

## Chapter 5: Stamp Duty and Registration Fees

### 5.1 Results of audit

Test check of records of Stamp duty and registration fees conducted in audit during the year 2000-2001, revealed non-levy/short levy of Stamp duty and registration fees amounting to Rs.117.38 lakh in 208 cases which broadly falls under the following categories:

(In lakh of rupees)			
Sr.No.	Category	Number of cases	Amount
1	Non/Short levy of stamp duty and registration fees	169	81.68
2	Evasion of stamp duty and registration fees	23	14.12
3	Irregular remission of stamp duty and registration fees	16	21.58
<b>Total</b>		<b>208</b>	<b>117.38</b>

During the course of the year 2000-2001, the revenue department recovered Rs.5.42 lakh in 52 cases, at the instance of audit relating to the earlier years. Results of review on 'Concessions, Exemptions and Remissions' under the Indian Stamp Act and Indian Registration Act with financial effect of Rs.449.09 lakh and few illustrative cases highlighting irregularities involving financial effect of Rs.12.96 crore are given in the following paragraphs:

## **5.2 ‘Concessions, Exemptions and Remissions’ under the Indian Stamp Act and Indian Registration Act**

### **5.2.1 Introduction**

Registration of a document attracts levy of stamp duty and registration fees. The levy of Stamp duty on various types of instruments is governed by the Indian Stamp Act, 1899 as amended by the Punjab (Amendment) Act, 1922 and rules framed thereunder, while the levy of registration fees on instruments presented for registration is regulated by the Indian Registration Act, 1908 and rules framed thereunder.

The State Government is empowered under the Acts to reduce or remit prospectively or retrospectively, the levy of stamp duty and/or registration fees. The exemptions/remissions were granted mainly for the upliftment of scheduled castes and other economically weaker sections of the society to encourage them to avail themselves of the benefits of welfare schemes, for promotion of small scale industries, encouragement to co-operative movement and such other developmental projects for small farmers and rural community.

### **5.2.2 Organisational set up**

The State Government exercises control over the registration work through the Inspector General of Registration, who is assisted by Deputy Commissioners, Tehsildars and Naib-Tehsildars act as Registrars, Sub- Registrars and Joint Sub-Registrars respectively. No registration work is, however, done in the offices of the Registrars. The Registrar exercises superintendence and control over the Sub-Registrars and Joint Sub-Registrars of the Districts, hear appeals against the orders of the later refusing to admit the documents for registration, and collect and consolidate returns/data, etc., relating to the respective districts. For the purpose of levy and collection of stamp duty and registration fees, the State has been divided into four divisions<sup>\*</sup> and seventeen districts<sup>\*\*</sup> having 17 Registrars, 72 Sub-Registrars and 59 Joint Sub-Registrars.

### **5.2.3 Scope of Audit**

The records relating to concessions, exemptions and remissions of stamp duty and registration fees in 23, out of 131, offices of Sub-Registrars and Joint Sub-Registrars in the State for the years 1995-1996 to 1999-2000 were test checked in audit during April to September 2000. The review also includes points noticed during local audit.

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<sup>\*</sup> Faridkot, Ferozepur, Jalandhar and Patiala.

<sup>\*\*</sup> Amritsar, Bathinda, Faridkot, Fatehgarh Sahib, Ferozepur, Gurdaspur, Hoshiarpur, Jalandhar, Kapurthala, Ludhiana, Mansa, Moga, Mukatsar, Nawan Shahar, Patiala, Ropar and Sangrur.

#### **5.2.4 Highlights**

Stamp duty and registration fees of Rs.2.63 crore was incorrectly remitted on mortgage deeds executed by the Punjab State Federation of Co-operative House Building Societies Limited.

{Para 5.2.5(a)}

Stamp duty and registration fees of Rs.4.82 lakh was incorrectly remitted on mortgage deeds executed by individuals not being members of Urban Co-operative House Building societies.

