

CHAPTER-IV STAMP DUTY AND REGISTRATION FEE, LAND REVENUE

4.1 Results of audit

Test check of the records of the Departments of Registration & Stamps and Land revenue conducted during the year 2006-07 revealed short recovery of stamp duty and registration fee and underassessment and loss of land revenue amounting to Rs. 173.20 crore in 5,847 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
A. Stamp Duty and Registration Fee			
1.	Levy and collection of stamp duty and registration fee (A review)	1	78.77
2.	Information Technology system in Registration and Stamps Department (A review)	1	1.92
3.	Under valuation of properties	2,573	18.89
4.	Misclassification of documents	27	0.13
5.	Other irregularities	808	0.07
B. Land Revenue			
6.	Non-recovery of premium and rent from the Central / State Government departments / undertakings	93	38.95
7.	Non-recovery of price of command/uncommand/custodian ceiling land etc.	653	3.03
8.	Non-regularisation of cases of trespassers on Government land	1,396	0.68
9.	Non-recovery of conversion charges from khatedars	26	0.37
10.	Other irregularities	269	30.39
Total		5,847	173.20

During the year 2006-07, the departments accepted underassessments and other deficiencies amounting to Rs. 25.91 crore pertaining to 1,863 cases of which 86 cases amounting to Rs. 22.33 crore were pointed out during 2006-07 and the rest in earlier years. Further, the departments recovered Rs. 5.33 crore in 1,325 cases of which 28 cases amounting to Rs. 6.81 lakh related to the year 2006-07 and the rest to earlier years.

A few illustrative cases including two reviews of “**Levy and collection of Stamp Duty and Registration Fee**” and “**Information Technology system in Registration and Stamps Department**” involving Rs. 103.24 crore are mentioned in the following paragraphs.

A. Stamp Duty and Registration Fee

4.2 Levy and collection of stamp duty and registration fee

Highlights

Due to lack of a prescribed return by the public offices, the department was unaware of the number of documents on which stamp duty was payable and found deficient. This resulted in non-realisation of stamp duty of Rs. 68.36 crore.

(Paragraph 4.2.8)

Lack of a prescribed time frame for disposal of the cases under adjudication resulted in non-finalisation of 3,145 cases involving of stamp duty of Rs. 25.30 crore.

(Paragraph 4.2.9)

Short levy of stamp duty and registration fee of Rs. 5.89 crore due to undervaluation of properties.

(Paragraph 4.2.11)

Non-registration of developer agreements resulted in non-realisation of revenue of Rs. 3.40 crore.

(Paragraph 4.2.12)

Short realisation of stamp duty of Rs. 2.27 crore in 575 fisheries leases due to non-issue of notification.

(Paragraph 4.2.13)

4.2.1 Introduction

Receipts from stamp duty and registration fee in the State are regulated under the Indian Stamp Act (IS Act), 1899; Indian Registration Act (IR Act), 1908; Rajasthan Stamp Law (Adaptation) Act, 1952; Rajasthan Stamp Act (RS Act), 1998 and the rules made thereunder. Stamp duty is leviable on the execution of instruments and registration fee is payable at the rate of one *per cent* on the market value subject to a maximum of Rs. 25,000 since 21 March 1998. Evasion of stamp duty and registration fee is commonly effected through under valuation of properties, non-presentation of documents in the office of the registering authority and short payment of stamp duty by executants on

documents submitted before declared public offices¹.

A review of the system of levy and collection of stamp duty and registration fee was conducted. It revealed a number of system and compliance deficiencies which have been mentioned in the subsequent paragraphs.

4.2.2 Organisational set up

The determination of policy, monitoring and control at the Government level is done by the Secretary Finance (Revenue) Department. The Inspector General (IG) is the head of the department. He is assisted by an Additional Inspector General (AIG) in administrative matters and by a financial adviser (FA) in financial matters. The entire state has been divided into 13 circles; of these 12 circles are headed by Deputy Inspectors General (DIG) cum ex-officio Collector (Stamps) and one circle of Jaipur is headed by the Additional Collector (AC) (Stamps). There are 32 district registrars (DRs), 67 sub-registrars (SRs) and 289 ex-officio SRs².

4.2.3 Audit scope and methodology

The review was conducted in the IG office, 6³ out of 13 circle offices, 11⁴ out of 32 DRs and 34⁵ out of 67 SRs with major public offices for the period 2002-03 to 2005-06 during May 2006 to March 2007. Selection of the units was based on the revenue collection and geographical coverage.

4.2.4 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Finance Department and IG in providing necessary information and records for audit. The draft review report was forwarded to the Government and department in May 2007 and was discussed in the Audit Review Committee meeting held in July 2007. The Government was represented by the Secretary Finance (Revenue) and the department was represented by the IG (Registration and Stamps) and the FA. The view point of the Government/department has been incorporated in the review.

¹ State Government notified all the Central and State Government offices, company corporation offices and local bodies offices etc. as public offices vide notification dated 16.12.1997.

² Tehsildars and Naib Tehsildars have been declared as ex-officio SRs.

³ Jaipur-I, Jaipur-II, Kota, Jodhpur, Pali and Udaipur.

⁴ Ajmer, Alwar, Banswara, Bharatpur, Bikaner, Churu, Chittorgarh, Jodhpur, Kota, Sriganganagar and Udaipur.

⁵ Ajmer-I, Ajmer-II, Alwar, Amer, Bharatpur, Bhiwadi, Bikaner, Banswara, , Bhilwara, Chittorgarh, Churu, Hanumangarh, Jhunjhunu, Jaipur-I, Jaipur-II, Jaipur-III, Jaipur-IV, Jaipur-V, Jaipur-VIII, Jodhpur-I, Jodhpur-II, Jodhpur-III, Jaisalmer, Kota-I, Kota-II, Pali, Rajsamand, Sriganganagar, Srimadhapur, Sanganer-I, Sanganer-II, Sumerpur, Udaipur-I and Udaipur-II.

