CHAPTER V

STAMP DUTY AND REGISTRATION FEES

5.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2003 to March 2004 revealed under valuation of property, misclassification of documents etc., amounting to Rs.223.69 crore in 484 cases which broadly fall under the following categories.

(In crore of rupees)

Sl.No.	Categories	No. of cases	Amount
1	Under valuation of property	160	6.12
2	Misclassification of documents	93	1.06
3	Others	230	11.60
4	Review: **Stamp Duty**	1	204.91
Total		**484**	**223.69**

During the course of the year 2003-2004, the Department accepted and collected under assessments of Rs.45.67 lakh in 81 cases out of which Rs.9.34 lakh pertaining to a case was pointed out during the year and the rest in earlier years.

A review on **Stamp Duty** and few illustrative cases involving a tax effect of Rs.205.55 crore are mentioned below:

5.2 Review on Stamp Duty

Highlights

Comparison of stamp duty realised by sale of stamp papers used in the registration of the documents between 1998-99 to 2002-03 with the sale of non judicial stamp papers booked in the treasury accounts revealed that the value of stamp papers shown as utilised in registration was more by Rs.189.68 crore than the value of stamp papers sold.

(Paragraph 5.2.7)

The accounts of 14 Licensed Stamp vendors revealed that there was discrepancy to the tune of Rs.6.83 crore in the sale account of stamp papers as reported to the District Registrars by the vendors with the value of stamp papers purchased from the treasuries.

(Paragraph 5.2.8)

There was excess utilisation of insurance stamps by nationalised insurance companies to the tune of Rs.8.40 crore as against the sales made by the concerned Department during the years from 1998-1999 to 2001-2002.

(Paragraph 5.2.9)

5.2.1 Introduction

The Indian Stamp Act, 1899, and Rules made thereunder as amended from time to time regulate the levy of stamp duty and registration fees on the instruments registered by the Registration Department. The duties and responsibilities of the Registration department confine to registration of instruments presented for registration and collection of stamp duty and registration fees under the Act. The Department is also empowered under the provisions of Tamil Nadu Stamp Rules, to appoint licensed stamp vendors.

The Superintendent of Stamps of the Treasuries and Accounts Department administers the receipts of stamps from the Central Stamp Depot, India Security Printing Press (ISP), Nasik and Security Printing Press (SPP), Hyderabad and their supply to District Treasuries (Huzur Treasuries) and sub-treasuries. The sale of stamps to the general public is effected either directly through treasuries/sub-treasuries or through the licensed stamp vendors.

5.2.2 Organisational set up

The Inspector General of Registration(IGR) is the head of the Department who is assisted by nine Deputy Inspector General of Registration. The state has been divided into 50 registration districts headed by the Assistant Inspector General of Registration (AIGR)/District Registrars (DRs). DRs and the Joint Sub-Registrars (JSRs)/Sub-Registrars (SRs) are responsible for the levy and collection of stamp duty and registration fees under the provisions of the Act.

The General Stamp Office headed by the Superintendent of Stamps is functioning under the overall control of the Commissioner of Treasuries and Accounts (CTA). He is assisted by the Assistant Superintendent of Stamps. The District Treasury Officer (DTO), Chennai was authorised by the Government to obtain stamps from central stamps depot ISP, Nasik and SPP, Hyderabad, by personal delivery with effect from 1 October 1998. There are six[19] nodal points (District Treasuries) in the State, which obtain stamps from DTO for further distribution to treasuries/sub-treasuries.

5.2.3 Scope of Audit

To examine the efficiency in the overall administration of the Department particularly with reference to sale and usage of stamp papers in the State, test check of records of 113 out of 181 SRs and 10 out of 29 treasuries spread over nine revenue districts coming under the control of 16 District Registrars covering the period from 1998-99 to 2002-03 was made between February 2004 and May 2004.

5.2.4 Audit objectives

The review was conducted with a view to

- check the assessment of requirement, indenting, accountal of stock, sale, accountal of sale proceeds etc. which would enable fraud
- ascertain whether action was taken to ensure adequate supply of stamp to/from various treasuries
- ascertain leakage of revenue under stamp duty and
- analyse utilisation of stamps in the insurance sector.

5.2.5 Variations between budget estimates and actuals

The budget estimates vis-à-vis the actual receipts under the head sale of stamps (Non Judicial) for the years 1998-99 to 2002-2003 are indicated below:

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19 Chennai, , Coimbatore, Madurai , Tiruchirappalli, Tirunelveli and Vellore.

