

## CHAPTER-4: Stamp Duty and Registration Fee

### 4.1 Results of audit

Test-check of the records of the Department of Stamps and Registration conducted by audit during the year 2001-2002 revealed short recovery of stamp duty and registration fee amounting to Rs. 7.52 crore in 1663 cases which broadly fall under the following categories:

**(Rupees in crore)**

Sl. No.	Category	Number of cases	Amount
1.	Misclassification of documents	176	1.07
2.	Undervaluation of properties	1332	6.19
3.	Other irregularities	155	0.26
	<b>Total</b>	<b>1663</b>	<b>7.52</b>

During the year 2001-02, the department accepted under assessments amounting to Rs. 7.37 lakh pertaining to 159 cases of which 10 cases amounting to Rs.0.75 lakh were pointed out by audit during 2001-02 and the rest in earlier years. Further the department recovered Rs. 5.96 lakh in 125 cases during the year 2001-02, of which 10 cases amounting to Rs. 0.75 lakh related to the year 2001-02 and the rest to earlier years. A few illustrative cases involving Rs. 4.50 crore are given in the following paragraphs:

### 4.2 Loss of stamp duty and registration fee on the document of renewal and transfer of mining lease

(i) As per Government notification dated 24 November 1993 on document of renewal of mining lease deed and quarry licence, stamp duty shall be chargeable on double the annual dead rent or royalty, whichever is higher in addition to security amount. Further, the Inspector General, Registration and Stamps, Ajmer issued instructions (December 1999) that in cases of renewal of lease deeds where the period of lease including the original period of lease exceeds twenty years stamp duty shall be chargeable on the market value of the property, calculated either at the rate fixed for mining area by District Level Committee (DLC) or at the highest rate of agricultural land in nearby area.

In Sub-Registrar, Hurda (Bhilwara district), it was noticed (September 2001) that a mining lease deed was renewed for 20 years and registered on 30 September 2000 and was levied stamp duty Rs. 73,100 and registration fee of Rs. 7,310 based on two years dead rent. As the period of lease including the

original period exceeded 20 years the stamp duty and registration fee was chargeable on the market value. Accordingly stamp duty of Rs. 2.61 crore and registration fee of Rs. 25,000 was chargeable. This resulted in short levy of stamp duty of Rs. 2.60 crore and registration fee of Rs. 0.18 lakh.

On this being pointed out (October 2001) in audit, the department stated (May 2002) that the case had been registered at S. No. 74/2002 for adjudication. The department/ Government further stated (August 2002) that as per notification dated 10 May 2001 (effective from 1 April 2000), on renewal of mining lease stamp duty is leviable on the two years dead rent, security amount and other miscellaneous expenses instead of market value. The reply of the department is not acceptable as the deed was registered on 30 September 2000, and therefore, stamp duty should have been recovered according to rules prevailing on the date of registration of deed. The department failed to recover the appropriate duty which resulted in loss of revenue of Rs. 2.60 crore. The department has been apprised (August 2002) of the facts accordingly.

(ii) Under the Rajasthan Stamp Law (Adaptation) Act, 1952, on transfer of lease by way of assignment of lease the stamp duty as on conveyance (Article 23) for a consideration equal to the market value of the property transferred shall be chargeable. Further, the Inspector General, Registration and Stamps, Rajasthan Ajmer issued instructions (October 1999) that on transfer of mining lease, the market value was to be determined on the price fixed for mining area by the DLC. If price for mining areas is not fixed by the DLC then market value was to be determined at the highest rate of agricultural land of nearby area of the mines.

In Sub-Registrar, Sikrai (Dausa district), it was noticed (April 2001) that 65.25 hectare (257.95 bigha) land of mining area was transferred through a deed registered in June 2000 on charge of Rs. 100 and Rs. 130 as stamp duty and registration fee respectively, based on the value of the agricultural land in nearby area instead of the rates fixed by DLC in respect of that area. The stamp duty of Rs. 13.16 lakh and registration fee of Rs. 25,000 was accordingly chargeable thereon. Thus non-adoption of prescribed rates resulted in short levy of stamp duty and registration fee by Rs. 13.40 lakh.

