

**CHAPTER IV**  
**STAMP DUTY AND REGISTRATION FEES**

**4.1 Results of audit**

Test check of the records of the departmental offices during the period from April 2006 to March 2007 revealed undervaluation, misclassification and other deficiencies amounting to Rs.78.41 crore in 2,905 cases as mentioned below:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Excess/incorrect allocation of transfer duty surcharge	1,574	6.94
2	Misclassification	51	2.58
3	Undervaluation	43	2.15
4	Others	1,237	66.74
	<b>Total</b>	<b>2,905</b>	<b>78.41</b>

During the year 2006-07, the department accepted under assessment and other deficiencies, amounting to Rs.13.17 crore in 1,925 cases, of which, Rs.8.03 crore involved in 1,776 cases were pointed out during 2006-07 and the rest in the earlier years. Of these, the department recovered Rs.3.65 crore.

A few illustrative cases involving financial effect of Rs.8.58 crore are mentioned in the following paragraphs:

**4.2 Incorrect/excess allocation of surcharge to local bodies**

As per the provisions of the Tamil Nadu Panchayat Act, 1994, a duty on transfer of property is to be levied in the form of surcharge (transfer duty surcharge) along with stamp duty imposed under the Indian Stamp Act, on instruments of sale, exchange, gift etc., of immovable property. The rate of surcharge was five *per cent* upto 20 November 2003 and two *per cent* thereafter on the market value of the property transferred. However, in respect of instruments relating to purchase of land and building by information and technology (IT) companies, surcharge is leviable at the rate of one *per cent*. The surcharge so collected is to be allocated to local bodies.

**4.2.1** It was noticed in 84 registering offices in 2006-07 that in respect of 1,571 documents dealing with transfer of immovable property, transfer duty surcharge (TDS) of Rs.4.43 crore was erroneously allocated or allowed in excess to the local bodies.

**4.2.2** Test check of the records in the offices of the District Registrar, Chennai-Central and Joint-II Sub Registrar, Thousand Lights revealed that as per surcharge register maintained by the department for transfer of surcharge to the local bodies, the actual amount required to be allocated to the local bodies amounted to Rs.7.43 crore. Against this, Rs.8.48 crore was incorrectly allocated resulting in excess allocation of TDS of Rs.1.05 crore for the quarter ending March 2003 and June 2006 respectively.

**4.2.3** Test check of the records in the office of the Joint-II Sub Registrar, Thousand Lights revealed that in respect of one document, TDS was allocated to the local bodies at the rate of two *per cent* as against the surcharge actually collected at one *per cent* on account of concession granted under the I.T. policy of the Government. This resulted in excess allocation of Rs.1.46 crore.

The overall excess allocation in the cases mentioned above aggregated to Rs.6.94 crore.

After the cases were pointed out between April 2006 and March 2007, the department replied in August 2006 and March 2007 that Rs.99.64 lakh pertaining to 162 cases had been adjusted in the subsequent allocation made to the local bodies. Further report in respect of the remaining cases has not been received (October 2007).

The matter was reported to the Government in April/May 2007; their reply has not been received (October 2007).

### **4.3 Short levy of stamp duty and registration fees due to under valuation of property**

As per Article 23 of Schedule I to the Indian Stamp (IS) Act, 1899, in the case of conveyance of an immovable property, stamp duty shall be charged at the rate of eight *per cent* (including surcharge) of the market value of the property. If the market value of the property is not truly set forth in the instrument, it may be referred to the Collector under Section 47(A) (3) of the Act for determination of the market value of the property. In case the order passed by the Collector is prejudicial to the revenue of the State, the chief controlling revenue authority (CCRA) may, after examining such order, initiate proceedings under Section 47(A)(6) of the Act to revise, modify or set aside such order and pass necessary order thereon as he thinks fit.

**4.3.1** Test check of the records in the office of the Sub Registry, Virugambakkam in October 2000 revealed that 1.56 lakh square feet of land was conveyed in December 1999 through 27 documents at the rate of Rs.86 per square foot. As the instruments were undervalued, they were referred to

the Special Deputy Collector (SDC) (Stamps), Chennai for determination of the correct value. The SDC (Stamps), Chennai adopted (April 2000) the rate of Rs.155 per square foot holding that the property was situated in a by-lane, even though it was actually situated on the main road for which the guideline rate was Rs.1,105 per square foot. Though, it was a fit case for reference to CCRA for revision and determination of correct market value it was not referred to the CCRA.