(In crore of rupees)

Year	Budget Estimate	Actuals	Variations Excess (+) Shortfall (-)	Percentage of Variations
1998-99	548.64	600.15	(+) 51.51	(+) 9.38
1999-00	623.33	691.19	(+) 67.86	(+) 10.87
2000-01	699.89	741.35	(+) 41.46	(+) 5.92
2001-02	699.95	866.98	(+) 167.03	(+) 23.86
2002-03	808.45	1083.28	(+) 274.83	(+) 133.99

The Government replied in May 2004 that the anticipated receipts were based on the previous years actual sales. Revised estimates were prepared based on the actuals received for the first four months. Based on these factors the budget estimates for the next year is prepared.

In the years 2001-2002 and 2002-2003 the budget estimate was less than the actuals of the previous year though the actuals were showing increasing trend. This indicated that the budget estimates were not prepared on realistic and scientific basis.

5.2.6 Incorrect assessment of placing of indents of non-judicial stamp papers

Indents for the supply of non-judicial stamp papers are placed by the Assistant Superintendent of Stamps, Chennai with ISP, Nasik and SPP, Hyderabad based on the quarterly indents received from all the Treasury Officers in the State.

The indents placed and supplies received in respect of non-judicial stamp papers with regard to the opening balance and sales made during the period from 1998-99 to 2002-03 were as detailed below:

(In crore of rupees)

Year	Indents placed during the year	Opening Balance	Supply received from ISP/ SPP	Total Col. 3+4	Sales made by trea-suries*	Closing Balance Col. 5-6
1	2	3	4	5	6	7
1998-99	433.21	2,047.34	265.89	2,313.23	615.97	1,697.26
1999-00	989.27	1,697.26	62.99	1,760.25	707.17	1,053.08
2000-01	2,691.22	1,053.08	1,477.80	2,530.88	745.79	1,785.09
2001-02	1,762.49	1,785.09	1,133.99	2,919.08	879.27	2,039.81
2002-03	6,132.10	2,039.81	688.96	2,728.77	1,046.68	1,682.09

* Sales made by treasuries means sale of non-judicial stamps which includes stamp paper, share transfer stamps, foreign bills stamps, insurance stamps, etc.

The Assistant Superintendent of Stamps stated in May 2004, that the Department was left with no alternative except to accept the supplies made and the backlog of the supply of stamps were carried over in the subsequent indent placed with ISP, Nasik. Further, the Commissioner of Treasuries and Accounts had also observed in March 2002 that the indents prepared and placed by the Assistant Superintendent of Stamps were inadequate and also not properly assessed based on the actual requirements of the treasuries. This is not correct since as seen from the above details there was a huge closing balance and the Department was not in short supply at any point of time which is evident from the sales figures of the treasuries.

Thus, there was a failure on the part of District Treasury Officer, Chennai to prepare the indents based on the closing stock of the previous year as well as on an analysis of the kind of sales of the past years.

5.2.7 Non-reconciliation of stamp papers.

The Registration Department levies stamp duty as per the Schedule I of the Indian Stamp Act, 1899, on all the instruments presented for registration. The face value of the non-judicial stamp papers on which the instruments are written bear the stamp duty leviable on the instruments. Any deficit stamp duty is also collected by the registration department in cash. The non-judicial stamp papers required by the public for execution of documents are sold by the treasuries and also through the licensed stamp vendors.

Comparison of stamp duty realised by sale of stamp papers used in the registration of the documents between 1998-99 and 2002-03 in the DR's/JSR's/SR's offices with the sale value of non judicial stamp papers booked in the treasury accounts revealed that the value of stamp papers shown as utilised in registration was more than the value of stamp papers sold by the treasuries as detailed below:

(In crore of rupees)

Year	Sale of NJ stamp as per treasury accounts	Stamp duty collected through documents registered	Difference
1998-99	615.97	596.35	(-) 19.62
1999-00	707.17	777.94	70.77
2000-01	745.79	727.00	(-) 18.79
2001-02	879.27	1,020.95	141.68
2002-03	1,046.68	1,062.32	15.64
Total	**3,994.88**	**4,184.56**	**189.68**

The cumulative excess for the entire state during the years from 1998-99 to 2002-03 was Rs.189.68 crore. The above variation remained unreconciled by the departments concerned, even in respect of earlier years as well.

