,944	2,020	90,924

40 Angul, Balasore, Bolangir, Berhampur, Bhubaneswar, Cuttack, Dharmasala, Dhenkanal, Jagatpur, Jharsuguda, Khandagiri, Nayagarh, Panposh and Phulbani.

41 Bhawanipatna, Bhubaneswar, Dolipur, Jajpur, Jagatpur, Jharsuguda, Keonjhar, Khandagiri, Khurda, Panposh, Phulbani, Rayagada, Sambalpur and Sundargar.

(Amount in rupees)

Name of Sub-Registrar/ District.	No. of instruments Date of execution Consideration value	Nature of misclassification	Stamp duty and Registration fees leviable	Stamp duty and Registration fees levied.	Stamp duty and Registration fees short-levied.
Parlakhemundi	4 1999 to 2000 2,69,000	Sale deed misclassified as partition deed.	42,779	5,805	36,974
Bhubaneswar	1 23.6.2000 1,00,000	Exchange deed misclassified as release deed	19,700	21	19,679
Baripada, Jeypore	2 6.11.2000 3,33,755	Gift deed misclassified as settlement deed.	48,682	7,416	41,266
Bhadrak	1 19.4.2000 4,38,920	Conveyance deed misclassified as partition deed.	55,743	7,216	48,527
Dolipur, Jagatpur, Khurda	4 13.7.98 to 3.2.2000 2,07,500	Conveyance deed misclassified as agreement deed	31,265	24	31,241
Cuttack	1 6.11.1998 50,000	Lease deed misclassified as agreement deed.	8,850	10	8,840
Jeypore, Khurda, Nawarangpur, Nuapada, Sonapur	11 16.3.98 to 30.6.2000 11,77,231	Conveyance deed misclassified as release deed.	1,65,340	6,210	1,59,134
Dharmagarh	1 23.7.99 85,00,000	Mortgage deed misclassified as agreement with power of attorney.	3,56,999	300	3,56,699
Total	30		8,22,306	29,022	7,93,284

4.6.10 Inordinate delay in disposal of referred cases booked U/s 47-A of the Indian Stamp Act

Under Section 47-A of the Indian Stamp Act, 1899 the power to decide the cases referred by the Sub-Registrar and District Sub-Registrar vests in the Collector. Government by notification (November 1995) empowered all Sub-Registrars (SR) and District Sub-Registrars (D.S.R.), Deputy Inspector General (D.I.G.) of Registration and Joint Inspector General of Registration to exercise the powers of the Collectors for prompt disposal of undervaluation cases in the interest of revenue.

(a) During test check of records in District Sub-Registers offices⁴² it was noticed that 33804 cases involving stamp duty and registration fees of Rs.26.14 crore were pending as on 31 March 2001 as detailed below:

42 All 30 D.S.Rs.

Pending 47-A Cases

(Rupees in lakh)

Year	Total No. of cases (OB + cases instituted)		Cases decided		Cases pending (Progressive)		Percentage of disposal to total	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	Cases	Amount
1996-97	35,552	1369.35	11,838	275.10	23,684	1094.25	33.32	20.08
1997-98	40,006	1758.49	14,983	458.21	25,023	1300.28	37.45	26.05
1998-99	39,526	1949.05	11,803	314.66	27,723	1634.39	29.86	16.14
1999-2000	40,208	2310.57	8,243	246.29	31,965	2064.28	20.50	10.65
2000-2001	45,323	3035.42	11,519	421.10	33,804	2614.32	25.41	13.87

The number of pending cases has registered a sharp increase from 1999 to 2001. The percentage of disposal of cases to the total number of cases between 1996-97 and 2000-2001 ranged from 20.50 to 37.45 and in respect of amount collected ranged from 10.65 to 26.05, which is very low.

(b) An age-wise analysis of 8,196 cases in ten districts revealed that the cases are pending for disposal from one year to ten years and more. The details are given below:

Sl. No.	Name of the DSR	Cases pending						Total
		More than 10 years	More than 5 years	More than 3 years	More than 2 years	More than 1 year	Less than 1 year	
1	Baragarh	133	158	259	347	474	1015	2386
2	Deogarh	4	6	3	1	6	8	28
3	Sundargarh	24	50	7	2	4	1	88
4	Chatrapur	1059	1738	1196	398	252	320	4963
5	Rayagada	--	12	35	12	3	--	62
6	Koraput	32	13	16	9	15	12	97
7	Nawarangpur	1	1	2	2	5	5	16
8	Jharsuguda	22	46	47	25	31	127	298
9	Boudh	--	--	2	9	9	144	134
10	Angul	--	--	81	8	22	13	124
Total		1275	2024	1648	813	821	1615	8196

(c) *Non-application of best judgement assessment of duty.*

As per Rule-24(3) of Orissa Stamp Rules 1952, if the person or persons fails or fail to attend in response to the notice served under Sub-rule(1) the Collector shall assess the deficient amount to duty to the best of his judgement in respect of undervaluation cases booked U/s 47A of the Indian Stamp Act, 1899.

During test check of 384 cases, involving of Rs.49.29 lakh in 10 units revealed that parties had not been coming forward for valuation even though notices were issued. The Department has not taken any action to assess the duties on best judgement.

4.6.11 Conclusion

Government and Inspector General of Registration, Orissa issued separate guidelines for computation of market value of land which are mutually inconsistent and contradictory. There is no uniformity in the procedure followed by the Registering authorities. Valuation register, which is the basic record for determination of value of property is not updated regularly to ascertain the prevailing value. Village maps and RORs are not available with Registering Officers to verify the location of adjacent plots and kissam (classification) of land to arrive at proper valuation of the land. Instructions issued for allowances of exemption of stamp duty/registration fees are not being adhered to, which led to incorrect determination of market value of land and incorrect computation of consideration value of instruments. Lack of control in maintaining uniform system and correct application of Act and Rules in classifying the documents resulted in short realisation of revenue to the extent of Rs.30.95 crore.

The matter was reported to Government (April 2002); Government in their interim reply stated (June 2002) that compliance will be furnished after verification of the facts and figures.

4.7 Incorrect computation of consideration value of deed

Under the provisions of section 269 UL read with section 269 UC of Income Tax Act, 1961, instrument valued at more than Rs.20.00 lakh shall not be registered unless the prescribed certificate has been obtained from appropriate authority that it has no objection to the transfer of such property for an amount equal to the apparent consideration therefore as stated in the agreement for transfer of the immovable property by executor of the instrument.

Test check of records (June 2001) of District Sub-Registrar, Khurda, revealed that a sale deed was executed vide document No.1094 dated 29.2.2000 by M/s Mamata Drinks and Industries in favour of M/s Hindusthan Coca Cola Bottling South-West Pvt. Ltd. at a consideration value of Rs.1.38 crore as against Rs.4.27 crore mentioned in the Income Tax Certificate. This led to undervaluation of property by Rs.2.89 crore, which resulted in short levy of stamp duty and registration fee of Rs.57.02 lakh.

On this being pointed out in audit (June 2001), it was stated that the value of immovable property (Land and Building) amounting to Rs.1.38 crore was accepted by the Collector and accordingly the document was registered.

The reply is not tenable in audit as the consideration value for transfer of immovable property like plant and machinery and goodwill etc. stated in the agreement for transfer and certificate furnished by the Income Tax Authority was not taken into consideration for the purpose of levying stamp duty and registration fees.

The above matter was referred to Government (April 2002). The department in their interim reply (June 2002) stated that compliance will be submitted after verification of facts and figures.