After the cases were pointed out in December 2000, the department stated in August 2006 that the cases were referred to CCRA who fixed the market value of the property at Rs.650 per square foot. At the rate fixed by the CCRA, the difference in stamp duty and registration fees worked out to Rs.1.21 crore. The details of collection have not been received (October 2007).

The matter was reported to the Government in April 2007. The Government accepted the audit observation in September 2007.

**4.3.2** Test check of the records in the offices of District Registry Tiruvannamalai and Sub Registry, Ambattur between April and July 2004, revealed that land measuring 45,097 sq. ft was conveyed in November 1998 and November 2003 through two documents for a consideration of Rs.16 lakh. As the instruments were undervalued, they were referred to the SDC (Stamps) for determination of the correct value. The respective SDC (Stamps) fixed (March 2003 and February 2004) the value as Rs.46.56 lakh adopting the rate at Rs.135 per sq.ft as against the market rate of Rs.622 per sq.ft in one document and Rs.80 per sq.ft as against the market rate of Rs.210 per sq.ft in another document. Eventhough it was a fit case for reference to CCRA for revision and determination of the correct market value, this was not done. This resulted in short realisation of Rs.16.74 lakh.

After the cases were pointed out in June/August 2004, the department accepted in January/February 2007 the audit observation and directed the purchasers to pay the deficit stamp duty and registration fees of Rs.16.74 lakh. Collection particulars have not been received (October 2007).

**4.3.3** Test check of the records in the office of the Sub Registry, Tirupattur in March 2005 revealed that 79,700 sq. ft. of land was conveyed in February 2004 through two separate documents. The market value of the said lands though was Rs.135 per sq. ft. the rate adopted in the instruments was Rs.25 per sq. ft. only. The RO did not refer the document to the Collector. This resulted in undervaluation of property and consequent short levy of stamp duty and registration fees of Rs.7.89 lakh.

After the case was pointed out in March 2005, the department accepted in April 2006 the audit observation and raised the demand. The collection particulars have not been received (October 2007).

After the cases were reported to the Government between January and April 2007; it accepted the audit observation in April 2007.

#### **4.4 Incorrect exemption of stamp duty**

**4.4.1** In exercise of the powers conferred under Section 9 of the IS Act, the Government by a notification issued on 27 July 2004 reduced 50 *per cent* of the duty chargeable under the IS Act, in respect of the instruments relating to purchase of land or land and building by Information Technology (IT) companies/industries subject to certain conditions which, *inter alia*, included that the reduction would be applicable only for the first transaction of the IT company.

Test check of the records in the office of the Sub Registrar, Neelankarai in September 2006 revealed that through a sale deed, land measuring 46,495 sq.ft was conveyed in December 2005 in favour of an IT company for a consideration of Rs.2.25 crore. As against the correct amount of stamp duty and registration fees of Rs.20.25 lakh leviable, only 50 *per cent* thereof was levied invoking the Government notification mentioned above. But the company had already availed of the said concession in respect of an earlier purchase made in 2004. This being the second transaction, the 50 *per cent* exemption allowed was not admissible. This resulted in short collection of stamp duty and registration fees of Rs.10.13 lakh.

The matter was reported to the department/Government in January 2007. The Government accepted in May 2007 the audit observation and stated that action would be initiated to recover the amount. Report on recovery has not been received (October 2007).

**4.4.2** As per the notification dated 29 June 1966, stamp duty is exempted in respect of instruments executed, *inter alia*, by a member in favour of the society registered under the provisions of Tamil Nadu Co-operative Societies Act, 1961. It also provides that in the case of a sale deed executed in favour of any such society, the remission shall not operate unless the vendor has been a member of such society continuously for a period of not less than two years immediately before the date of execution of the sale deed.

Test check of the records in the office of the Sub Registrar, Tiruporur in January 2006 revealed that lands valued as Rs.66.23 lakh were conveyed through three sale deeds between January 2005 and March 2005 by a firm in favour of a co-operative housing society. Exemption from payment of stamp duty of Rs.8.61 lakh was wrongly allowed eventhough the firm was not a member of the society. This resulted in short realisation of stamp duty of Rs.8.61 lakh.

After the case was reported to the Government in February 2007, the Government accepted (May 2007) the audit observation and stated that action under section 33 A would be instituted for recovering the amount. Further report on action taken has not been received (October 2007).