4.2.5 Audit objectives

The review was conducted with a view to ascertain:

- whether declared public offices discharge their functions in regard to levy of stamp duty in accordance with the prescribed rules and procedures;
- the extent of compliance with the prescribed rules and procedures; and
- whether a suitable internal control mechanism existed for proper assessment and realisation of stamp duty and registration fee.

4.2.6 Trend of revenue receipts

The table below brings out a comparison of the budget estimates with the actual receipts of stamp duty and registration fee during the years 2002-03 to 2005-06:

(Rupees in crore)

Year	Budget estimate	Actual	Percentage increase of revenue over last year	Percentage increase/decrease in variation over budget estimate
2002-03	585	515.73	-	(-) 12
2003-04	675	611.77	19	(-) 9
2004-05	790	817.83	34	(+) 4
2005-06	1,000	1,031.79	26	(+) 3

There was a steep rise in revenue collection during the last three years.

4.2.7 Arrears of revenue

As per information supplied by the department, Rs. 76.80 crore was pending for recovery as on 31 March 2006. Year wise break-up of the pending amount is as mentioned below:

(Rupees in crore)

Year	Amount
Upto 2002-03	11.67
2003-04	20.89
2004-05	13.21
2005-06	31.03
Total	76.80

After this was pointed out, the department intimated (July 2007) that it had recovered Rs. 4.59 crore while Rs. 8.53 crore had been waived by the courts. The total outstanding remaining was Rs. 63.68 crore of which recovery of Rs. 38.41 crore had been stayed by the courts. The department further stated that a special campaign had been launched vide their order dated 13 June 2007 in which all the circle officers have been instructed to expedite the recovery of the outstanding amount.

Audit findings

System deficiencies

4.2.8 Failure to check the records of public offices

The Government had declared (December 1997) all offices, in which documents are presented, as public offices. These offices were required to bring unstamped documents to the notice of the Collectors (Stamp). **No return was required to be furnished by these offices to the department on the number of documents presented and found deficient. In the absence of this return, no information was available in the Registration and Stamps Department regarding the number of documents on which stamp duty was payable as well as the details of the stamp duty paid.** The IG vide his letter dated 9 January 1998 authorised the DIG (Registration) to inspect the records of public offices to see whether stamp duty was being paid correctly. **Audit noticed that the department has not fixed any norm or target for the inspection of public offices. No return was prescribed by the IG to monitor the inspections conducted by the DIG.** Inspections of public offices were not conducted during 2002-03 to 2004-05. In 2005-06, only 89 public offices were inspected. **Failure to conduct inspections resulted in a number of irregularities not being highlighted.** A few cases are mentioned in the following paragraphs.

4.2.8.1 Non-registration of agreements of wind power projects

Article 21(ii) of schedule to the RS Act, provides that stamp duty at the rate of 0.5 per cent on the market value of the property is chargeable on conveyance related to movable property.

Scrutiny of the records of the Rajasthan Renewable Energy Corporation (RREC) revealed that three⁶ developer companies entered into 230 agreements between September 2002 to March 2006 with the owners of wind power projects for supply of wind power energy generator equipment with their erection and maintenance thereafter for 20 years. The value of these 230 projects was Rs. 1,664.32 crore⁷. **Though all the companies and corporations had been declared as public offices vide Government notification dated 16 December 1997, yet these failed to discharge their duty in ensuring that the documents presented to them were adequately stamped. They also failed to bring this to the notice of the Collector (Stamp). Audit noticed that no inspection of the records of RREC was conducted.** The agreements were executed by all wind mill owners with the developers but were not registered. Failure of the department to get the deeds registered resulted in non-realisation of stamp duty of Rs. 8.32 crore.

After the cases were pointed out, the department accepted (July 2007) the observations.

⁶ Suzlon, Enercon and NEPC.

⁷ On the basis of the details provided by the Rajasthan Renewable Energy Corporation (RREC).

4.2.8.2 Non-receipt of stamp duty on conveyance of movable property

Scrutiny of the accounts of 11⁸ companies/corporations revealed that plant and machinery valued as Rs. 7,886.40 crore was purchased by these companies during the years 2002-03 to 2005-06 on which stamp duty of Rs. 39.43 crore was chargeable but was not deposited by them. **Though all the companies and corporations had been declared as public offices, yet these failed to discharge their duty in ensuring that the documents presented to them are adequately stamped. They also failed to bring this to the notice of the Collector (Stamp). The inspection of these companies was also not conducted by the DIGs. Failure to conduct inspections resulted in the department being ignorant about the sales that were exigible to stamp duty.**

After the cases were pointed out, the department stated (July 2007) that the amount was mainly recoverable from the State/Central Government enterprises. The State Government had been requested to recover the amounts from such enterprises.

4.2.8.3 Non-deposit of stamp duty by loanees

Article 5(bbb) of schedule to the RS Act provides that an agreement or memorandum of agreement relating to repayment of loan or debt are chargeable to stamp duty at the rate of 0.1 *per cent* of the said amount of loan or debt.

Test check of the annual accounts of seven⁹ companies/corporations revealed that the companies/corporations had received loans aggregating Rs. 9,650.22 crore from banks/financial institutions/State Government during the year 2002-03 to 2005-06 but stamp duty of Rs. 9.65 crore was not paid by the loanee institutions. The inspection of these companies/financial institutions was not conducted by the DIG. **Failure of these companies/corporations to discharge their duty as a public office coupled with lack of inspections resulted in these irregularities not being highlighted.**

After the cases were pointed out, the department stated that the amount was recoverable from the State Government enterprises. A request had been made to the State Government to recover the amount from such enterprises.

