

CHAPTER-IV: Stamp Duty and Registration Fee

4.1 Results of audit

Test check of records of the Department of Stamps and Registration conducted by audit during the year 2002-03 revealed short recovery of stamp duty and registration fee amounting to Rs.181.57 crore in 2,299 cases which broadly fall under the following categories: -

(Rupees in crore)

S. No.	Category	Number of cases	Amount
1.	Misclassification of documents	107	0.22
2.	Undervaluation of properties	1,440	6.12
3.	Other irregularities	751	0.20
4.	Review: Evasion of stamp duty and registration fee	1	175.03
	Total	2,299	181.57

During the year 2002-03, the Department accepted underassessments amounting to Rs.20.38 lakh pertaining to 354 cases of which 17 cases amounting to Rs.1.21 lakh were pointed out by audit during 2002-03 and the rest in earlier years. Further, the Department recovered Rs.12.28 lakh in 255 cases during the year 2002-03 of which 10 cases amounting to Rs.0.23 lakh related to the year 2002-03 and the rest to earlier years.

A review, **Evasion of stamp duty and registration fee**, involving Rs.175.03 crore is as under:

4.2 Review: Evasion of stamp duty and registration fee

Highlights

Rs.29.80 crore were pending for recovery on account of stamp duty and registration fee as on 31 March 2002

(Paragraph 4.2.5)

Non-registration of sale/lease deeds executed by RRVPNL resulted in evasion of revenue amounting to Rs.142.40 crore.

(Paragraphs 4.2.7 and 4.2.10)

Undervaluation of properties in 40 cases resulted in short levy of stamp duty and registration fee amounting to Rs.91.08 lakh.

(Paragraph 4.2.11)

Monitoring was weak and irregular as there was absence of prescribed inspections of Sub-Registrars Offices and public offices by designated authorities.

(Paragraph 4.2.18)

4.2.1 Introduction

Receipts from stamp duty and registration fee in the state are regulated under Indian Stamp Act, 1899, Registration Act, 1908, and Rajasthan Stamp Law (Adaptation) Act, 1952 and rules made thereunder. These are also regulated by notifications and orders issued in this regard from time to time by the state government. Stamp duty is leviable (fixed or *advalorem*) on the execution of instruments, and registration fee is payable at the prescribed rates. Generally, evasion of stamp duty and registration fee takes place due to undervaluation of properties, misclassification of instrument, misinterpretation of rules by the Registering Authorities, mis-statement and concealment of facts by executants, non-presentation of documents in the office of the Registering Authority and non-payment of stamp duty by the executants on the documents submitted before the Public Offices¹ declared by the State Government in December 1997.

¹ The government had declared offices such as all central and state government offices, all corporations and local bodies of central and state government, civil and criminal courts, registered and co-operative institutions, all corporate and non-corporate companies, notary public and oath commissioner's offices as public offices, which are responsible to verify the payment of stamp duty at the time of granting contract or registration of vehicles etc.

4.2.2 *Organisational set up*

The Department functions under the overall administrative control of the Finance Department. The Inspector General (IG) is the administrative head. The Additional Inspector General (AIG) is the ex-officio Superintendent, Stamps at headquarters, and also assists the IG both in administrative and financial matters. The entire state has been divided into 12 circles. These circles are headed by 11 Deputy Inspector Generals (DIG) cum ex-officio Collector (Stamps) and one Additional Collector (AC) (Stamps), who controls 67 Sub-Registrars (SR) and 279 ex-officio SRs.

4.2.3 *Audit objectives*

Detailed analysis of records of 6 DIGs¹, 17² out of 32 District Registrars and 24³ out of 67 Sub-Registrar offices, and major public offices for the period 1997-98 to 2001-02 was conducted during October 2002 to March 2003 to ascertain:

- extent of compliance with prescribed rules and procedure with consequent revenue loss in the event of deviation thereto;
- whether adjudication cases were being decided within the prescribed period as per assurance given by the Department to Public Account Committee (PAC);
- whether the declared public offices discharged their functions in regard to levy of stamp duty in accordance with prescribed rules and procedures;
- existence of internal control mechanism, if any, for proper realisation of dues.

