

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 during the year 2005-06 revealed short recovery of stamp duty and registration fee amounting to Rs.15.94 crore in 2,232 cases which broadly fall under the following categories:-

(Rs.in crore)

Sl. No.	Category	Number of cases	Amount
1.	Misclassification of documents	48	0.10
2.	Undervaluation of properties	1,964	12.61
3.	Other irregularities	220	3.23
	Total	2,232	15.94

During the year 2005-06, the department accepted underassessments amounting to Rs.7.37 crore pertaining to 2,114 cases of which 797 cases amounting to Rs.5.99 crore were pointed out during 2005-06 and the rest in earlier years. Further, the department recovered Rs.52.31 lakh in 876 cases during the year 2005-06, of which 121 cases amounting to Rs.6.29 lakh related to the year 2005-06 and the rest to earlier years.

A few illustrative cases involving Rs.4.66 crore highlighting important audit findings are given in the following paragraphs:

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

5.2.1 As per Rajasthan Stamp Act, 1998, stamp duty (SD) shall be chargeable on market value of the property. Rajasthan Stamp Rules, 1955 and 2004 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 (IG) of Stamps, whichever was higher.

In six sub registrar offices (SROs), it was noticed between June 2005 and January 2006 that in 18 cases of conveyance deeds, registered between May 2003 and December 2004, involving commercial/ residential plots, 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 SD and registration fee (RF) aggregating to Rs.1.66 crore as per the details given in the table:

(Rupees in lakh)

Name of Registering Authority (RA)	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	
Jaipur-II	4	Residential/commercial	1,637.05	1,189.64	145.05	105.61	39.44
Laxmangarh (Sikar)	2	Commercial	185.83	16.00	20.94	1.72	19.22
Hanumangarh	7	Residential/Commercial	115.98	39.79	10.40	3.09	7.31
Ajmer	1	Commercial	108.44	30.38	8.92	2.68	6.24
Raniwara (Jalore)	1	Commercial	70.69	8.46	5.91	0.77	5.14
Bassi (Jaipur)	3	Commercial	887.53	79.42	98.38	9.30	89.08
Total	18		3,005.52	1,363.69	289.60	123.17	166.43

After this was pointed out between July 2005 and March 2006, the department stated that the cases of Jaipur-II, Hanumangarh and Ajmer have been registered with the Collector (Stamps) for adjudication. In remaining cases, reply has not been received (July 2006).

The matter was reported to Government between January 2006 and March 2006; their replies have not been received (July 2006).

5.2.2 As per clarification issued in April 2002 by the State Government, private educational institutions are to be considered as commercial institutions.

In four SROs, it was noticed between May 2005 and January 2006 that in contravention of the above clarification, value of the land mentioned in the deeds registered between July 2003 and June 2005 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.1.49 crore as indicated below: -

(Rs. in lakh)

Name of the SROs	Institution ¹ to whom sold	Market value as per commercial rate	Value adopted	SD and RF		Short levy of SD and RF
				Leviable	Levied	
Beawar	P	1,395.88	68.52	76.77	7.54	69.23
Pali	Q	553.77	12.72	44.55	1.15	43.40
Madhorajpura (Jaipur)	R	230.53	15.22	26.71	0.99	25.72
Navalgarh (Jhunjhunu)	S	96.39	2.02	10.85	0.24	10.61
Total		2,276.57	98.48	158.88	9.92	148.96

The omission was pointed out between June 2005 and February 2006. In case of Beawar, the department did not accept the observation and stated in January 2006 that purchased land was agricultural land at the time of execution of documents. The reply was not tenable as the object to establish educational institution was very clear from document attached to deed executed. While the SROs Pali and Navalgarh had referred the cases to the Collector (Stamps) for adjudication, in the remaining one case, reply has not been received (July 2006).

The matter was reported to Government between January 2006 and March 2006; their replies have not been received (July 2006).