4.2.8.4 Short levy of stamp duty on bank guarantees

Article 50 of the schedule of the RS Act provides that stamp duty at the rate 0.1 *per cent* upto 26.5.2004 and 0.5 *per cent* thereafter will be charged on

⁸ Rajasthan State Road Transport Corporation, Bharat Sanchar Nigam Ltd., Hindustan Zinc Ltd., Rajasthan State Mines and Mineral Ltd., Hindustan Copper Ltd., Shree Cement Beawar, Ajmer Vidyut Vitran Nigam Ltd., Jodhpur Discom, Rajasthan Vidyut Utpadan Nigam Ltd., Jaipur Discom and Rajasthan Vidyut Prasaran Nigam Ltd.

⁹ Rajasthan State Road Transport Corporation, Rajasthan Vidyut Utpadan Nigam Ltd., Jaipur Vidyut Vitran Nigam Ltd., Rajasthan State Mines and Mineral Ltd., Rajasthan Vidyut Prasaran Nigam Ltd., Ajmer Vidyut Vitran Nigam Ltd. and Jodhpur Vidyut Vitran Nigam Ltd.

security bonds executed by way of security to secure the due performance of a contract or discharge of a liability.

Information collected by audit from 14 district excise offices¹⁰ (DEOs) revealed that bank guarantees of Rs. 102.40 crore involving 89 cases were executed between January 2002 and March 2006. The executants were required to pay stamp duty and registration fee of Rs. 24.98 lakh. However stamp duty of Rs. 1.80 lakh only was paid. The inspection of these DEOs was not conducted by the DIG. **Failure of these DEOs to discharge their duty as a public office coupled with lack of inspections resulted in these irregularities not being highlighted.** Failure of the department resulted in short-levy of stamp duty and registration fee Rs. 23.18 lakh.

The matter was reported to the IG (January 2007) who directed the Excise Department to deposit short levy of stamp duty.

4.2.8.5 Non-registration of sale/lease deeds

Section 17 of the IR Act provides that other non-testamentary instruments which create any right, title or interest whether vested or contingent, of the value of Rs. 100 and above in immovable property, are required to be compulsorily registered.

Test check of the records of Collector's Kota and Rajsamand, Nagar Nigam Jaipur, Nagar Parishad Alwar and Rajasthan Vidyut Prasaran Nigam Ltd., (RVPNL) revealed that in 68 cases, instruments of land valued as Rs. 30.23 crore transferred in favour of other persons/institutions were required to be registered and stamp duty of Rs. 1.31 crore was chargeable. However, the instruments of transfer were not registered, which resulted in non-realisation of stamp duty of Rs. 1.31 crore and registration fee of Rs. 5.91 lakh. The inspection of these public offices was not conducted by the DIG. **Lack of inspections resulted in these irregularities not being highlighted.**

After the cases were pointed out, the department stated that the concerned DIGs had issued notices to the units concerned and the Government had also been requested to take up the matter with the enterprises for payment of stamp duty.

4.2.8.6 Short levy of stamp duty on customs bonds

Under Article 25 of the RS Act, stamp duty on customs bond is chargeable at one *per cent* of the amount as stated in the bond, subject to a minimum of Rs. 100 from 27 May 2004. Prior to this, stamp duty was chargeable at 0.25 *per cent* under the IS Act.

Information collected from seven¹¹ Central excise divisions and two¹² Customs divisions revealed that 355 bonds involving Rs. 491.12 crore during

¹⁰ Ajmer, Alwar, Banswara, Bharatpur, Bhilwara, Bundi, Nagaur, Sriganganagar, Pali, Sirohi, Hanumangarh, Jalore, Jhalawar and Sawaimadhopur.

¹¹ Alwar, Kota, Ajmer, Jaipur-I, Udaipur, Jodhpur and Bhiwadi.

¹² Rajsico Sanganer (Jaipur) and Sikar.

27 May 2004 to 31 March 2006 were accepted by these divisions. As against stamp duty of Rs. 4.91 crore chargeable thereon, the bonds were accepted on levy of stamp duty of Rs. 2.32 lakh. This resulted in short levy of Rs. 4.89 crore. The inspection of these divisions was not conducted by the DIG. **Failure of these divisions to discharge their duty as a public office coupled with lack of inspections resulted in these irregularities not being highlighted.**

After the cases were pointed out, the Government accepted (July 2007) the audit observation.

4.2.8.7 Non-payment of stamp duty on bonds

The schedule to RS Act, provides that stamp duty on bonds is chargeable at five *per cent* of the amount or value secured.

Scrutiny of the annual accounts of the Rajasthan State Road Development Corporation (RSRDC) for the year 2003-04 revealed that the company collected Rs. 56.88 crore by issue of redeemable¹³ bonds at 11.65 *per cent* interest. RSRDC did not deposit Rs. 2.84 crore towards stamp duty at the rate of five *per cent* of the collection. The inspection of this corporation was not conducted by the DIG. **Lack of inspection resulted in the irregularity not being highlighted.**

After the case was pointed out, the Government while accepting the audit observation stated (July 2007) that presently it did not have any intelligence mechanism to find/detect such cases. The IG stated (July 2007) that the case had been registered in ADM (Stamp) court, Jaipur for adjudication.

4.2.8.8 Loss of revenue due to acceptance of under stamped instruments by Urban Improvement Trusts (UIT)

Section 39 of RS Act provides that no instrument chargeable with duty under the Act shall be admitted in evidence for any purpose unless such instrument is duly stamped. Section 17(b) of the IR Act provides that non-testamentary instrument 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 Rs. 100 and upwards, to or in immovable property shall be compulsorily registered.

Scrutiny of the records of UIT, Sriganaganagar and Bikaner revealed that 928 agreements were executed conveying the transfer of immovable property viz. plots of land valued as Rs. 12.31 crore between April 2002 and March 2006. The agreements were to be treated as conveyance deeds and stamp duty of Rs. 1.23 crore was chargeable. However, the executants paid Rs. 93,000 at the rate of Rs. 100 for each agreement. UITs, which are public offices and where these agreements were executed, failed to detect the mistake. This resulted in short levy of Rs. 1.22 crore. The inspection of these UITs was not conducted by the DIG. **Failure of these UITs to discharge their duty as a public office**

¹³ The bonds which are not convertible .

coupled with lack of inspections resulted in these irregularities not being highlighted.