¹ Ajmer, Alwar, Bhilwara, Hanumangarh, Jaipur and Udaipur.

² Ajmer, Alwar, Bhilwara, Bikaner, Chittorgarh, Sriganganagar, Hanumangarh, Jaipur, Rajsamand, Sawaimadhopur, Sikar, Sirohi, Udaipur, Nagaur, Dungarpur, Jodhpur and Churu.

³ 1. Alwar, 2. Bikaner, 3. Bhilwara, 4. Chittorgarh, 5. Sriganganagar, 6. Hanumangarh, 7. Jaipur-I, 8. Jaipur-II, 9. Jaipur-III, 10. Rajsamand, 11. Sawaimadhopur, 12. Sikar, 13. Sirohi, 14. Udaipur, 15. Nagaur, 16. Sanganer, 17. Dungarpur, 18. Beawar, 19. Kishangarh, 20. Khajuwala, 21. Suratgarh, 22. Raisingnagar, 23. Jodhpur-II and 24. Churu.

4.2.4 Budget estimates and actuals

The budget estimates and actual receipts during years from 1997-98 to 2001-02 were as under:

(Rupees in crore)

Years	Budget estimates	Actuals	Shortfall	Percentage of shortfall
1997-1998	350.00	312.27	(-) 37.73	(-) 10.78
1998-1999	375.00	344.36	(-) 30.64	(-) 8.17
1999-2000	425.00	376.77	(-) 48.23	(-) 11.35
2000-2001	450.00	436.73	(-) 13.27	(-) 2.95
2001-2002	500.00	478.89	(-) 21.11	(-) 4.00

As would be seen from the table, the shortfall in estimated realisation ranged between 2.95 and 11.35 per cent. The IG stated in May 2003 that the targets could not be achieved due to drought conditions in the State.

4.2.5 Arrears of revenue

As per information supplied by IG, Ajmer Rs.29.80 crore (exclusive of Rs.6.03 crore reportedly stayed by courts) was outstanding for recovery on 31 March 2002.

Under Rule 71 A of the Rajasthan Stamp Rules 1955, the amount due was to be recovered within 30 days after the date of issue of demand notice. It was, however, noticed that the earliest demand of Rs.1.25 lakh was pending for recovery since 1984.

On this being pointed out, Department intimated in May 2003 that strict instructions for recovery of the arrears were issued in November 1999. Realisation could not be effected by field offices due to subsequent sale of these properties by the original executants so the Department expressed its inability to attach the said property for recovery.

Non-inclusion of pending demand

A sum of Rs.15.67 lakh was recoverable in 687 cases decided between 1975 and 1991 by the District Registrars of Alwar and Sikar. Above amount was not included in arrears of revenue as intimated by the IG. This resulted in understatement of arrears to that extent.

4.2.6 Non-disposal of cases pending adjudication

Under Rajasthan Stamp Rules, 1955, cases of understamped instruments, and where the value of the instrument is not correctly determined for levy of stamp duty, are referred to Collector (Stamps) for adjudication by Registering Authorities. Collector (Stamps) issues show cause notices to the persons liable to pay duty on these documents and is required to complete the summary enquiry within a period of three months.

Mention was made in paragraph 5.2.7 on "Cases pending adjudication" in the report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ending March 1997. The Department assured Public Accounts Committee (PAC) that disposal of cases pending adjudication would be done by arranging *Lok Adalats* in February 2000. The PAC in their 106th report presented in the state Assembly on 20 November 2001 had agreed to the assurance given by the Department

As per the records of IG Stamp and Registration, there were 21,814 cases pending adjudication as on 1 April 1997. The Department set up *Lok Adalats* in February 2000 and fixed a target of 60 cases per month for disposal by each DIG.