On this being pointed out (May 2001) in audit, the department stated (August 2002) that as per notification dated 10 May 2001 made applicable retrospectively with effect from 1 April 2000 on transfer of mining lease stamp duty and registration fee is leviable on double the dead rent, security amount, transfer fee, cost of development works and other miscellaneous expenses instead of market value. The reply of the department is not acceptable as the deed was registered in June 2000. Had the department charged Registration fee/Stamp duty on the higher rates as applicable on the date of registration in June 2000 it would have yielded more revenue of Rs.13.40 lakh. Department was apprised (August 2002) of the audit view in the matter.

Government to whom the matter was reported (March 2002), confirmed (August 2002) the reply of the department.

### **4.3 Short levy of stamp duty and registration fee on gift deed**

Non-Government educational institution come under the category of Commercial Organisation for education purposes and are liable to pay stamp duty accordingly.

(a) In Sub-Registrar, Laxmangarh (Sikar district), it was noticed (June 2001) that land measuring 52 bigha 13 biswa (159266 square yards) was donated (October 2000) by 7 persons to an educational society through a deed of Gift registered on 28 October 2000 without any consideration. At the time of registration of the document stamp duty of Rs. 1.89 lakh and registration fee of Rs. 0.19 lakh was levied. The value of land worked out to Rs. 11.47 crore on the basis of commercial rates fixed by the Government on which stamp duty of Rs. 1.15 crore and registration fee of Rs. 0.25 lakh was chargeable. This resulted in short levy of stamp duty of Rs. 1.13 crore and registration fee of Rs. 0.06 lakh.

This was pointed out to the department and to the Government in July 2001. Final reply has not been received (August 2002).

(b) In Sub-Registrar, Dantaramgarh, (Sikar district), it was noticed (July 2001) that through a deed of Gift land measuring 0.305 hectare (3654 square yards) was donated to Rajasthan Rajya Path Parivahan Nigam, Sikar without any consideration. At the time of registration of this document stamp duty Rs. 21,050 and registration fee Rs. 2,106 was charged on the value of land worked out on the basis of the residential rate fixed by DLC instead of commercial rates. Based on DLC commercial rates of Rs. 1500 per square yards the value of land worked out to Rs. 54.81 lakh on which stamp duty of Rs. 5.48 lakh and registration fee of Rs. 25,000 was chargeable. Incorrect computation of market value of land resulted in short levy of stamp duty of Rs. 5.27 lakh and registration fee of Rs. 0.23 lakh amounting to Rs. 5.50 lakh.

On this being pointed out (August 2001) the department stated (June 2002) that the case had been referred (March 2002) to the Collector (Stamps) for adjudication. Further progress has not been received (August 2002).

Government to whom the matter was reported (March 2002), confirmed (July 2002) the reply of the department.

### **4.4 Short levy of stamp duty and registration fee due to undervaluation of commercial land**

As per Article 23 of the Second Schedule of Rajasthan Stamp Law (Adaptation) Act, 1952, stamp duty shall be chargeable on conveyance deed at the rate of 10 per cent of market value of the property. Rule 59 B of the Rajasthan Stamp Rules, 1955, provides that market value of the property shall be determined on the basis of the rate recommended by DLC or the rates

approved by the Registration and Stamps department, whichever is higher. Further the Finance department, Government of Rajasthan, Jaipur issued notification (30 March 2000) that the remission in stamp duty shall be to the extent of 50 per cent on transfer deeds relating to land purchased in municipal areas and to the extent of 100 per cent on transfer deeds relating to land purchased in Panchayat areas in case of new institutions like Medical Colleges, Engineering College, Dental College and franchise units or reputed national/international educational institution.