After the cases were pointed out, the IG intimated (July 2007) that 888 cases have been registered for adjudication in the concerned Collectors (Stamp) court.

4.2.8.9 Non-receipt of stamp duty on toll contracts

Under the provisions of section 2(c) of RS Act, 1998 any instruments by which tolls are let, are to be treated as lease. The rate of duty on lease was 11 *per cent* of the average rent of two years upto 5 March 2003 and thereafter it was two *per cent* of the average annual consideration.

Scrutiny of the information collected from five¹⁴ PWD divisions regarding six toll contracts executed between 2002 and 2006 revealed that the divisions had allotted toll *nakas* (posts) to contractors for collection of toll tax. The executants were liable to pay stamp duty of Rs. 41.25 lakh. But the agreements were not registered resulting in non-levy of stamp duty of Rs. 41.25 lakh. The inspection of these divisions was not conducted by the DIG. **Failure of these divisions to discharge their duty as a public office coupled with lack of inspections resulted in these irregularities not being highlighted.**

After the cases were pointed out, the department stated (July 2007) that a notice had been issued to the Chief Engineer, PWD for depositing the amount.

The Government may consider prescribing a return by the public offices to the department on the number of documents presented and found deficient. The offices may also be made accountable for cases of short payment of stamp duty not being highlighted. In addition, norms may be laid down for the inspection of public offices by DIG.

4.2.9 Weak internal controls

4.2.9.1 Inspection of Sub-Registrar Offices

Inspection is an important internal control in the hands of administration for ascertaining that rules and procedures prescribed by the department are being followed and are sufficient to safeguard proper collection of revenue. In the Registration Department, the IG is required to conduct annual inspection of the circle offices. The AIG is to conduct annual inspection of treasuries selling stamps. The circle officers (DIGs) are to conduct inspection of SR offices once in a year where less than 500 instruments are registered and twice in a year where 500 or more instruments are registered in the previous year. In addition, inspection of public offices is also required to be conducted by the DIGs. The FA is required to conduct inspection of all the SR and DIG offices.

¹⁴ N.H. Jaipur, Dholpur, Bharatpur-II, Banswara-II and Sagwara.

The minimum number of inspections required to be conducted was 356¹⁵ units. Audit observed that there was a shortfall of 313 units as mentioned below:

Year	Units to be inspected	Inspection conducted	Shortfall
2003-04	356	247	109
2004-05	356	260	96
2005-06	356	248	108

Thus, the short fall in inspections ranged between 27 and 31 *per cent* during the period from 2003-04 to 2005-06. Even in cases where inspections had been conducted, the department failed to detect the mistakes pointed out by audit.

4.2.9.2 Non-filing of revision petition

Section 65 of the RS Act provides for filing of revision petition against the decision of the Collector (Stamps) within 90 days, in cases where the decision given by him is against the interest of the Government revenue and if there are sufficient reasons and grounds to believe that the said decision is not supported by the facts on records. **No return to watch the disposal of revision cases has been prescribed by the department.**

Scrutiny of the records of DIG cum Collector (Stamps) circle Jaipur-II, Jodhpur and Pali revealed that IG awarded sanction in 14 cases of 10 SRs for filing revision petition against decisions of the Collector (Stamp) between July 2003 and November 2004. It was noticed that 10¹⁶ SRs did not file revision petition within the prescribed time frame. Consequently, stamp duty and registration fee in these cases could not be ascertained. In the absence of the return, the IG remained ignorant of the facts and the cases remained indisposed.

After these cases were pointed out, the department stated in July 2007 that revision petition had been filed in seven cases and in the remaining cases the department had called for explanation of the concerned SRs.

It is recommended that a return to watch the disposal of revision cases be prescribed by the department.

4.2.9.3 Cases pending adjudication

Under the RS Rules, 1955 and RS Rules, 2004, instruments relating to undervalued properties or those that are understamped are referred by the registering authorities to the Collector (Stamps) for adjudication. Thereafter, the Collector (Stamps), after issue of notices to the concerned person, is required to conduct summary enquiry within a period of three months from the date of registration of the case.

¹⁵ 67- SRs and 289- ex-officio SRs.

¹⁶ Jaitaran, Sojat City, Luni, Kotputli, Jamwa Ramgarh, Dataramgarh, Bassi, Phagi, Dausa and Sikrai.

The adjudication cases are entered in *Dayra Register* (Reference register). After their finalisation, the cases are removed from the register and demand if any is watched through the demand and collection register. **Neither has any time limit been prescribed for disposal of the cases under adjudication nor has any return been prescribed for sending the information to the higher authorities.**

Test check of the *Dayra Register* of six¹⁷ circle offices revealed that 3,145 cases involving Rs. 25.30 crore pertaining to the period from 2002-03 to 2005-06 were pending adjudication¹⁸. Year wise break up is mentioned below:

(Rupees in lakh)

Sl. No.	Circle office	2002-03		2003-04		2004-05		2005-06		Total	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Bharatpur	37	17.70	36	61.94	90	55.18	271	78.53	434	213.35
2.	Jaipur-II	351	66.72	68	40.99	241	101.15	331	467.71	991	676.57
3.	Bhilwara	131	138.10	9	10.60	30	40.20	378	133.60	548	322.50
4.	Pali	7	274.54	18	22.35	41	80.13	163	324.91	229	701.93
5.	Alwar	107	40.17	161	59.42	75	92.04	312	169.24	655	360.87
6.	Kota	21	20.67	10	68.03	50	46.66	207	119.57	288	254.93
Total		654	557.90	302	263.33	527	415.36	1,662	1,293.56	3,145	2,530.15

After these cases were pointed out, the department stated in July 2007 that 3,084 cases involving Rs. 18.06 crore have been decided by the Collectors (Stamp). Only 61 cases involving Rs. 7.24 crore were pending for decision. However, a report on recovery of revenue has not been received. Delay in deciding the cases resulted in delay in realisation of the revenue and in certain cases the possibility of recovering the dues has become remote. The department should take effective steps to review all such cases to safeguard revenue.

