

CHAPTER-V: Stamp Duty and Registration Fee

5.1 Results of audit

Test check of the records of the Department of Stamps and Registration conducted by audit during the year 2003-2004 revealed short recovery of stamp duty and registration fee amounting to Rs.15.27 crore in 2,017 cases which broadly fall under the following categories:-

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Misclassification of documents	512	3.14
2.	Undervaluation of properties	1,242	3.24
3.	Other irregularities	262	0.82
4.	Sale and purchase of stamps	1	8.07
	Total	2,017	15.27

During the year 2003-2004, the Department accepted under assessments amounting to Rs.37.60 lakh pertaining to 401 cases of which 129 cases amounting to Rs.6.24 lakh were pointed out by audit during 2003-04 and the rest in earlier years. Further, the Department recovered Rs.12.37 lakh in 253 cases during the year 2003-04, of which 90 cases amounting to Rs.3.18 lakh related to the year 2003-04 and the rest to earlier years.

A few illustrative cases highlighting important audit observations involving Rs.8.51 crore are given in the following paragraphs:

5.2 Sale and purchase of stamps

5.2.1 Introduction

Receipts from stamp duty in the state are regulated under Indian Stamp Act, 1899 and Rajasthan Stamp Law (Adaptation) Act, 1952 and rules made thereunder. Procurement, storing, issuance and utilisation of stamps is regulated under Rajasthan Treasury Rules (RTR) 1999 and Stamp Rules, 1955. Realisation of Stamp Receipts are also regulated by notifications and orders issued in this regard from time to time by the State Government. Stamp duty (fixed or advalorem) is leviable on the execution of instruments.

5.2.2 *Organisational set up*

The Department functions under the overall administrative control of the Revenue Secretary of the Finance Department. The Inspector General (IG) Registration and Stamps is the Head of the Department. 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 Inspectors General (DIG) cum ex-officio Collector (Stamps) and one Additional Collector (AC) (Stamps), who control 67 Sub-Registrars (SR) and 279 ex-officio Sub-Registrar. There are 32 districts and 38 treasuries in the state. Thirty four treasuries in the state are dealing with procurement, storage, sale and issue of stamps. The entire process of collections of stamps duty which involves forecasting indenting, receiving, stocking, selling, registering and accounting is monitored by the IG.

5.2.3 *Procurement of stamps*

Annual forecast

In order to enable the Inspector General of Registration and Stamps to regulate supply of stamps periodically, each Treasury Officer (TO) after ascertaining the probable requirement of all sub treasuries for the whole year, is required to send an annual forecast in the prescribed format to the IG by 30 November of each year. The information in accordance with the provision contained in Rule 300 (1) and (2) of Rajasthan Treasury Rules 1999 should indicate the requirements of each denomination of stamps based on actual issues during each of the preceding three years, balance in hand on 1 April and estimated issues for the current financial year.

It was observed that out of the 34 treasuries functioning in the State, 27 treasuries had never sent the annual forecast in the prescribed manner and the remaining seven treasuries were irregular in their submission. In absence of this information the basis of placing indent with Central Stamp Depot (CSD) Nasik for procurement of store by IG could not be ascertained in audit.

Indent

As per Rule 240 of Rajasthan Treasury Manual 1952, prior to 1999, a denomination wise quarterly indent in a prescribed format was required to be sent by the treasuries to the IG for the replenishment of stock. However, from the year 1999 onwards, the submission was made thrice in a year i.e. on 31 July, 30 November and 31 March each year.

During audit, it was noticed that four treasuries¹ did not send the required information while remaining treasuries did not send the information in the prescribed format.

¹Banswara, Jalore, Jhalawar and Karauli

While accepting the facts the IG stated in August 2004 that all the TOs have been directed to send their indents timely and in the prescribed format.

