

CHAPTER 7
STAMP DUTY AND REGISTRATION FEES

7.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2000 to March 2001 revealed under valuation of property, misclassification of document, others etc. amounting to Rs.684.00 lakh in 427 cases which broadly fall under the following categories.

Sl No	Categories	No. of cases	Amount (Rs. in lakh)
1	Under valuation of property	217	461.00
2	Mis-classification of document	78	119.00
3	Others	132	104.00
	Total	427	684.00

During the course of the year 2000-2001, the concerned department accepted and recovered under-assessments of Rs.5.29 lakh in 63 cases.

Three illustrative cases involving a financial effect of Rs.21.95 lakh are mentioned below.

7.2 Non-levy of differential Stamp Duty on documents registered outside the State.

In terms of proviso to sub Section 4 of Section 19 B (prior to February 2000) of the Indian Stamp Act, 1899, where deficiency in duty paid is noticed from the copy of any instrument, registered in any part of India other than the State of Tamil Nadu, the property in respect of which is situated in Tamil Nadu, the Collector may suo motu or on a reference from any court or any registering officer, require the production of the original instrument before him within the period specified by him for the purpose of satisfying himself as to the adequacy of the duty paid thereon, within four years from the date of registration of such instrument.

In Sub-Registries Thondamuthur and Vellakovil it was noticed that in sixteen cases where such instruments registered (between May 1992 and March 1996) in the State of Kerala and copies of the same were received (between July 1996 and October 1999), the differential Stamp Duty amounting to Rs.10.48 lakh still remains to be collected, though referred to the Collector. Out of these in eleven cases, differential Stamp Duty amounting to Rs.6.62 lakh, the possibility of collection is remote as in these cases action is barred by limitation of time under the Act.

On a similar issue pointed out by audit (October 1998), the Government amended (February 2000) the Act by changing the expression "from the date of registration of such instrument" to "from the date of receipt of copy of such instrument in the State". However the amendment does not cover past cases.

The matter was reported (March/June 2001) to the Government and followed up with reminder (September 2001). However in spite of such efforts no reply was received (October 2001).

7.3 Incorrect classification of document

Under the Indian Stamp Act, 1899, an instrument of 'Partition' is one by which co-owners of any property divide or agree to divide such property in severalty and where all co-owners are bound by the division or agreement to divide. If, however, one or more of the parties to the instrument had no right or title in respect of properties, the documents should be treated as partition-cum -conveyance deed and is chargeable to duty accordingly.

In the Sub-Registry, Purasawalkam, it was noticed (October 2000) that, properties originally purchased by two Christian brothers during 1980 and 1986 were pooled together and partitioned (March 2000) among themselves and their sister in respect of the properties pooled together. As per department's proceedings (June 1996), joint family concept is not applicable to Indian Christian. This document was incorrectly classified as partition deed instead of classifying it as partition-cum-conveyance deed.

The incorrect classification of document had resulted in short levy of stamp duty and registration fee amounting to Rs.6.38 lakh.

On this being pointed out, the department accepted the audit observation (August 2001). Further report has not been received (October 2001).

The matter was reported (July 2001) to the Government and followed up with reminder (September 2001). However in spite of such efforts no reply was received (October 2001).

7.4 Under-valuation of properties

Under the Indian Stamp Act, 1899 and the Registration Act, 1908, stamp duty and registration fee are chargeable on the market value of the property conveyed. Guidelines have been framed annually by the department to enable the officers of Registration Department to determine the correct market value of the properties.

In three¹⁴ registering offices it was noticed in respect of five instruments that there was under-valuation of properties due to non/incorrect adoption of guideline rate resulting in short levy of stamp duty and registration fee amounting to Rs.5.09 lakh.

The matter was reported (June 2001) to department. The department accepted the observation in respect of all the five cases. Report on action taken has not been received so far (October 2001).

The matter was reported (July 2001) to the Government and followed up with reminder (September 2001). However in spite of such efforts no reply was received (October 2001).

¹⁴ Anna Nagar, Chennai (South) and Kodambakkam