The Government may ensure that the department reviews the registers and ensures prompt disposal of all pending cases. The monitoring at the apex level may be done by prescribing periodical returns. A time limit for finalisation of these cases may also be prescribed.

4.2.10 Internal audit

Internal audit is conducted by the Finance Department. However, the information regarding the extent of audit, issues raised and compliance was not made available to audit. As such audit is unable to comment on the adequacy and efficacy of internal audit.

¹⁷ Bharatpur, Jaipur-II, Bhilwara, Pali, Alwar and Kota.

¹⁸ Adjudication: Determination of proper stamp duty.

Compliance deficiencies

4.2.11 Short levy of stamp duty and registration fee due to undervaluation of properties

As per Rajasthan Stamp (RS) Act, 1998, stamp duty is chargeable on market value of the property. RS Rules 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 are higher.

4.2.11.1 Test check of the records of 13¹⁹ SRs revealed that 38 documents of immovable properties, undervalued by Rs. 45.40 crore, were not referred to the Collector (Stamps) for valuation between May 2006 and March 2007. The omission resulted in short levy of stamp duty and registration fee of Rs. 4.61 crore.

After the cases were pointed out the department accepted in May 2007 and July 2007 all audit observations except one in case of S.R. Khanpur and stated that 34 cases involving Rs. 4.50 crore have been referred for adjudication.

In case of Khanpur, the department stated in April 2007 that the market value of the land was calculated at agricultural rates with reference to the circular No. 2/2004. The reply is not tenable as the land was purchased for commercial purpose by Bharat Petroleum Corporation Limited for establishment of a service station, which was known to the department prior to registration.

4.2.11.2 Scrutiny of the records of SR Jaipur-II & IV revealed that the SRs applied (August 2004 to November 2005) lower rates instead of the rates approved by the DLC for the area in respect of 219 documents pertaining to four multi storey buildings. This resulted in short levy of stamp duty and registration fee of Rs. 1.28 crore.

After the cases were pointed out, the department stated that 103 out of 219 cases have been registered in the court of Collector (Stamp) for adjudication. Further action taken in respect of the remaining cases has not been intimated (September 2007).

4.2.12 Non-registration of developer agreements

Under the provisions of Article 5(bbbb) of the schedule to the RS Act, agreements or memorandum of agreements, if relating to giving authority or power to a promoter or a developer, by whatever name it may be called, for construction or development of any immovable property are chargeable to stamp duty at the rate of one *per cent* of the market value of the property and registration fee at the prescribed rates.

¹⁹ Alwar, Banswara, Jaipur-II, Jaipur-IV, Jodhpur-III, Jaisalmer, Rajsamand, Sayla, Sumerpur, Sanganer-I, Udaipur-I, Khanpur and Kuchaman city.

4.2.12.1 Test check of the records of four SRs²⁰ revealed that 20 instruments were executed between vendor A and vendee B for purchase of readymade flats between January 2005 and September 2005. The recitals of the deeds revealed that multi storey flats were constructed by a developer and sale proceed of these were to be shared by the developer and the owner of the land. However, neither was any separate agreement registered nor was duty levied by the SRs on this distinct item. This resulted in non-realisation of revenue of Rs. 72.62 lakh.

After the cases were pointed out, the department stated in July 2007 that instructions had been issued in May 2007 to the concerned DIGs to recover the amount. It was further stated that all DIGs had been instructed in June 2007 to launch a special campaign for recovery through attachment and auction.

4.2.12.2 Non-registration of build, operate and transfer (BOT) agreements resulted in loss of revenue

Information collected from the Chief Engineer (Roads), Public Works Department (PWD) Rajasthan, Jaipur revealed that the Government of Rajasthan entered into agreements during 2002-03 to 2005-06 authorising concessionaires to investigate, study, design, engineer, procure, finance, construct, operate and maintain, the project facility for development of 12 roads/bridges. The project cost of 12 works worked out to Rs. 267.08 crore. It was however noticed that the instruments were not registered under the IR Act by the concerned SRs. All these instruments were developer agreements and stamp duty of Rs. 2.67 crore was chargeable. However, the SRs failed to collect stamp duty resulting in non-realisation of revenue to the extent of Rs. 2.67 crore.

After the cases were pointed out, the department stated in July 2007 that ADM (Stamp) Jaipur issued notice to the Chief Engineer, PWD for depositing the amount.

4.2.13 Short realisation of stamp duty on fisheries leases

The Supreme Court in its decision (1995) 6-SCC 520 declared that fishing from a tank is a profitable profession, which comes in the class of immovable property. Article 33 of the schedule of the RS Act provides that if the value of the lease for fishing is more than Rs. 100 and is granted annually, it would attract stamp duty at the prescribed rates.

Information collected from the Director, Fisheries Department revealed that the department awarded 575 leases of fishing costing Rs. 22.29 crore (each exceeding Rs. 100) during 2002-03 to 2005-06. At the prescribed rates, stamp duty of Rs. 2.28 crore was to be levied as against Rs. 58,000, which resulted in short realisation of Rs. 2.27 crore.

²⁰ Jaipur-I & II, Jodhpur-II and Kota-II.

After the cases were pointed out, the department stated (July 2007) that as per notification dated 15 February 1955, fisheries leases were exempted from stamp duty. The case for issuing notification in the light of Supreme Courts' decision had been forwarded to the State Government in April 2006. Audit observed that no notification had been issued for safeguarding revenue interest even after lapse of more than a year (September 2007).