A scrutiny of the indents of 13 treasuries² revealed that supply of stamps during the years 1993-94 to 2002-03 was not as per indents placed to CSD, Nasik. The shortage ranged between 30 to 78 *per cent* as detailed below:

(Rupees in crore)

Sl. No.	Year	Number of treasuries	Indent value	Receipt value	Short receipt value	percentage of shortage
1.	1993-94	13	119.51	33.07	86.44	72
2.	1994-95	13	433.97	95.92	338.05	78
3.	1995-96	13	353.25	105.38	247.87	70
4.	1996-97	13	215.35	84.49	130.86	61
5.	1997-98	13	234.41	83.14	151.27	65
6.	1998-99	13	625.57	135.96	489.61	78
7.	1999-00	13	317.37	105.23	212.14	67
8.	2000-01	13	177.89	90.96	86.93	49
9.	2001-02	13	264.68	170.80	93.88	35
10.	2002-03	13	135.42	94.51	40.91	30
Total			2,877.42	999.46	1,877.96	

It would be seen from the above that the indents placed with CSD, Nasik were not realistic.

The Department accepted the facts in August 2004 and intimated that all TOs have been directed to send their indents timely in the prescribed format and in future supply will be received as per indents in the revised system.

5.2.4 Receipts

As per rule 304 (1) of Rajasthan Treasury Rules 1999 (RTR 1999) after arrival of supply of stamps from the IG or from any other depot, the officer incharge of the depot i.e. TO shall as soon as possible personally examine the outward appearance of the packets or the packages and satisfy himself that the same are not tampered with. He shall then have the packages opened in his presence and the contents therein counted either by himself or by some authorised official in his presence. Rule further lays down that discrepancy or deficiency, if any in number or otherwise is found, a report thereto should be immediately submitted to IG with a copy thereof to the Director Treasuries and Accounts.

² Alwar, Baran, Bharatpur, Bhilwara, Bikaner, Bundi, Dungarpur, Jhunjhunu, Kota, Rajsamand, Sawaimadhopur, Sriganganagar and Udaipur.

Further as per rule 305 of RTR, the IG shall invariably send an invoice in duplicate to every depot showing therein the denomination, the quantity and the face value of the stamps supplied. The original copy of the invoice should be retained by the treasury and the duplicate should be returned to the IG with the acknowledgement of the officer in charge of the depot not later than fifteen days after receipt of consignment of stamps.

During the course of audit it was noticed that Ajmer treasury being a nodal treasury for receipt of stamps, received stamps from CSD Nasik for onward distribution to other treasuries. These stamps were forwarded to the concerned treasuries without any physical count. This defeated the very purpose of formation of the nodal points. As a result of this, stamps worth Rs.4.99 lakh were received short in six treasuries³ during 1993-94 to 2002-03. The short receipt of these stamps pointed out after a delay which ranged between one to 19 months was not accepted by CSD Nasik.

In addition to this, short receipt of stamps valued at Rs.9,000 was pointed out by Barmer and Sawaimadhopur treasury officers at the time of their receipt in February 1995 and September 1999 respectively. However, this loss has also not been accepted by the CSD Nasik. The reasons for non-acceptance though called for were not intimated to audit.

5.2.5 Sale

Rule 308(1) of the RTR lays down that except as provided in sub rule (2) of Rule 308, sales to the public or to the licenced vendors shall not be made direct from the store under double lock. Such sales shall be made by the ex-officio vendor from the supply entrusted to him for this purpose and kept under single lock. During the course of check it was noticed that 18 treasuries⁴ were not following prescribed procedure of sales from the single lock to the public or to the licenced vendors. The system was designed for double checking and to avoid misappropriation of stamps. The IG stated in August 2004 that the TOs have been instructed to issue stamps from single lock.

On 27 March 2003, total amount of receipt challans from individuals for sale of non-judicial stamps in Jaipur city treasury was Rs.18.43 lakh as against the sale of said stamps to the tune of Rs.19.93 lakh. Thus sale of stamps of value Rs.1.50 lakh was made without receipt of money in the Government account. The treasury was not operating single lock system which resulted in loss of revenue.

