

CHAPTER-V: Stamp Duty and Registration Fee

5.1 Results of audit

Test check of the records of the Department of Stamps and Registration conducted by audit during the year 2004-05 revealed short recovery of stamp duty and registration fee amounting to Rs.12.10 crore in 2,495 cases which broadly fall under the following categories:-

Sl. No.	Category	Number of cases	Amount (Rs.in crore)
1.	Misclassification of documents	647	8.76
2.	Undervaluation of properties	1,715	3.08
3.	Other irregularities	133	0.26
	Total	2,495	12.10

During the year 2004-05, the Department accepted underassessments amounting to Rs.2.27 crore pertaining to 854 cases of which 523 cases amounting to Rs.1.90 crore were pointed out by audit during 2004-05 and the rest in earlier years. Further, the Department recovered Rs.13.85 lakh in 220 cases during the year 2004-05, of which two cases amounting to Rs.0.29 lakh related to the year 2004-05 and the rest to earlier years.

A few illustrative cases involving Rs.5.20 crore highlighting important audit observations are given in the succeeding paragraphs.

5.2 Short levy of stamp duty and registration fee due to undervaluation of property

5.2.1 As per Rajasthan Stamp Law (Adaptation) Act, 1952, stamp duty shall be chargeable on market value of the property. The Rajasthan Stamp Rules, 1955 provide that market value of the property shall be determined on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by the Inspector General of Stamps, whichever is higher.

In seven Sub-Registrar Offices (SRO), it was noticed between October 2004 and January 2005 that in 16 cases of conveyance deeds (registered between May 2001 and October 2003) involving commercial/residential plots and agricultural land, the value of the property was determined either at the rates of residential land instead of commercial land or at rates lower than those approved by DLC. This resulted in short levy of stamp duty (SD) and registration fee (RF) aggregating to Rs.3.11 crore as per the details given in the table:

(Rupees in lakh)

Name of SROs	No. of cases	Nature of property	Market value of property as per DLC rates	Value adopted	SD and RF		Short levy of SD and RF
					Leviable	Levied	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sikar	1	Residential	110.03	13.20	12.35	1.58	10.77
Nathdawara (Rajsamand)	5	Agricultural/ Commercial	100.91	45.98	11.94	6.86	5.08
Mahwa (Dausa)	4	Commercial	449.64	43.53	50.46	5.22	45.24
Kekri (Ajmer)	1	Commercial	59.28	10.00	6.77	1.20	5.57
Gangrar (Chittorgarh)	2	Commercial	580.93	33.44	64.37	4.01	60.36
Duddu (Jaipur)	2	Commercial	1,601.74	37.27	176.69	4.47	172.22
Sindhari (Barmer)	1	Commercial	131.40	24.30	14.70	2.91	11.79
Total	16						311.03

After this was pointed out between November 2004 and February 2005, the Department in the case of Duddu in May 2005 stated that the land was being used for agricultural purpose at the time of registration of the sale deed which formed the basis for charge of SD at agricultural rate. The reply is not tenable since the land was purchased by an oil company and in view of the circular issued in July 2003, the value of the land for levy of SD was to be based on the commercial rate if land was to be used for commercial purpose in future. While in case of SRO, Gangrar, it was stated in June 2005 that the matter was under consideration in Finance Department and the SROs, Sikar and Mahawa had referred the cases to the Collector (Stamps) for adjudication. In remaining cases reply has not been received (July 2005).

The matter was reported to Government between December 2004 to April 2005, their replies have not been received (July 2005).

5.2.2 As per clarification issued in April 2002 by the State Government, private educational institutions are to be considered as commercial institutions for recovery of land conversion charges.