5.2.3 The IG Stamps issued instructions (October 1999) that in case of utilisation of land for industrial purpose at the time of execution of document, valuation was to be done at industrial rates approved by DLC. Further by issue of a notification in July 2003, rebate in SD was to be allowed at the rate of 50 *per cent* on the land purchased for establishment of industrial unit.

In SR, Rajsamand, it was noticed in December 2005 that 18 documents were registered between January 2004 and November 2004, for industrial purposes in Rajsamand district. However the registering authority valued the land at agricultural rate instead of industrial rate. Consequently SD and RF of Rs.8.04 lakh were charged instead of Rs.22.74 lakh after adjustment of 50 *per cent* rebate. This resulted in short realisation of SD and RF of Rs.14.70 lakh.

The matter was pointed out in January 2006 to the department and reported to Government in March 2006; their replies are awaited (July 2006).

¹ P-Dharmasheela Educational Institution, Q-Shri Shanti Jain Pathshala Samiti, Pali, R-Saint Thomas Medical College and Hospital, S-Dundlod Educational Society, Dundlod.

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

5.3.1 Under the Rajasthan Stamp Act, 1998, where the lease purports to be for a period of not more than 20 years, SD for a consideration equal to the amount of the average rent of two years is chargeable. However, where the lease period exceeds 20 years, SD 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, 2004, the market value of the land shall be assessed on the basis of the rates recommended by DLC or the rates approved by the IG of Stamps, whichever is higher.

In four² SROs, it was noticed between June 2005 and September 2005, that four lease deeds for a period of more than 20 years were executed between January 2003 and June 2004. The market value of the properties was Rs.8.71 crore on which SD and RF of Rs.97.06 lakh were leviable. However these were charged SD and RF of Rs.0.29 lakh only on average rent of Rs.5.60 lakh which was incorrect and resulted in short realisation of SD and RF aggregating to Rs.96.77 lakh.

After this was pointed out between July 2005 and October 2005, the department stated in June 2006 that in Sirohi a case had been registered with the Collector (Stamps) for adjudication. In remaining cases replies have not been received (July 2006).

The matter was reported to Government in January 2006; their replies have not been received (July 2006).

5.3.2 As per notification issued in May 2003, the market value of the property allotted or sold by Jaipur Development Authority (JDA) shall be determined on the basis of consideration, interest, penalty and average rent of two years. By issue of a notification in November 2001, State Government reduced the chargeable SD by 50 *per cent* on transfer deeds relating to land purchased in municipal areas for new multiplex cinema halls, subject to the condition that atleast Rs.1 crore was invested during the period from March 2001 to December 2002 and it started functioning by 31 December 2002.

Test check of records of SR, Jaipur-I revealed in November 2005 that JDA allotted land to a director of four companies in November 2003 on 99 years lease. The lease deed was registered on 24 March 2004 Since the land was sold by JDA in the year 2003, no rebate was admissible. However, registering authority incorrectly allowed a rebate of Rs.14.43 lakh resulting in short realisation of SD to that extent.

The matter was pointed out in December 2005 to the department and reported in January 2006 to Government; their replies are awaited (July 2006).

² Bilara (Jodhpur), Pratapgarh (Chittorgarh), Shivganj (Sirohi) and Sirohi.

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, SD is chargeable as on a conveyance on the market value of the property.

Cross examination of records between August 2005 and November 2005 of three³ SROs, with their respective tehsils revealed that in four cases, land valued at Rs.2.47 crore was allotted between July 2000 and April 2003 to Rajasthan Rajya Vidhyut Prasaran Nigam Limited and Jaipur Vidhyut Vitran Nigam Limited on lease for 99 years, but leases were not presented for registration by nigams. This resulted in non realisation of SD and RF of Rs.25.12 lakh.

After this was pointed out between October 2005 and January 2006, the department stated in June 2006 that in Udaipur-II a case had been registered with the Collector (Stamps) for adjudication. In remaining cases, replies have not been received (July 2006).

The matter was reported to Government between January 2006 and March 2006; their replies have not been received (July 2006).

³ Dholpur (2), Shahpura (Jaipur) and Udaipur-II