{Para 5.2.5(b)}

Industrial Co-operative Societies and Industrial Samities were erroneously exempted from payment of stamp duty and registration fees of Rs.1.97 lakh as their members did not belong to scheduled castes.

{Para 5.2.5 (c)}

Stamp duty and registration fees amounting to Rs.1.73 crore had not been levied on deeds executed for securing loan not covered by exemptions granted by the Government.

{Para 5.2.6(a, b & c)}

Stamp duty and registration fees of Rs.2.63 lakh was not levied on mortgage deeds executed in favour of Punjab Financial Corporation by individual.

{Para 5.2.7(a)}

Non-levy of stamp duty and registration fees of Rs.2.09 lakh on mortgage deeds executed for securing loans by employees not in Government employment.

{Para 5.2.7(b)}

#### **5.2.5 Incorrect remission to Co-operative Societies**

(a) By a notification issued in February 1973, Government remitted the stamp duty leviable on the deeds of mortgage without possession executed by certain Corporations and Punjab State Co-operative Supply and Marketing Federation for securing loans from the commercial and banking institutions to implement the developmental schemes falling within the purview of aims and objects of the concerned Corporations.

It was noticed (between May and September 2000) that in 2 registering offices (Kharar and Mohali), 13 deeds of mortgage without possession were executed by Punjab State Federation of Co-operative House Building Societies Limited (HOUSEFED) in favour of Life Insurance Corporation of India and Punjab State Co-operative Bank for securing loans of Rs.131.50 crore during the years between 1992-93 to 1999-2000 but no stamp duty was levied thereon although the HOUSEFED was not covered by the aforesaid notification. Incorrect grant of remission resulted in non-levy of stamp duty and registration fees of Rs.2.63 crore on these deeds.

On being pointed out (November 2000) the department accepted the audit observation and stated (May 2001) that recovery proceedings had been launched. Further progress was, however, awaited ( June 2001).

(b) By a notification issued in December 1996, State Government, exempted the levy of stamp duty and registration fees on mortgage deeds without possession executed by a member of the Urban Co-operative House Building Society in favour of HOUSEFED.

It was noticed (between July and September 2000) that in 10 registering offices, 90 mortgage deeds without possession were executed during 1999-2000 by individuals not being members of the Urban Co-operative House Building Societies in favour of HOUSEFED for securing loans of Rs.1.64 crore without levy of stamp duty and registration fees. No exemption was available on these instruments under the aforesaid notification. This resulted in non-levy of stamp duty and registration fee of Rs.4.82 lakh.

The department while accepting the audit observations stated (May 2001) that deficient amount would be recovered. Further progress of recovery was awaited (July 2001).

(c) By a notification issued in July 1948, Government exempted from payment of stamp duty on instruments executed by or on behalf of any society registered under the Co-operative Societies Act or instruments executed by any officer and a member of any such society and relating to the business of society. The exemption of stamp duty was subsequently withdrawn by a notification (February 1962) in respect of co-operative industrial societies, co-operative dairy farming societies and co-operative house building societies in urban areas excepting those where all the members belong to Scheduled Castes.

On 8 instruments (5 mortgage deeds without possession and 3 deeds of conveyance) executed during 1995-96 to 1999-2000, by 2 Industrial Co-Operative Societies of which all the members did not belong to the scheduled castes and 6 Samities, which were not covered under Co-Operative Societies Act were registered without levy of stamp duty and registration fee. This resulted in non-levy of stamp duty and registration fee of Rs.1.97 lakh, out of which Rs.0.43 lakh was recovered in one case during 1999-2000.

The department accepted the audit observations and stated (May 2001) that deficient amount would be recovered shortly. Further progress of recovery was awaited (July 2001).

#### **5.2.6 Incorrect grant of exemptions**

(a) By a notification issued in February 1973 (as amended in May 1979), Government exempted the stamp duty on the instruments executed by a person in favour of any commercial or banking institution for securing loan not exceeding Rs.0.35 lakh for certain specified purposes. The registration fee is, however, leviable in all such cases.