4.2.14 Conclusion

Stamp duty and registration fee is an important tax revenue of the State. Evasion of stamp duty and registration fee is commonly affected through undervaluation of properties, non-presentation of documents in the office of the registering authority and short payment of stamp duty by the executants on documents submitted. Though the department tried to counter this by declaring all the offices as public offices, yet it failed to achieve the desired effect due to lack of a prescribed return by the public offices coupled with lack of inspection by the department. The system failure led to wide spread leakage of revenue which remained undetected. The internal controls of the department are very weak as is evidenced by the shortfall in the number of inspections required to be conducted. Neither has any time limit been prescribed for disposal of the cases under adjudication nor has any return been prescribed for sending the information to the higher authorities. This resulted in very large pendency of cases involving substantial revenue.

4.2.15 Summary of recommendations

The Government may consider taking the following action for rectifying the system and other issues:

- prescribing a return by the public offices to the department on the number of documents presented and found deficient. The offices may also be made accountable for cases of short payment of stamp duty not being highlighted. In addition, norms may be laid down for the inspection of public offices by the DIG,
- prescribing a return to watch the disposal of revision cases by the department; and
- ensuring that the department reviews the registers and ensures prompt disposal of all pending adjudication cases. The monitoring at the apex level may be done by prescribing periodical returns. A time limit for finalisation of these cases may also be prescribed.

4.3 Information Technology system in Registration and Stamps Department

Highlights

The department did not have an IT policy and disaster recovery and business continuity plan.

(Paragraph 4.3.5)

Non-mapping of business rules resulted in incorrect application of depreciation rate on construction and short levy of stamp duty, allowing of rebate of stamp duty on the instruments of purchase of agriculture land admissible to individual women, and other deficiencies which resulted in short levy of stamp duty.

(Paragraph 4.3.6)

Inadequate change management controls resulted in incorrect application of District Level Committee (DLC) rates and consequential under realisation of stamp duty.

(Paragraph 4.3.7)

4.3.1 Introduction

The revenue in the Registration and Stamps department (department) is derived mainly in the form of stamp duty and registration fee chargeable on specified documents and is regulated under the Indian Stamp Act, 1899, Registration Act, 1908, Rajasthan Stamp Law (Adaptation) Act, 1952, Rajasthan Stamp Act, 1998 and rules made thereunder. In January 2003, the department introduced computerisation to improve efficiency and effectiveness in their work. The application software was designed using EXCEL as the database and VISUAL BASIC at the front end developed at a cost of Rs. 2.49 crore (including hardware) by the Department of Information Technology, Government of Rajasthan for implementation all over the State. At present, this software is functioning in 56 sub-registrar offices of 12 circles on stand-alone computers. In Jaipur circle, the above application software was re-engineered during 2006 using Oracle RDBMS platform as the back end.

The computerisation activity is being looked after by the Department of Information Technology, Government of Rajasthan. The department does not have any designated official to look after its computerised activities.

It was decided to conduct an IT audit of Information Technology system in the Registration and Stamps Department. The review revealed a number of system deficiencies which are discussed in the succeeding paragraphs.

4.3.2 Scope of audit

The scope of audit included the evaluation of IT application controls and the effectiveness of this IT system in achieving organisational objectives. The data pertaining to April 2004 to January 2006 of 11²¹ sub-registrar offices and data pertaining to April 2004 to December 2006 of five sub-registrar offices²² were selected for analysis and checking of data completeness, regularity and consistency which was done between December 2006 and May 2007 using Computer Aided Audit Tools (CAATs).

4.3.3 Audit objectives

The audit objectives were to evaluate and assess whether:

- the department had an IT policy;
- the data captured in the system was complete and correct in all respect;
- the input, process and output controls available in the system were adequate;
- the department has incorporated relevant business rules in the application software;
- the internal control framework and the monitoring mechanism were adequate; and
- suitable built in security controls and business continuity plan were in place.

4.3.4 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Registration and Stamps Department in providing necessary information and records for audit. The audit findings as a result of test check of the system and the records were reported to the Government in July 2007; their replies have not been received (September 2007).

Audit findings

System deficiencies

Stamp duty and registration fee are important sources of revenue for the Government. Audit observed that the relevant business rules had not been fully and properly mapped into the application along with lack of input controls which resulted in incomplete and incorrect data and also had an impact on the revenue collection. It was also observed that the security control features were inadequate and weak.

²¹ Sub-registrar Jaipur I to VIII, Amer, Sanganer I and Sanganer II.

²² Sub-registrar Jodhpur I, II & III, Sub-registrar Udaipur I & II.

These deficiencies are mentioned in the following paragraphs.

4.3.5 General controls

4.3.5.1 Lack of IT policy

The department was using IT application since 2003 but is yet to formulate and document an IT policy and a long/medium term IT strategy. **The department also has not formulated any planning/steering committee for monitoring the implementation of IT applications in a systematic manner with clear roles and responsibilities.**

4.3.5.2 Lack of adequate ‘disaster recovery and business continuity plan’

The department has not documented any disaster recovery and business continuity plan. The emergency hot sites, correct/current versions of system software, etc. were neither identified nor documented. It was also observed that backups were not taken at periodical intervals and even the backups that were taken were not kept separately at a safe place.

4.3.5.3 Inadequate audit trails

On analysis of the database, 11 gaps²³ in respect of fee receipt numbers in five offices²⁴, 106 gaps in respect of document serial numbers in four offices²⁵ and 139 gaps in respect of document registration numbers in four offices²⁶ were noticed. **There was no internal control mechanism to detect any attempts of deletion which enhanced the risk of frauds by unauthorised deletion.**

Moreover, audit trails viz. ‘updated by’, ‘updated on’, updated from’, ‘deleted by’ and ‘authorised by’ to track the history of transactions had not been incorporated.

After the case was pointed out, the department replied in May 2007 that reasons behind deletion were not known.

The Government may consider designing and incorporating audit trails to track the transactions and monitor exceptional changes made to the data.

4.3.6 Application controls

4.3.6.1 Input controls

Input controls ensure that the data received for processing is genuine, complete, properly authorised, is entered accurately without duplication and is not previously processed. Input controls also serve as an effective measure to detect or prevent error or fraud in a computerised system.