It was observed that despite arranging *Lok Adalats*, 19,380 cases were pending adjudication as on 31 March 2002 which revealed that the Department could not achieve the desired results.

4.2.7 Non-registration of sale deeds

Registration Act, 1908, provides that other non-testamentary instruments which create any right, title or interest whether vested or contingent, of the value of one hundred rupees and above to or in immovable property, are compulsorily registrable. IG, Ajmer clarified in March 1998 that on plant and machinery fixed with the land, stamp duty shall be charged at the rate of 10 per cent. It was further clarified in June 1998 that in case fixed/embedded plant and machineries sold after separating from the earth, the sale thereof would also attract stamp duty at the rate of 10 per cent (11 per cent from 29 March 2001).

It was noticed that Rajasthan State Electricity Board (RSEB), Jaipur (now Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPNL)) sold its assets such as electrical machinery distribution transformers, power transformers, isolators, circuit breakers, lightning arrestors etc. valued at Rs.720.25 crore to financial institutions between March 1997 and March 1999. The RSEB executed 6 sale deeds in favour of the purchasers which were not got registered in the office of the Sub-Registrar, Jaipur. This resulted in loss of stamp duty of Rs.79.23 crore and registration fee of Rs.1.50 lakh.

The matter was reported to the Department in January 2003. The Additional Collector (Stamps), Jaipur, accepted the facts in April 2003 and intimated that registration of these documents was compulsory and asked RRVPNL to produce the documents.

4.2.8 The Government had declared in December 1997 all the offices as public offices, which are responsible to bring unstamped instruments to the notice of the Collectors (Stamps). The IG authorised in January 1998, the DIGs to inspect the records of public offices to see whether stamp duty was being paid by the public correctly. The DIGs did not inspect the public offices.

- Rajasthan Housing Board (RHB) had been allotting houses/plots/shops to various allottees. The instrument of these allotments were compulsorily required to be registered in the offices of the concerned Sub Registrars.

It was, noticed that 1,820 properties valued at Rs.22.54 crore were allotted to allottees by 9¹ RHB offices during April 1997 to March 2002. The conveyance deeds were not registered with the concerned SR offices. This resulted in evasion of stamp duty and registration fee amounting to Rs.2.71 crore as shown below:

(Rupees in crore)

S. No.	Name of Registering Office	Plots/Shops/houses allotted		Evasion of stamp duty and registration fee
		Number	Value	
1.	Jodhpur	433	4.59	0.55
2.	Bhilwara	26	0.17	0.02
3.	Alwar	782	8.70	1.04
4.	Udaipur	127	1.88	0.23
5.	Dungarpur	106	0.93	0.11
6.	Chittorgarh	23	0.24	0.03
7.	Ajmer	118	4.08	0.49
8.	Hanumangarh	123	0.65	0.08
9.	Bikaner	82	1.30	0.16
	Total	1,820	22.54	2.71

On this being pointed out in audit, the Collector (Stamps), Alwar asked the Deputy Housing Commissioner, Alwar to produce the documents for registration. Reply in other cases was awaited.

- As per information available in the office of SR Bhilwara, it was noticed that in 179 cases the shops/offices/plots valued at Rs.3.40 crore were allotted to various allottees by the Urban Improvement Trust, Bhilwara and private property dealers during years 1999 and 2000. However, these sale instruments were not presented for registration. This resulted in non-levy of stamp duty and registration fee amounting to Rs.40.75 lakh.

4.2.9 Section 32 of the Registration Act, 1908, provides that responsibility for registration of instrument lies with the person executing the claim of purchase. Indian Stamp Act, 1899, read with Rajasthan Stamp Law (Adaptation) Act, 1952 and rules made thereunder, provide that stamp duty will be charged at the prescribed rate.