(i) In 39 registering offices, 1741 deeds of mortgage without possession executed during the years 1995-96 to 1999-2000 by individuals in order to secure loans of Rs.26.74 crore from commercial or banking institutions, were treated as exempt from payment of stamp duty and registration fees whereas the loans exceeded the prescribed limit of exemption of Rs.0.35 lakh. This resulted in incorrect exemption of stamp duty and registration fees of Rs.71.30 lakh, out of which Rs.1.11 lakh was recovered in 9 cases upto September 2000 at the instance of audit.

(ii) In 65 registering offices, 853 deeds of mortgage without possession were executed by individuals for securing loans of Rs.23.45 crore from commercial or banking institutions, for purchase of jeeps, combines, houses repair, business, shuttering etc. not specified in the notification. This resulted in incorrect grant of exemption of stamp duty and registration fees of Rs.56.93 lakh during the period from 1995-96 to 1999-2000. An amount of Rs.1.24 lakh was recovered in 21 cases upto September 2000 at the instance of audit.

The department while accepting the audit observations stated (May 2001) that remissions where wrongly granted would be recovered shortly. Further progress of recovery was awaited (July 2001).

(b) By a notification issued in March 1993, State Government exempted from payment of stamp duty and registration fees leviable on mortgage deeds executed by a member of Scheduled castes/Backward classes for securing loan not exceeding Rs.0.50 lakh from Punjab Scheduled Castes Land Development and Finance Corporation and Backward Classes Land Development and Finance Corporation respectively.

23 deeds of mortgage without possession executed in 10 registering offices during the years 1995-96 to 1999-2000 by members of Scheduled castes and Backward classes community in favour of aforesaid Corporations for securing loans of Rs.26.76 lakh, were treated as exempt from payment of stamp duty and registration fee even though the loans exceeded the prescribed limit of Rs.0.50 lakh in each case. This resulted in incorrect exemption of stamp duty and registration fees of Rs.0.72 lakh. Out of which Rs.0.34 lakh was recovered in 9 cases upto September 2000.

(c) For availing cash credit facility from commercial and banking institutions property mortgaged without possession by individuals was required to be stamped under the Indian Stamp Act, 1899.

In 20 registering offices, it was noticed that on the property mortgaged for securing cash credit facility the stamp duty was not levied. This resulted in incorrect exemption of stamp duty and registration fees of Rs.43.57 lakh in 379 cases on the aggregating cash credit limit of Rs.19.11 crore during the period 1995-96 to 1999-2000.

The department stated (May 2001) that deficient amount would be recovered. Further progress of recovery was awaited (July 2001).

### **5.2.7 Undue exemptions**

(a) By a notification issued in July 1973, State Government exempted from payment of stamp duty, on deeds of mortgage without possession, executed by the Industrial Concerns in favour of the Punjab Financial Corporation (PFC).

It was noticed that in 9 registering offices, 14 mortgage deeds without possession were executed during 1996-97 to 1999-2000 in favour of PFC for securing loans (Rs.125.50 lakh) for the purchase of truck, computers, wood work business, ice factory, poultry farming and computer training institution etc., without levy of stamp duty. These mortgage deeds were not eligible for exemption from levy of stamp duty as these business did not fall within the meaning of Industrial Concern under the State Financial Corporation Act, 1951. This resulted in undue exemption of stamp duty and registration fees of Rs.2.63 lakh.

(b) By notification issued in March 1984, State Government remitted the levy of Stamp duty and registration fees on any deed of mortgage without possession executed by an officer or employee of Government of Punjab in favour of Government for securing payment of an advance received by him from Government for the purpose of purchasing land or plot for the construction of dwelling house thereon for his own use.

In 19 registering offices, in 39 cases, mortgage deeds executed during 1995-96 to 1999-2000 by persons not in Government employment were registered without levy of stamp duty and registration fees. This resulted in undue exemption of stamp duty and registration fees of Rs.2.09 lakh. An amount of Rs.0.31 lakh was recovered in 5 cases upto September 2000 at the instance of audit.