In three SROs it was noticed between July 2004 and January 2005 that in contravention of the above clarification, the value of land mentioned in the deeds registered between January 2003 and May 2003 in favour of educational institutions was determined at agricultural rate instead of commercial rate. The omission resulted in short levy of SD and RF aggregating to Rs.66.11 lakh as indicated below: -

(Rs. In lakh)

Name of the SROs	Institution to whom sold	Market value as per Commercial rate	Value adopted	SD and RF		Short levy of SD and RF
				Leviable	Levied	
Alwar	Public Rose Siksha Samiti, Alwar	236.46	17.05	26.26	2.05	24.21
Jhunjhunu	Islamia Arabia, Anwarululam (School), Jhunjhunu	74.87	2.25	8.49	0.27	8.22
Vazirpur (Sawaimadhopur)	Private Educational Institution	307.95	3.73	34.13	0.45	33.68
Total						66.11

After this was pointed out between August 2004 and February 2005 the Department stated in May 2005 that in Alwar a case had been registered with the Collector (stamps) for adjudications. In case of Jhunjhunu, the Department did not accept the observations and stated (May 2005) that purchased land was agricultural land at the time of execution of documents and did not fulfil the condition that land conversion charges was to be determined at commercial rate. The reply of the Department is not tenable as the land attached to the institute was purchased by the same private educational institution and cost of land was to be determined at commercial rate for conversion charges. No reply has been received in other case (July 2005).

The omission was reported to Government between January 2005 and March 2005; their replies have not been received (July 2005).

5.2.3 In pursuance of instructions issued by Inspector General of Stamps in October 1999, valuation of land situated in Rajasthan State Industrial Development and Investment Corporation (RIICO) area should be assessed at RIICO rate, while for land situated outside the RIICO area, valuation of land should be done at industrial rate as decided by DLC. In absence of these rates prevailing reserved rates of nearby RIICO area are to be applied.

In SRO, Duddu (Jaipur district), it was noticed in November 2004 that agricultural land measuring 43.125 bigha (1,14,133.76 sq.m.) was sold to a company through 10 sales deeds registered between May and November 2002 at valuation of Rs.40.61 lakh at agricultural rate on which SD and RF of Rs.4.87 lakh were charged.

Since the land purchased was for establishment of a project for laying 6 line road work at National Highway No. 8, the value of land was to be worked out at the rate of nearby RIICO area in absence of DLC rate. The value of land would thus work out to Rs.1.43 crore on which SD and RF of Rs.17.12 lakh was chargeable. Incorrect computation of market value of land resulted in short levy of SD and RF of Rs.12.25 lakh.

This was pointed out in November 2004 to the Department and to the Government in January 2005; their replies have not been received (July 2005)

5.3 Short levy of stamp duty and registration fee on lease deeds

5.3.1 Under the Rajasthan Stamp Law (Adaptation) Act, 1952, where the lease purports to be for a period of not more than 20 years, stamp duty for a consideration equal to the amount of the average rent of two years is chargeable. However, where the lease period exceeds 20 years, stamp duty is to be charged as on conveyance on the market value of the property. The term of a lease shall include not only the period stated in the document but shall be deemed to be the sum of such stated period alongwith all previous periods immediately without a break for which the lessee and lessor remained the same. Further, as per Rajasthan Stamp Rules, 1955, the market value of the land shall be assessed on the basis of the rates recommended by DLC or the rates approved by the Inspector General of Stamps, whichever is higher.

In five SROs, it was noticed between June 2004 and January 2005 that in case of lease deeds pertaining to more than 20 years registered between August 2002 and December 2003, the SD was not recovered as on conveyance on the

market value of property. This resulted in loss of SD and RF aggregating to Rs.1 crore as per the details given in the table:

(Rs. in lakh)

S. No.	Name of SROs	Name of lessee	Market value	Value adopted	SD and RF		Short levy of SD and RF
					Leviabale	Levied	
1.	Nathdawara	Bharat Petroleum Corporation	448.87	9.34	49.63	1.12	48.51
2.	Udaipur-I	Allahabad Bank	145.26	40.43	16.23	1.06	15.17
3.	Bali	M/S Gopichand Roshanlal Petro-chemicals Ltd.	43.04	0.72	4.98	0.09	4.89
4.	Bhilwara	National Insurance Company	38.27	1.15	4.46	0.03	4.43
5.	Udaipur-II	Sri Nimbark Shiksha Prashishan College	249	1.20	27.64	0.14	27.50
	Total						100.50

After this was pointed out between July 2004 and March 2005, the Department in the case of Bali and Bhilwara stated (May 2005) that cases have been registered with the Collector (Stamps) for adjudication. In remaining cases replies have not been received (July 2005).