Ownership of a hotel at Udaipur, a unit of a Central Government Corporation was transferred to a subsidiary of a private hotel company for an amount of Rs.6.77 crore by way of share purchase agreement signed in February 2002 by Ministry of Tourism, Government of India (GOI), owner of 90 per cent paid

¹ Ajmer, Alwar, Bhilwara, Bikaner, Chittorgarh, Dungarpur, Hanumangarh, Jodhpur and Udaipur.

up voting equity shares and a Private Hotel Corporation owner of 10 per cent voting equity shares respectively. These documents were not presented before Registering Authority for registration. This resulted in loss of revenue of Rs.74.72 lakh.

On this being pointed out in audit, the DIG, Udaipur issued notices to the parties in December 2002 to do the needful.

4.2.10 Non-registration of lease deeds

Under the Registration Act, 1908, lease of immovable property for any term exceeding one year is to be registered compulsorily. Stamp duty on lease deeds shall be chargeable at prescribed rates for a consideration equal to the amount or value of fine, premium or advance in addition to amount of average rent of two years.

- It was noticed that 6 lease deeds were executed in favour of RSEB, Jaipur (now RRVPNL) by State Bank of Bikaner and Jaipur (SBBJ), State Bank of India (SBI), Mumbai, and the Industrial Credit & Investment Corporation of India (ICICI), Mumbai, between March 1997 to March 1999 for leasing out the plants, machineries and equipments fixed with the land for a period of 8 to 10 years. These lease deeds were required to be registered compulsorily in the office of the Registering Authority concerned which was not done. This resulted in evasion of stamp duty and registration fee amounting to Rs.63.16 crore on the value of average rent, security deposits and advance amount which worked out to Rs.574.04 crore.

The matter was reported to the Department. The Additional Collector (Stamps), Jaipur, accepted the facts in April 2003 and asked RRVPNL, Jaipur to produce the documents for registration.

- Test check of records of 15 collectors revealed that in 229 cases, land was given on lease for 99 years, between 1997-98 to 2001-02, to RSEB/RRVPNL and Rajasthan State Mines and Minerals Corporation to establish grid sub stations and for mining purposes respectively. The lease agreements were not registered in the concerned SR offices resulting in evasion of stamp duty and registration fee of Rs.97.52 lakh.

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

Under Indian Stamp Act, 1899, read with the Rajasthan Stamp Rules, 1955, if any instrument relating to an immovable property chargeable with duty as set forth in the instrument is believed to have been undervalued, such documents after registration are to be referred to the Collector (Stamps) for determining the market value of the property. Moreover, 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 Registration and Stamps Department, which ever is higher.

Test check of records of 14 SRs revealed that 40 documents were registered between 1999 and 2001. The immovable properties in these documents were undervalued between 9 to 100 per cent by the concerned SRs which resulted in short levy of stamp duty and registration fee of Rs.91.08 lakh. These cases were not referred to the Collector (Stamps) for valuation.

4.2.12 Non-levy of stamp duty on contract/sub contract

The Rajasthan Stamp Law (Adaptation) Act, 1952, as amended from 30 March 2000, provides that stamp duty at the rates prescribed shall be charged on works contracts.

The IG, vide letter 9 January 1998, authorised the DIG (Registration) to check the records of Public Offices to ensure that stamp duty was being paid by the contractors at prescribed rates.

- Test check of records of 48¹ divisions of PWD, PHED, Irrigation Department and Jaipur Nagar Nigam revealed that stamp duty of Rs.12.30 lakh was not levied on 11,187 works contracts during April 2000 to March 2002. Neither the public officers insisted that the contractors pay stamp duty nor did they impound the documents to refer the same to the Collector (Stamps). The DIG also did not check the records of these public offices to ensure whether stamp duty was being paid.

On this being pointed out the Executive Engineers (EE) of the Divisions stated that stamp duty could not be collected due to non-receipt of above orders.