(c) Under the Punjab Agricultural Credit Operation and Miscellaneous Provisions (BANKS) Act, 1979, an agriculturist by a declaration can create a charge on immovable property, owned by persons, for financial assistance provided by financial institutions. The Government decided (June 1990) that if such document is presented for registration, proper stamp duty will be leviable.

In 7 registering offices, it was noticed that 29 cases of declaration under the Act, executed from 1996-97 to 1999-2000 for securing loans of Rs.85.28 lakh in favour of commercial banks by creating a charge on the immovable property were registered without levy of stamp duty and registration fees in contravention of the instructions of the Government. As the declaration contained all the ingredients of a mortgage deed without possession, stamp duty was leviable. This resulted in undue exemption of stamp duty and registration fees of Rs.2.06 lakh.

The department accepted the audit observations and stated (May 2001) that deficient amount would be recovered shortly. Further progress of recovery was awaited (July 2001).

### **5.2.8 Monitoring and Evaluation**

(a) Government in Revenue Department though examines the proposal for grant of exemption/remission received from different departments but the department had neither maintained/compiled any data of remission of stamp duty and registration fee nor conducted evaluation of the actual impact of exemptions granted to different sections of society for whom these were intended. No periodical returns etc. to ascertain the number of persons who had actually availed of the exemptions and the amount of remission allowed had been prescribed for field offices. In the absence of this information, it was not possible to know if the objectives underlying the concessions/remissions were actually achieved or not.

(b) Mention was made regarding 'Concessions, Exemptions and Remissions' in paragraph 5.2.1 of the Report of Comptroller and Auditor General of India for the year ended 31 March 1978 (Revenue Receipts) Government of Punjab. While discussing the para, the Public Accounts Committee in its 53rd Report presented in Punjab Vidhan Sabha on 17-3-1983 had recommended, inter alia, that a brochure containing the salient features of the prevalent law and instructions on stamp duty and registration fees should be printed, every three years, incorporating the changes that took place during the intervening period, for distribution among all concerned. No such brochure had, however, been brought out after December 1996.

(c) It was further observed that clerks in the offices of Deputy Commissioner after qualifying a departmental examination for registration clerks, were generally appointed registration clerks in the offices of Registrars, Sub-Registrars and Joint Sub-Registrars. However, no training/re-orientation courses for the registration clerks were prescribed by the Department.

The above matter was referred to the Government in November 2000. No final reply was received from the concerned quarter. The material was developed into draft review for consideration of Government and the same was demi-officially forwarded (November 2000) to the Government for reply within 6 weeks. The matter was followed up with reminders issued demi-officially to the Financial Commissioner and Secretary to Government Punjab, Revenue Department in April and June 2001. However, in spite of such efforts, no reply was received (July 2001).

### **5.3 Acquisition of land and its subsequent allotment/handing over to Local Authorities-loss of revenue on account of Stamp Duty and Registration Fee**

#### **5.3.1 Introduction**

The Land Acquisition Act, 1894, governs the acquisition of land in the State. The Financial Commissioner's standing order of 9 March 1985 issued under the provisions of the Act ibid embodies detailed procedure for acquisition of land. After acquisition, the land is transferred in the name of the indenting department/agency. The funds for the acquisition of land are provided to the Land Acquisition Collector (LAC) by the indenting departments/agencies. Under the provisions of Indian Registration Act, 1908, registration of non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or in future, any right, title or interest, whether vested or contingent of the value of one hundred rupees and upwards, to or in immovable property, is compulsory. Instrument of transfer of property (conveyance deed) is to be stamped under the provisions of the Indian Stamp Act, 1899, as applicable in the State of Punjab.