²³ Data deleted/not recorded (missing).

²⁴ Sub-registrar Jaipur I, Amer, Jodhpur I & III and Udaipur II.

²⁵ Sub-registrar Jaipur VII, Jodhpur I & III, Udaipur I.

²⁶ Sub-registrar Amer, Jodhpur I & III, Udaipur I.

It was noticed that important fields such as claimants' name, age, sex, etc. were not made mandatory, resulting in incomplete database. For e.g. in SRO, Amer, the claimants' names were not entered in 49 transactions rendering it difficult to trace the claimant when required.

4.3.6.2 Mapping of business rules

All the relevant business rules and procedures are required to be identified and suitably incorporated in the application. Data analysis revealed that non-mapping of business rules resulted in revenue loss which are mentioned below:

- **Irregular exemption in stamp duty under the Investment Promotion Scheme, 2003**

As per the State Government notification²⁷ (28 July 2003), stamp duty chargeable on instruments of purchase/lease of land for the purpose of setting up an industrial unit could be reduced to the extent of 50 *per cent*, if the prescribed authority under the provisions of the Rajasthan Investment Promotion Scheme, 2003, approved it. **There was no provision for allowing rebate on final face value.**

Audit observed in eight sub-registrar offices²⁸ that prescribed criteria for allowing exemption on value of bare land was not incorporated in the application, though it was available in documents/database which resulted in 50 *per cent* exemption on the final face value²⁹ of the property instead of the bare land and consequent short levy of stamp duty of Rs. 40.17 lakh in 141 transactions.

- **Non-levy of copying, scanning and inspections (CSI) fee**

The State Government vide a notification dated 5 December 2002 incorporated CSI fees in the article (vii) of the Indian Registration Act, 1908 for copying the endorsement, copying/scanning the document furnished for registration either by computer or manual and site inspection for verification of facts of documents. The fee structure prescribed fees on the basis of the market value of the property i.e. Rs. 100 where market value does not exceed Rs. 50,000 and Rs. 200 thereafter on the basis of possibility of valuation of the property and the market value.

Audit observed in nine sub-registrar offices³⁰ that due to non-incorporation of CSI fee rate in the application, CSI fee in 9,303 transactions with market value exceeding Rs. 50,000 each regarding mortgage deed for agriculture purposes was not charged which resulted in non-realisation of revenue of Rs. 18.61 lakh.

²⁷ Notification no. F4(18)FD/Tax div/2001-74, dated: July 28, 2003.

²⁸ Sub-registrar Jaipur I, III, IV, V, VII & VIII, Sanganer I and Sanganer II.

²⁹ Final face value includes value of land, construction area, boundary wall, tin shade and common space.

³⁰ Sub-registrar Jaipur III, Amer, Sanganer I, Sanganer II, Jodhpur I, II & III and Udaipur I & II.

- **Incorrect calculation of depreciation**

On scrutiny of the database in respect of 16 sub-registrar offices³¹, it was observed that the department adopted incorrect parameters of rounding off on higher side for calculation of depreciation resulting in undervaluation of constructed portion of the property.

Due to incorrect mapping of the depreciation formula in the application software, 17,199 documents executed between April, 2004 and December, 2006 were valued by department as Rs. 868.51 crore instead of Rs. 877.61 crore which resulted in short levy of stamp duty of Rs. 14.92 lakh and registration fee of Rs. 1.67 lakh.

- **Irregular exemption of stamp duty for purchase of agricultural lands by category other than women**

As per the Government notification dated 14 January 2004, stamp duty chargeable on the instruments for purchase of agricultural land in the name of women was reduced from 11 to 5.5 *per cent*. The above duty was further reduced to 5 *per cent* from 1.4.2006.

Audit observed in eight sub-registrar offices³² that the application did not have a provision which restricted/disallowed exemption to property document registered in the name of company or a male owner or jointly owned by a male and a female. Thus, the system allowed rebate on the instruments of purchase of agricultural land, which were transferred in the name of company/male/joint name of male and female, by treating them as individual women. This resulted in short levy of stamp duty of Rs. 17.71 lakh in 45 transactions.

- **Allowance of agricultural rebate on residential property**

Audit observed in 10 sub-registrar offices³³ that the department valued properties as residential but allowed agricultural rebate on these residential properties despite the fact that the agriculture rebate was allowable only on agricultural land. This resulted in short levy of stamp duty of Rs. 1.04 crore in 195 transactions.

- **Incorrect application of stamp duty rate**

As per section 3 of the Rajasthan Stamps Act, stamp duty is chargeable at the prescribed rates at the time of execution of the document. The application software did not have a provision to apply stamp duty according to the execution date of the document.

³¹ Sub-registrar Jaipur I to VIII, Amer, Sanganer I & II, Jodhpur I to III and Udaipur I & II.

³² Sub-registrar Amer, Sanganer I, Sanganer II, Jodhpur I, II & III and Udaipur I & II.

³³ Sub-registrar Jaipur I, III, VI, Amer, Sanganer I and Sanganer II, Jodhpur I, II & III and Udaipur I.

Audit observed in nine sub-registrar offices³⁴ that due to above deficiency in the software, stamp duty was not recovered according to the execution date which resulted in short levy of stamp duty aggregating Rs. 6.64 lakh in 224 cases.

- **Short levy of registration fee**

Audit observed in four sub-registrar offices³⁵ that the system was not designed with inbuilt checks to disallow the document to be registered in case registration fee was short paid. Audit observed that documents were registered with short levy of registration fee aggregating Rs. 16,232 in 15 transactions.

The matter was brought to the notice of the department and reported to the Government in July 2007; their replies have not been received (September 2007).

The Government may consider incorporating necessary controls into the software to ensure collection of correct amount of stamps duty and registration fees.

4.3.7 Change management controls

Any information system requires a sound change management procedure covering control of the ongoing maintenance of system, standard methodology for recording and performing changes in the system, which need to be authorised at an appropriate level in the administration.