- In Central Public Works (CPW) Central Division, Ajmer 167 contracts were executed with the contractors without levy of stamp duty of Rs.0.27 lakh chargeable thereon. The EE Ajmer stated that he had not been instructed to do so by State Department and GOI respectively. Jaipur EE did not make available list of contracts/sub contracts.
- 4 out of 14 Zonal Engineers of Jaipur Development Authority (JDA) intimated that all agreements were executed uniformly on a stamp paper of Rs.100. However, the value of the contract was not considered. This resulted in evasion of stamp duty of Rs.0.91 lakh in 253 cases during the years 2000-2002. The remaining 10 Zonal Engineers did not provide list of contracts executed.
- In six units of Rajasthan State Road Development and Construction Corporation (RSRDC) at Jaipur, Sikar, Tonk and Jodhpur it was noticed that in 1299 cases of contracts executed during 2000-2002, stamp duty of Rs.1.60 lakh leviable was not collected.

¹ PWD-Div. Ajmer-4, Alwar-2, Bhilwara-2, Bikaner-1, Chittorgarh-1, Churu-1, Dungarpur-1, Jaipur-5, Jodhpur-4, Nagaur-1, Rajsamand-2, Sikar-2, Sirohi-1, Udaipur-3, PHED-Div. Churu-1, Dungarpur-1, Jodhpur-3, Sirohi-1, Sriganganagar-1, Irrigation-Div. Alwar-1, Bikaner-3, Chittorgarh-1, Dungarpur-2, Jaipur-1, Sirohi-1, Jaipur Nagar Nigam-2

4.2.13 Non-registration of sureties/securities and contracts in Mining and Excise Departments

Section 17(1)(C) of the Registration Act, 1908 provides that non testamentary instruments which acknowledge the receipt or payment of any consideration on account of creation, declaration, assignment, limitation or extinction of any such right, title or interest are compulsorily registrable. Further under Rajasthan Stamp Law (Adaptation) Act, 1952, securities, bonds or mortgage deeds executed by way of security are chargeable to a stamp duty of Rs.200 or 0.5 per cent of the amount secured, whichever is higher. The Government vide their notification reduced the stamp duty to 0.1 per cent in March 1998 on agreement or memorandum of agreement.

Test check of records of 4 Mining offices¹ and 12 Excise offices² revealed that in 258 cases stamp duty and registration fee of Rs.1.24 crore was not charged on sureties/securities and contracts executed during 1997-98 to 2001-02.

4.2.14 Non-filing of revision petition

Indian Stamp Act, 1899, as adapted in Rajasthan provides for filing of revision petitions within 90 days against the decision of the Collector (Stamps) in cases where the decision given by him is against the interest of government revenue, and there are sufficient reasons and grounds to believe that it is against the facts on records.

Records of Collector (Stamps), Ajmer, revealed that SR Merta City, (Nagaur) forwarded in February 2000 a case of transfer of lease by way of assignment on account of mining lease. The SR, Merta City, assessed the value of properties at Rs.78.35 lakh. The lease in question was initially extended to 10 years upto 16 February 2001 in favour of the transferor which was further extended to 20 years upto 16 February 2011 vide Director Mining and Geology letter dated 21 January 1999.

The Collector (Stamps), Ajmer, decided the case on 11 October 2000 and worked out value of land and properties only for one year and one month i.e. upto 16 February 2001 instead of upto 16 February 2011. This resulted in undervaluation of properties by Rs.66.35 lakh and short levy of stamp duty and registration fee of Rs.6.77 lakh.

Against the decision of Collector (Stamps) Ajmer, the IG had permitted SR, Merta City on January 2001 to file revision petition before the Board of Revenue within 90 days after the date of decision but the same was not filed by the SR, so far.

On this being pointed out, the SR, Merta City, intimated in December 2002 that a revision petition was filed on 27 November 2002.