In 4 Sub-Registrar offices it was noticed (between July 2001 and January 2002) that in 14 cases of conveyance of immovable property (commercial land) the value of property was determined at agricultural/ residential rates as Rs. 57.90 lakh instead of commercial as approved by DLC as Rs. 7.20 crore. This resulted in short recovery of stamp duty of Rs. 47.48 lakh and registration fees of Rs. 2.47 lakh as per details given below:

(Rupees in lakh)

S. No.	Name of Sub-Registrar office	Area of land and purpose and date of registration	Market value of property as per DLC rates	Consideration at which stamp duty paid	Amount chargeable		Amount charged		Short levied	
					Stamp duty	Registration fees	Stamp duty	Registration fees	Stamp duty	Registration fees
1.	Sangaria (Hanumangarh)	1,11,729 square feet commercial (Dental college) 15 February 2002	223.46 at the rate of Rs. 200 per square feet	6.16	22.35	0.25	0.62	0.06	21.73	0.19
2.	Sanganer (Jaipur)	37,200.02 square metres commercial (Engineering college) 29 April 2002 (4 documents) 12 May 2002 (7 documents)	410.20 (13,527.28 square metres at the rate of Rs. 400 per square metre (4 documents) + 23672.74 square metre at the rate of Rs. 1500 per square metre (7 documents) + cost of well Rs. 1,00,000)	35.89	20.51	2.29	1.79	0.36	18.72	1.93
3.	Bassi (Jaipur)	2609.06 square yards (Commercial) 17 June 2000	41.22 at the rate of Rs. 1580 per square yards	4.41	4.12	0.25	0.44	0.04	3.68	0.21
4.	Ramgarh (Alwar)	40,837.50 square feet (Commercial area) 15 April 2000	44.92 at the rate of Rs. 110 per square feet	11.44	4.49	0.25	1.14	0.11	3.35	0.14
<b>Total</b>			<b>719.80</b>	<b>57.90</b>	<b>51.47</b>	<b>3.04</b>	<b>3.99</b>	<b>0.57</b>	<b>47.48</b>	<b>2.47</b>

On this being pointed out (between August 2001 and March 2002) in audit, the department stated that the cases (Bassi and Ramgarh) had been referred/ were being referred to the Collector (Stamps) for adjudication. In case of Sanganer, the department/ Government stated that stamp duty is leviable on the

prevailing market value of the property on date of execution of deed. The reply is not acceptable as the determination of market value was to take into account purpose for which land was to be used. In this case the purpose was not agriculture and as such commercial rate should have been applied. The department/ Government has been apprised accordingly.

Government to whom the matter was reported (between March 2002 to May 2002) confirmed (between July and August 2002) the reply of the department.

#### **4.5 Short levy of stamp duty and registration fee due to undervaluation of residential land**

The Inspector General, Registration and Stamp issued instructions (October 1999) that in rural areas where the area of agricultural land purchased is less than 1000 square yards or where the buyers are more than one and the area of land shared by each buyer is less than 1000 square yards and land is situated near the abadi then such land be treated as meant for residential purpose and valued at the rate applicable for sale of residential land. If residential land rates are not determined for that area then three times of agricultural land rate be applied for determining the valuation of the land.

In Sub-Registrar, Dholpur, it was noticed (May 2001) that land measuring 92.34 biswa (4.617 bigha) was sold through 2 sale deeds which were registered on 11 January 2000, at a consideration of Rs. 10.53 lakh on which stamp duty of Rs. 1.05 lakh and registration fee of Rs. 0.11 lakh were charged. As land purchased was for residential purposes, based on residential rate of Rs. 18,19,125 per bigha (3 times of DLC agricultural rates) the value of land worked out to Rs. 83.98 lakh on which stamp duty of Rs. 8.40 lakh and registration fees of Rs. 0.50 lakh was chargeable. Wrong computation of market value of land resulted in short levy of stamp duty of Rs. 7.34 lakh and registration fees of Rs. 0.39 lakh, amounting to Rs. 7.73 lakh.

On this being pointed out (May 2001) in audit, the department stated (December 2001) that these cases had been referred to the Collector (Stamps) for adjudication.

Government to whom the matter was reported (March 2002), confirmed (July 2002) the reply of the department.