After being pointed out, the IG accepted the facts and stated in August 2004 that the concerned employee has been suspended and a special scrutiny of records is being conducted.

³ Baran, Bundi, Churu, Jhunjhunu, Kota and Pali.

⁴ Ajmer, Banswara, Baran, Bikaner, Bundi, Churu, Dungarpur, Hanumangarh, Jaipur, Jhalawar, Jhunjhunu, Pali, Pratapgarh, Rajsamand, Sikar, Sriganganagar, Tonk, and Udaipur.

5.2.6 Records of stamp vendor

Rajasthan Stamp Rules 1955 provide that stamp vendors should maintain stock register, issue register in prescribed proforma. Rule 42 provides that inspection of records should be done by the revenue authorities not below the rank of Naib Tehsildar and Rule 37 provides that registers of the stamp vendors should be deposited in the office of the DIG Registration.

Scrutiny of records relating to issue of licence to vendors at DIG office Jodhpur, Pali and Kota revealed that the 130 stamp vendors were not maintaining the stock and issue registers in the prescribed proforma. Inspections of records of stamp vendors was also not being done regularly. Records of stamp vendors were also not found deposited in all the cases at DIG office at Kota and Pali. This indicated that department was not exercising proper control over the transactions of the stamp vendors.

After this was pointed out, IG intimated in August 2004 that the DIG Jodhpur, Kota and Pali had been asked to explain the position regarding non-maintenance, non-deposit and non-checking of stamp vendor's records.

5.2.7 Creation of nodal point for collection of bulk supply of stamps

Government of India ordered in May 1988 creation of nodal points in the respective states for bulk supply of stamps with the instructions to send state's own staff who could escort the wagon carrying the supply from Nasik. It was, however, observed that Ajmer treasury was nominated as the nodal point after 11 years in 1999 for receipt, custody and issue of stamps in the state of Rajasthan. Violation of the instructions resulted a case of theft of stamps in transit worth Rs.2.03 crore in October 1994 reported by TO Jalore. The case is pending in the Railway Court Agra.

5.2.8 Plus minus memorandum

Rules 318(1) and (2) of the rules *ibid* provide that alongwith the monthly accounts, TO and Sub Treasury Officer (STO) will send a statement showing the stamps and water marked paper balances in the single and double locks of the treasury to the IG. This statement shall not be signed by the TO and STO without verifying the actual stock in the single and double locks. A certificate should be appended to this statement to the effect that closing balances shown in this memorandum agree with those shown in the various stock registers so that the availability of stamps in each treasury can be maintained.

While checking it was noticed that eight treasuries⁵ did not submit plus minus memo on due dates to the concerned authorities. When pointed out, the IG issued instructions in August 2004 to all the TOs to send plus minus memos timely and in prescribed format.

⁵ Banswara, Dausa, Jaipur, Karauli, Kota, Pratapgarh, Sawaimadhapur and Udaipur.

5.2.9 Loss of revenue due to purchase of stamp out of the state

According to Rule 3 of Rajasthan Stamp Rules, 1955 all duties with which any instrument is chargeable shall be paid by means of stamps issued by the Government of Rajasthan. As per rule 20 *ibid*, no person, who is not duly authorised shall be entitled to sell stamps of any description other than revenue stamps.

Information supplied by Divisional Offices of Life Insurance Corporation (LIC) of India at Ajmer, Bikaner, Jaipur, Jodhpur and Udaipur revealed that stamps worth Rs.5.86 crore were purchased during the year 1993-94 to 2001-02 by the above offices either from vendors outside Rajasthan or from their Divisional office at Delhi, while there was sufficient stock of insurance stamps in the State Treasuries. It was also noticed that Divisional Office Jaipur of LIC purchased insurance stamps worth Rs.10.83 lakh from a vendor authorised to sell stamps at Mumbai in February 2001. Checking of transaction stock register of the said vendor revealed that there was no balance available with him on the day as per his own stock register. The matter was reported to the Divisional Manager LIC, Jaipur in June 2004. In reply it was stated in August 2004 that only the vendor was responsible for this.