5038.31 acres of land at the cost of Rs.244.58 crore was acquired by the LAC, department of Urban Development, Industries, Colonization, Improvement Trust and Punjab State Electricity Board between 1995-96 and 1999-2000. The records of 5 LACs for the year 1995-96 to 1999-2000 were test checked in audit during May to September 2000. Irregularities noticed are given in the succeeding paragraphs.

#### **5.3.2 Non execution of conveyance deeds**

(i) With a view to developing Urban Estates in Punjab as well as to generate resources in the establishment of new Housing Development and Improvement Schemes and Extended/Satellite townships, the Urban Estates and Punjab Housing and Development Board were merged and Punjab Urban Planning and Development Authority (PUDA) was constituted (May 1995). The conveyance deeds of the land transferred to PUDA after acquisition by the LAC was required to be executed under the provisions of the Indian Stamp Act, 1899 as applicable in State of Punjab as in the case of erstwhile Punjab Housing Development Board (now PUDA). The PAC while discussing para no.4.1.2 of the Report of the Comptroller and Auditor General of India for the year 1979-1980 (Revenue Receipts) had also reiterated that since the Government has rejected the demand of Punjab Housing Development Board for exemption from payment of stamp duty and registration fee, expeditious steps be taken to execute the conveyance deed.

A test check of records of the Land Acquisition Collector (Urban Development) it was observed (May and September 2000) that land admeasuring 403.58 acres acquired by Land Acquisition Collector, was transferred to the Punjab Urban Planning and Development Authority, SAS Nagar (Mohali), between August 1995 and February 1999 at a cost of



Rs.19.74 crore. PUDA had not executed any conveyance deed (July 2000) although the land was transferred/entered in the revenue records in the name of PUDA. Non-execution of deeds resulted in non-levy of stamp duty of Rs.1.18 crore besides registration fee leviable thereon.

(ii) The Government decided (May 1987) that the expenses on stamp duty and registration fee should be borne by the Punjab Small Industries and Export Corporation (PSIEC) while executing the conveyance deed. The department accordingly directed (July 1987) the corporation to execute the conveyance deed on all land transferred to it (in the case of S.A.S. Nagar).

It was noticed (June 2000) in audit that PSIEC had not executed any conveyance deed in respect of 616.80 acres of land valued at Rs.23.37 crore acquired in four districts\* by LAC (Industries) and transferred to PSIEC between 1995-96 and 1999-2000 for setting up of industrial focal points. This resulted in non levy of stamp duty of Rs.1.40 crore besides registration fee leviable thereon.

(iii) Further Land Acquisition Collectors of the department of Industries, Improvement Trust and Punjab State Electricity Board acquired 2599.42 acres of land valued at Rs.168.93 crore between 1995-96 and 1999-2000. Although the land was transferred in the name of the indenting department/agency, no conveyance deed was, however, executed in any case. Non-execution of deeds resulted in non-levy of stamp duty of Rs.10.14 crore besides registration fee, as detailed below:-

( In crore of rupees )

Sr.No	Name of the department/agency for which land is acquired/ transferred	Area of land acquired/ transferred (Acres)	Year	Value of land	Non-levy of stamp duty
1	Industries Department Hindustan Petroleum Corporation (Bathinda)	1992.57	1999-2000	84.68	5.08
2	Improvement Trust	400.00	1995-1996	72.73	4.37
3	Punjab State Electricity Board	206.85	1995-1996 to 1999-2000	11.52	0.69
	<b>Total</b>	<b>2599.42</b>		<b>168.93</b>	<b>10.14</b>

The matter was brought to the notice of Sub-Registrar, Amritsar (October 2000), Jalandhar, Patiala, Moga and Sangrur (November 2000) regarding transfer of land in revenue record without executing conveyance deeds to which no reply was received.