¹ Bikaner, Bhilwara, Rajsamand-I, Rajsamand-II.

² Ajmer, Alwar, Barmer, Bharatpur, Banswara, Jaipur, Jhalawar, Jodhpur, Nagaur, Sikar, Sriganganagar and Tonk.

4.2.15 Non-levy of stamp duty on transfer of movable property

Under the Rajasthan Stamp Duty (Adaptation) Act, 1952, the government levied 0.5 per cent stamp duty of the market value of the property on transfer of movable property with effect from 12 March 1997.

Vehicles are registered in the District Transport Offices (DTOs). Payment of stamp duty by the owners of the vehicles was neither checked nor collected nor were the cases for levy thereof referred to Collector (Stamps) by DTOs. The IG Registration and Stamps vide letter dated 20 February 2002 intimated Finance department that there was estimated annual revenue loss of Rs.5 crore due to non-levy of stamp duty on vehicles being registered by the Transport Department. With the above annual conservative estimate of Rs.5 crore loss of revenue, the total for 5 years ending 2002 (i.e. between 1997-98 to 2001-02) would amount to Rs.25 crore.

On this being pointed out in audit, the Commissioner Transport replied in September 2002 that Transport Department had sought guidance from Finance Department whether transport officers were authorised to check levy of stamp duty on vehicles being registered in the Department. No decision had been taken so far. It is evident that the Government has failed to evolve suitable mechanism to realise stamp duty on registration of movable property till now, though the duty was prescribed in March 1997.

4.2.16 Loss of stamp duty due to non-application of revised rates

The State Government revised the rates of stamp duty on agreements or memorandum of agreement from Rs.10 to Rs.100 in Finance Act 1997 with effect from 12 March 1997.

It was, however, noticed that RSEB implemented these orders with effect from 12 September 1997 due to delay in receipt of orders. This resulted in loss of stamp duty of Rs.19.59 lakh in 21758 cases of agreements or memorandum of agreements during 1 April 1997 to 12 September 1997.

4.2.17 The State government enhanced the rate of stamp duty from 10 percent to 11 percent with effect from 29 March 2001 in the Rajasthan Finance Act, 2001 on the documents registered under article 23 of second schedule of Rajasthan Stamp Law (Adaptation) Act, 1952.

While checking the documents of SR Alwar, Bikaner, Hanumangarh, Jaipur-II and Sirohi it was noticed that stamp duty at enhanced rate was not recovered resulting in short levy of Rs5.57 lakh in 685 cases.

While accepting the facts Sub-Registrar, Sirohi intimated in December 2002 that amount would be recovered from the concerned executants.

4.2.18 Monitoring

Inspections

The DIGs/Additional Collector (Stamps) were required to conduct inspections of the Sub-Registrars Officers yearly under their jurisdiction. It was noticed that barring 3¹ DIG/AC(s), such inspections were not conducted.

Even though the IG issued orders in 1998 that the DIGs (Registration) inspect public offices, no inspection had been conducted by them. As a result thereof, there was no check on the loss of revenue on account of stamp duty in Public Offices.

Non-receipt of stamp account from the treasuries

The Rajasthan Treasury Rules, 1999 provided for Treasury officer to send stamp account monthly to the IG (Registration and Stamps). It was, however, noticed that the Treasury officers Jaipur, Udaipur, Pratapgarh, and Hanumangarh had not been sending the stamp account to the IG.

4.2.19 Recommendations

In view of the above observations made in the review, Government may consider taking steps:

- to ensure that all the documents of transfer of property are compulsorily registered;
- to provide a mechanism for speedy completion of adjudication process as per the assurance given to PAC;
- to provide for regular inspection of the public offices and Sub-Registrars Offices by the DIG, to ensure levy of correct stamp duty and registration fee.

The above matter was referred to the Department/Government in May 2003. However, no reply was received from them (August 2003).

¹ Bikaner, Hanumangarh and Jodhpur