The use of stamps purchased from vendors outside the state resulted in a loss of revenue amounting to Rs.5.86 crore to the Government.

After this was pointed out in June 2004, the Department accepted the facts and stated in August 2004 that concerned divisional offices of LIC had been asked to deposit the amount. The Government confirmed in August 2004 the reply of the Department.

5.2.10 Loss of revenue due to purchase of special adhesive stamps from unauthorised persons by financial institutions of the state

As per rule 20 of the Rajasthan Stamp Rules, 1955 no person who is not duly authorised, shall be entitled to sell stamps on any descriptions other than the revenue stamps.

Housing Development and Financial Corporation Bank Limited, Ajmer purchased stamps worth Rs.0.10 lakh in the year 2002-03 and 0.90 lakh in the year 2003-04 from the vendors outside the state. However, particulars of the concerned vendor, place or firm relating to purchase were not intimated. This resulted in loss of Rs.1.00 lakh to the state revenue. The IG instructed the bank in July 2004 to deposit the amount in Government treasury.

United India Insurance Company Limited, Udaipur intimated in April 2004 purchase of insurance stamp worth Rs.0.31 lakh in the year 2001-02 and 2002-03 from a firm outside Rajasthan.

After being pointed out in March 2004, the IG asked the unit in July 2004 to deposit Rs.0.31 lakh through challan.

5.2.11 Internal control

The Department was required to keep a close watch on proper indenting, receipts and issue of stamps through internal control. System of Internal Control in the manner of inspections of treasuries and public offices was inadequate as under:

- **Inspection of treasuries**

As against an annual inspection of each treasury, inspection of treasuries ranging between three to 13 was conducted each year for all the 34 treasuries transacting in stamps in the State by Additional IG. The percentage of shortfall ranged between 62 to 91 *per cent* during the four years ending 2000-03 as indicated below:

Year	Inspection required	Number of inspections conducted	Percentage of shortfall
1999-2000	34	5	85
2000-2001	34	4	88
2001-2002	34	3	91
2002-2003	34	13	62

- **Non-inspection of public offices**

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

The matter was reported in June 2004 to the Government; their reply was awaited till September 2004.

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

5.3.1 As per the Indian Stamp Act, 1899 (IS Act) as adapted in Rajasthan and the rules made thereunder, the market value of the property to be registered shall be determined on the basis of the rates recommended by District Level Committee (DLC) or the rates approved by the Registration and Stamp Department, whichever is higher. Further, the Act provides that where registering officer while registering the instrument has reasons to believe that the market value of the property has not been truly set forth in the instrument, he may refer it to the Collector (Stamps) for determining its correct market value.

In six Sub-Registrar offices (SRO), it was noticed between January 2003 and

November 2003 that in 19 cases of conveyance deeds involving commercial/residential plots and agricultural land, the value of the property was determined either at the rates of residential instead of commercial or at the rates lower than those approved by DLC. This resulted in short levy of stamp duty and registration fee aggregating to Rs.1.21 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	Stamp duty		Registration fee		Short levy of S.D. and R.F.	Months during which documents were registered
					Levi-able	Levied	Levi-able	Levied		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Jaipur-II	12	Commercial	349.01	192	34.90	19.20	3.00	1.92	16.78	February and March 2001
Kota	1	Agricultural/Commercial	161.70	111	17.79	12.10	0.25	0.25	5.69	April 2002
Alwar	1	Commercial	121.30	20.56	13.34	2.26	0.25	0.20	11.13	November 2002
Jaipur-II	2	Commercial	764.74	212.02	76.47	21.20	0.50	0.50	55.27	January 2001
Jodhpur-II	2	Commercial	72.92	25.34	8.02	2.81	0.50	0.26	5.45	May and December 2002
Laxman-garh	1	Commercial	257.18	15.30	28.29	1.68	0.25	0.15	26.71	October 2002
Total									121.03	

After this was pointed out between March 2003 and April 2004, the RA accepted the audit observation between February 2004 and July 2004 in all the cases and referred them to the Collector for further necessary action.