Audit scrutiny revealed that the department did not have a policy relating to change management controls, testing standards, quality assurance and documentation. It was seen that lack of a policy on the change control led to short levy of stamp duty and registration fee due to incorrect application of district level committee rate (DLC).

Audit observed in 10 sub-registrar offices³⁶ that the system did not archive the old DLC rates as soon as the revised/new DLC rates were entered in the database. It was observed that an option to apply either old or the new rates was made available to the users, due to which the value of the property was determined at old rates in 180 transactions. This resulted in short levy of stamp duty of Rs. 34.58 lakh and registration fee of Rs. 2.88 lakh.

4.3.8 Conclusion

The Stamp and Registration system developed with the objective of improving the efficiency and effectiveness of the system had deficiencies like poor input controls. Application of the business rules in the transactions for the registration of properties was not ensured. Such deficiencies led to irregular and incorrect levy of stamp duty. The department also did not devise any monitoring mechanism to ensure the correctness and completeness of the data

³⁴ Sub-registrar Jaipur III, IV, V, Amer, Sanganer I, Jodhpur I & II and Udaipur I & II.

³⁵ Sub-registrar Jaipur V, Jodhpur I & II and Udaipur I.

³⁶ Sub-registrar Jaipur III, IV, V, VI, VII & VIII, Amer, Jodhpur I, III and Udaipur I.

input in the system. The department did not ensure adequate security of the system where lack of audit trail led to gaps in the database. The system was also not appropriately backed up nor was there a plan in place to be implemented to ensure continuity in the operation of the system. Thus, implementation of the system did not achieve the intended effectiveness and efficiency. It also did not ensure correct realisation of revenue.

4.3.9 Summary of recommendations

The Government may consider taking the following action for rectifying the system and other issues:

- Designing and incorporating in the system audit trails to track the transactions, in order to monitor exceptional changes made to the data; and
- Programming necessary controls into the software to ensure collection of correct amount of stamp duty.

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

As per clarification issued in July 2004 by the State Government, under the Rajasthan Stamp Act, 1998, private educational institutions are to be considered as commercial institutions. The Act, further provides that, where the lease purports to be for a term in excess of 20 years, the stamp duty is chargeable as on a conveyance on the market value of the property.

In three sub-registrar offices, test checked between May 2006 and November 2006 it was noticed that, in case of lease deeds pertaining to a period for more than 20 years registered between February 2005 and June 2005, the stamp duty was not recovered as on conveyance on the market value of property. This resulted in short levy of stamp duty and registration fee aggregating to Rs. 1.18 crore as mentioned in the following paragraphs:

4.4.1 A lease deed was executed for 50 years by Birla Educational Institute, Jodhpur for establishment of an educational institution. This being a commercial activity, the property was to be valued as Rs. 6.27 crore i.e. at the rates applicable to commercial purposes. But the executant's deed was valued as Rs. 10.50 lakh i.e. at rates applicable to agriculture purpose. SRO Pali failed to detect the mistake and levied stamp duty and registration fee of Rs. 94,500 against Rs. 50.43 lakh resulting in short realisation of Rs. 49.49 lakh.

4.4.2 A lease deed was executed for 30 years by R.L. Yadav Educational Society, Kotputli (Jaipur) for establishment of an educational institution. This being a commercial activity, the property was to be valued as Rs. 5.81 crore i.e. at the rates applicable to commercial purposes. But the deed was valued as Rs. 3.60 lakh i.e. at one *per cent* on lease rent of 30 years. SRO Kotputli (Jaipur) failed to detect the mistake and levied stamp duty and registration fee of Rs. 7,200 against Rs. 46.75 lakh resulting in short realisation of Rs. 46.68 lakh.

4.4.3 SRO Weir (Bharatpur) registered two lease deeds executed by Essar Oil Limited, Jamnagar, Gujrat, one for 19 years and 10 months and another for 19 years 11 months with the provision that these lease deeds shall stand renewed automatically and without any further act of parties, for a further similar period. Since the lease was for a continuous period of more than 20 years it was to be valued as Rs.2.68 crore for the purpose of stamp duty but the SRO treated the leases for less than 20 years and valued the land at Rs. 1 lakh i.e. average rent for two years. Consequently stamp duty and registration fee of Rs. 21.90 lakh was levied short.

The above irregularities were pointed out to the department between June 2006 and December 2006. The department stated in April/May 2007 that these cases have been registered with the Collector (Stamp) for adjudication. Further report on action taken has not been received.

The Government to whom the matter was reported in February and March 2007 confirmed the reply of the department in case of Pali and Kotputli (May 2007); reply has not been received in the remaining case (September 2007).

B. Land Revenue

4.5 Short recovery of cost of the Government land

As per a circular dated 2 March 1987 issued by the Department of Revenue, the cost of the Government land allotted to the Central Government departments and its agencies for the purpose of commercial use in urban area or its periphery was chargeable at commercial rate as approved by the concerned DLC.

In tehsil Vallabhnagar (Udaipur), it was noticed in September 2006 that Government land measuring 70 bigha (16,27,920 square feet) in urban area of Udaipur (Toos-Dangiyan) was allotted in January 2006 at a total cost of Rs. 65 lakh to the Airport Authority of India, Dabok (Udaipur) for construction of an aerodrome. The Airport Authority of India being a commercial organisation, the cost of land in urban areas or its periphery was chargeable at commercial rate. Accordingly, the cost of land at commercial rate of Rs. 140 per square feet as approved by the DLC worked out to Rs. 22.79 crore. Thus, undervaluation of the land resulted in short recovery of Rs. 22.14 crore.

After the case was pointed out in October 2006, the Revenue Board, Rajasthan, Ajmer intimated in April 2007 that demand of Rs. 22.79 crore had been raised in April 2007. A report on the recovery of the amount has not been received (September 2007).

The Government, to whom the matter was reported in March 2007, confirmed the reply of the department in June 2007.