(iv) Audit scrutiny revealed that 57 plot holders (51 plots of Colonization department and 6 Industrial plots in focal point Dera Bassi on free hold basis through PSIEC), were allotted plots/delivered possession and the entire amount of consideration due therefrom was received between September 1984 and June 2000, but conveyance deeds were not executed by any of the allottees though there was provision in the allotment letter to execute conveyance deed after full and final payment by the plot holders resulting in non-realisation of

\* Ferozepur (Abohar), Hoshiapur (Tanda), Mukatsar and Ropar (Mohali).

stamp duty Rs.4.75 lakh, besides registration fee due on such documents as detailed below:-

( In lakh of rupees)

Sr. No	Name of the department/ agency for which land is acquired/ transferred	Number of plots allotted	Period of allotment	Value of plots	Non realisation of stamp duty
1	Punjab State Industrial Export Corporation	6	1991-92	42.37	2.54
2	Colonization Department	51	1980-95	36.81	2.21
	<b>Total</b>			<b>79.18</b>	<b>4.75</b>

The above matter was referred to the Financial Commissioner Revenue and Principal/Administrative Secretaries of respective departments in December 2000. The matter was followed up with reminders to Financial Commissioner Revenue and Principal/Administrative Secretaries of respective departments in April and June 2001. However, inspite of such efforts, no reply was received (July 2001).

#### **5.4 Short levy of stamp duty on lease deeds**

Under the Indian Stamp Act, 1899, as applicable to Punjab, on an instrument of lease, stamp duty is chargeable on the basis of periods of lease and the amount of the average annual rent-reserved. The Act further provides that where the lease is granted for a fine or premium or for money advanced in addition to rent reserved, the duty is also charged on the value of such fine or premium or money advanced set forth in lease deed.

During test check of records of five\* registering offices, it was noticed (between July 1999 and July 2000), that in respect of 11 instruments of lease registered between July 1998 and March 2000, stamp duty leviable had not been worked out correctly as the periodical increase in rent reserved, premium or money advanced in addition to rent-reserved had not been taken into account while calculating the stamp duty leviable on these instruments. Non inclusion of these considerations into average rent reserved resulted into short levy of stamp duty and registration fee amounting to Rs.3.90 lakh.

On this being pointed out in audit (between July 1999 and July 2000) Sub-Registrar, Ludhiana (East and West) stated (between November 1999 and September 2000) that cases had been sent (between October 1999 and April 2000) to Collector for declaring the amounts as arrears of land revenue. Further progress was awaited. Sub-Registrar, Amritsar-I and Ludhiana (East) stated (June and July 2000) that recovery will be made after verification of records, the Sub-Registrar Amritsar and Nawanshahar, however, stated (between July and September 2000) that efforts were being made to recover the amount.

\* Amritsar-I&II, Ludhiana (East), Ludhiana (East & West) and Nawan Shahar.

The above matter was referred to the department (between August 1999 and July 2000) and Government (between February 2000 and March 2001). The matter was followed up with reminders to Financial Commissioner Revenue and Secretary to Government, Punjab, Revenue department in May and June 2001. However, inspite of such efforts, no reply was received (July 2001).

### **5.5 Misclassification of instruments**

Under the Indian Stamp Act, 1899, every instrument is chargeable with duty at rates prescribed in Schedule 1/1-A to the Act. Under the Act, a 'mortgage deed' includes every instrument whereby, for the purpose of securing money advanced by way of loan or an existing or future debt one person transfers or creates to, or in favour of another, a right over or in respect of specified property. Registration fee is also chargeable under the Registration Act, 1908, on the consideration for which stamp duty has been paid, subject to a maximum of Rs.10,000 with effect from 15 October 1999.

(a) During test check of records of five\* Registering Offices, it was noticed (between July and November 2000) that seven instruments were executed for securing loan of Rs.2.24 crore from scheduled banks, Punjab Khadi and Village Industries Board Chandigarh. The instruments were registered (between April 1999 and March 2000), either as a 'Security bond' or 'Simple mortgage' and charged stamp duty accordingly. The instruments having been executed for securing loans against the security of immovable property, were correctly classifiable as 'mortgage deed' without possession. The misclassification of instruments resulted in short levy of stamp duty and registration fee of Rs.4.51 lakh (Stamp duty Rs.4.32 lakh, Registration fee Rs.0.19 lakh).