The matter was reported between November 2003 and April 2004 to the Government which confirmed between June 2004 and August 2004 the reply of the Department.

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

In SRO, Luni (Jodhpur) it was noticed in August 2003 that while registering the documents of an educational institution in September 2002, the RA incorrectly determined the value of land as Rs.1.08 crore on the rates fixed for residential land instead of Rs.7.66 crore at commercial rates. This resulted in a short recovery of stamp duty and registration fee amounting to Rs.73.31 lakh.

After this was pointed out, the Inspector General of Registration and Stamps (IGRS) stated in June 2004 that valuation of land does not depend upon its future use and as such the value had been done correctly. The reply is not tenable as the land purchased was for setting up educational institutions at the time of registration itself.

The matter was reported in October 2003 to the Government which confirmed (June 2004) reply of the Department.

5.4 Loss due to non-recovery of stamp duty and registration fee

Under section 17 (d) of the Indian Registration Act, 1908 the document of lease of immovable property shall be registered. According to the IS Act, when lease is purported to be for a term of 20 years or more, the stamp duty as on a conveyance for a consideration, equal to the amount or value of the property is leviable.

Lake Palace Hotel, Udaipur was transferred to Indian Hotels Company Limited, Bombay on an agreement executed in February 1972 on a non-judicial stamp of Rs.3 only. Perusal of the clauses of the agreement revealed that it fell under the category of lease agreement. The agreement was therefore required to be registered and payment of duties chargeable thereon recovered, which was not done. As per Land and Building Tax Department, Udaipur, the value of the property worked out to Rs.5.23 crore on which stamp duty and registration fee aggregating to Rs.57.82 lakh was not levied.

After this omission was pointed out in April 2001, Collector (Stamps), Udaipur decided the case in June 2002 and ordered recovery of Rs.60 lakh including penalty. While filing revision petition in the Board of Revenue, Ajmer, the Managing Director of the Hotel had furnished an undertaking duly stamped before Collector (Stamps), Udaipur on 3 December 2002 that in case the revision petition pending before Board of Revenue is dismissed, the company shall deposit a sum of Rs.60 lakh within a period of one month thereafter. The revision petition was rejected on 10 November 2003 by Board of Revenue as they found no legal error in the aforesaid judgement delivered in June 2002 *ibid*. The implementation of the decision of the Board of Revenue was stayed on 11 December 2003 by Hon'ble High Court, Jodhpur. The reasons as to why the Department failed to recover Rs.60 lakh within one month ending on 9 December 2003 after the dismissal of the revision petition on 10 November 2003 were neither on record nor assigned.

The matter was reported to the Government in April 2004, final reply had not been received.

5.5 Short levy of stamp duty

In accordance with the article 31 of the Rajasthan Stamp Act 1952 (RS Act), instrument relating to exchange of property is chargeable to same duty as on conveyance for a consideration equal to value of the property of greatest value as set forth in such instrument. As per notification issued under the RS Act, exchange deeds of agriculture land and mutually transferred under section 48

of the Rajasthan Tenancy Act, 1955 were exempted from payment of stamp duty provided that land is of same kind, same cost and is not divided in pieces.

In SRO, Jaipur-III agricultural land of various villages were exchanged with land of other villages through 16 deeds of exchange registered between February 2002 and December 2002. Scrutiny of these documents revealed that these exchanges of land were either not similar in kind or in cost as such duty was not exempted. Based on the highest value of the land, stamp duty of Rs.13.37 lakh was recoverable as against which only Rs.610 was recovered. The omission resulted in short levy of stamp duty of Rs.13.36 lakh.

After this was pointed out in February 2004, the Department stated in July 2004 that cases were being sent to the Collector (Stamps) for adjudication. Further progress has not been received till September 2004.

The matter was reported to the Government in February 2004, which confirmed in September 2004 the reply of the Department.