The matter was reported to Government between January 2005 and March 2005; their replies have not been received (July 2005).

- In SRO Sri Dungargarh (Bikaner), it was noticed (June 2004) that a lease deed of a plot measuring 3.50 bigha (8,840 sq.m.) was registered in February 2003 for a period of 30 years (January 2003 to December 2032) in favour of Sesomu Education Society for running of a school. The valuation of land was assessed at agricultural rate and SD and RF of Rs.0.40 lakh was charged. As the land was leased out for more than 20 years to a private education society for running of a school, the valuation of land was to be determined at commercial rate of Rs.79.56 lakh on which SD and RF of Rs.9 lakh was chargeable. This resulted in short recovery of SD and RF aggregating to Rs.8.60 lakh.

After this was pointed out in June 2004 the Department stated in June 2005 that the case has been registered with the Collector (Stamps) for adjudication.

The matter was reported to the Government in December 2004; their reply has not been received (July 2005).

5.3.2 Under provision of Rajasthan Stamp Law (Adaptation) Act, 1952, on transfer of lease by way of assignment, stamp duty for a consideration equal to the amount of market value of the property under transfer is chargeable. Further as per circular issued in October 1999 by Inspector General of Stamps, Ajmer, documents executed as supplementary documents inter alia on change of legal status of firm or change of partners or dissolution of partnership shall be categorised as 'transfer of lease by way of assignment.'

In SRO Amer (Jaipur), it was noticed in October 2004 that an industrial plot admeasuring 23,814 sq. m. was allotted in November 2000 on consideration of Rs.72.91 lakh to an industrial unit by RIICO in industrial area Kukas (Jaipur). The lease agreement was registered on 30 July 2003. RIICO further accorded sanction for change in the name of industrial unit with reduction in the number of Board of Directors to two from existing five. The correction deed was registered in December 2003 and SD of Rs.100 and RF Rs.150 levied thereon. As there was change in name of firm as well as legal status of Board of Directors as mentioned in Articles of Association presented to RIICO by new firm, the subsequent document was to be classified as 'transfer of lease by way of assignment' attracting valuation of the property for charge of stamp duty on market value. The SD and RF on market value of Rs.1.31 crore would thus work out to Rs.14.65 lakh. The omission of considering it as correction deed instead of 'transfer of lease by way of assignment' resulted in loss of SD and RF of Rs.14.65 lakh.

After this was pointed out in November 2004 the Department stated in March 2005 that a case had been registered with the Collector (stamps) for adjudication. Further progress has not been received.

The matter was reported to Government in January 2005; their reply has not been received (July 2005).

5.4 Non registration of lease deeds

Under the Registration Act, 1908, lease of immovable property for any term exceeding one year is compulsorily registrable. Where the lease purports to be for a term of 20 years or more or in perpetuity or where the term is not mentioned, stamp duty is chargeable as on a conveyance on the market value of the property.

In SR, Rajsamand and Nathdawara, it was noticed in November 2004 that in four cases, land valued at Rs.58.20 lakh was allotted between June and July 2002 to Rajasthan Rajya Vidyut Prasaran Nigam Limited on lease for 99 years, but leases were not presented for registration by Nigam in these cases. It resulted in non-realisation of SD and RF of Rs.6.98 lakh.

After this was pointed out in December 2004 the Department ordered in May 2005 to call for documents from concerned parties for effecting recovery of the amount.

The matter was reported in December 2004 to Government; their reply has not been received (July 2005).