On this being pointed out in audit (between July and November 2000) the Sub-Registrar, Ludhiana stated (July 2000) that recovery would be made after verification of records. Sub-Registrar, Malerkotla stated (November 2000) that matter would be taken up as per rules. The reply in the remaining cases is awaited.

The above matter was referred to the department (between July and December 2000) and Government in March 2001. The matter was followed up with reminders to Financial Commissioner and Secretary to Government, Punjab, Revenue department in May and June 2001. However, inspite of such efforts, no reply was received (July 2001).

(b) Further, sub clause (c) under Article 40 of Schedule provide for lower duty for cases of mortgage by further assurance or additional or substituted security where the original documents, Principal/Primary security were duly stamped with reference to the amount secured.

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\* Gurdaspur, Jagroan, Ludhiana, Malerkotla and Tarn Taran (Amritsar).

During the course of audit of records of three\* Registering Offices, it was noticed (between June and October 2000) that ten documents were executed for securing loans/cash credit limits aggregating to Rs.297.34 lakh from scheduled banks. These instruments were registered (between May 1999 and February 2000) as 'collateral security' attracting lower rate of stamp duty. Since there were no previous mortgage deeds in these cases, these deeds were correctly classifiable as 'mortgage deeds' without possession. The misclassification of instruments resulted in short levy of stamp duty and registration fee of Rs.5.42 lakh (Stamp duty Rs.5.31 lakh, Registration fee 0.11 lakh).

On this being pointed out in audit (June and October 2000), the Sub-Registrar, Amritsar stated (June 2000) that recovery would be made after verification of records. Sub-Registrar, Pathankot (Gurdaspur) stated (October 2000) that documents have been impounded for reference to the Collector. Sub-Registrar, Samana (Patiala) stated (August 2000) that documents were registered as per rule. The reply was not tenable as there was no reference on record to show that the securities were duly stamped under Article 40 (a or b) as required under Article 40 (c). In the absence of any previous mortgage deeds, these cases were correctly classifiable as mortgage deeds without possession.

The above matter was referred to the department (between July and November 2000) and Government in March 2001. The matter was followed up with reminders to Financial Commissioner and Secretary to Government, Punjab, Revenue department in May and June 2001. However, inspite of such efforts, no reply was received (July 2001).

#### **5.6 Non-charging of stamp duty on sale of machinery**

According to the Indian Stamp Act, 1899, 'conveyance' includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule I-A of the Act. In July 1961, Government clarified that documents containing essential ingredients of a conveyance would amount to sale and therefore, stamp duty and registration fee under the Indian Stamp Act, 1899 and Indian Registration Act, 1908, be charged accordingly.

During test check of records of Sub-Registrar, Dera Bassi (Patiala), it was noticed (September 2000) that four sale deeds were executed (between September 1999 and March 2000) by Punjab Financial Corporation and Punjab State Industries Development Corporation for the sale of land together with building constructed thereon with appurtenance rights, tenements and hereditaments. Stamp duty was paid on the value of land and building in all the four cases but no stamp duty was levied on the value of machinery (Rs.90.36 lakh). This resulted in short levy of stamp duty amounting to Rs.5.42 lakh.

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\* Amritsar, Pathankot (Gurdaspur), Samana (Patiala).

On this being pointed out in audit (September 2000), Sub-Registrar, Dera Bassi stated (October 2000) that machinery was a movable property and as such the same was not included in the consideration amount. The reply was not tenable as the machinery embedded to the earth was auctioned with the land and building in toto so it is immovable property as per provision of the Registration Act.

The above matter was referred to the department (September 2000) and Government in March 2001. No reply was received from the concerned quarters. The matter was followed up with reminders to Financial Commissioner and Secretary to Government, Punjab, Revenue department in May and June 2001. However, inspite of such efforts, no reply was received (July 2001).