There was a wide gap in 1999-2000 and 2001-2002 between the stamp papers sold and documents registered. The excess indicated, besides the stock of stamp papers pertaining to earlier years, utilisation of stamp papers not sold through the treasuries presumably by way of fake stamp papers. There was no provision in the Tamil Nadu Stamp Rules restricting the use of stamp papers to a particular area and also there was no time limit within which the stamps purchased could be used.

After this was pointed out, the IGR replied in September 2004 that the excess stamp papers procured by the stamp vendors could not be traced out by the Department and further stated that the registered documents cannot be traced back from the vendors as these were returned to the parties concerned after registration.

The reply is not tenable since the list/copies of documents registered alongwith the name of the stamp vendors who sold the stamp papers to the persons who had registered the documents were available with the Department. The same could have been utilised for cross verification.

5.2.8 Checking of Licensed Stamp Vendors accounts

As per Tamil Nadu Stamp Rules, DRs are empowered to issue license to vendors for the sale of stamps. Licensed stamp vendors (LSV) shall sell only such nature, category and denominations of stamps and within such geographical limits as are indicated in their licenses. The IGR through executive orders dated 7 April 1988 and 16 July 1994 directed all LSVs to submit weekly stock position to the concerned SRs. Further they are to submit their sale account twice every year to the concerned DR alongwith the necessary document in support of their sales.

Excess sales of stamp paper against purchases by licensed vendors

In four[20] DRs and the relevant SRs, a test check by audit of the value of stamp papers purchased by 11 LSVs from the designated treasuries with that of their sale account revealed that there was excess sale of stamp papers over and above the quantity purchased alongwith the opening balance. This had resulted in excess sale of stamps by LSVs to the tune of Rs.6.70 crore between 1998-99 and 2001-2002 disproportionate to the purchases made by them during the relevant period as detailed below:

[20] Chennai (Central), Chennai (North), Coimbatore and Vellore.

(In lakh of rupees)

Sl. No	Name of the vendor	1998-99	1999-00	2000-01	2001-02	Total
1	P.Saraswathy	20.95	74.68	173.67	149.40	418.70
2	T.Shanmugam	1.58	3.01	1.10	----	5.69
3	V.Selvanayagam	2.13	3.29	----	----	5.42
4	G.Manoharan	10.74	17.75	----	----	28.49
5	M.Andalamma	26.66	21.10	20.50	----	68.26
6	M.P.Kumar	10.51	6.19	4.99	----	21.69
7	P.Sundaravalli	---	----	----	1.38	1.38
8	P.D.Murthy	0.91	0.20	----	----	1.11
9	E.P.Subramani	0.07	----	----	----	0.07
10	P.Mylsami	36.19	39.64	----	----	75.83
11	K.Rathinam	30.05	13.29	----	----	43.34
Total		**139.79**	**179.15**	**200.26**	**150.78**	**669.98**

The sale of excess stamps over and above the quantity purchased also include cases wherein the LSVs sold stamp papers of the same value to two different purchasers issued against the same serial number and the documents bearing such serial number of stamp papers were registered. This proves that one of the stamp paper was not purchased from the treasury.

After this was pointed out, the Department cancelled in June 2004 the licenses in respect of four LSVs. It has further issued a circular in July 2004 to look into such cases and to issue show cause notice wherever necessary.

- Further, in four[21] SRs in respect of three LSVs, it was noticed that during the year 1998-99 and 2002-03, stamp papers with serial numbers assigned for lower denominations were registered for much higher denomination. This had resulted in excess sale of stamp papers to the tune of Rs.13.29 lakh in various denominations which was not in accordance with purchases made by them from the treasuries.

After this was pointed out, the DRs replied in June 2004 that in the absence of codal provisions or executive instructions, cross verification of vendor's sales account with treasury records could not be done by the registering officers.

As there was no mechanism to reconcile the sale account rendered by the LSVs to DRs (under Registration Department) with that of the actual purchases made from the sub-treasuries, (under Revenue Department) usage of unauthorised stamp papers could not be detected.

[21] Ambattur , Konnur, Sembiam and Vaniyambadi.

5.2.9 Utilisation of insurance stamps by Nationalised Insurance Companies

According to the provisions contained in the Schedule I of the Indian Stamp Act, all the instruments under the insurance sector have to be levied with stamp duty at the rate specified in the Act.

It was noticed during audit, based on the information collected from the Nationalised Insurance Companies (NIC) in the State, that during the period from 1998-1999 to 2001-2002, utilisation of stamps on all the instruments under insurance sector with that of the sales figures obtained from the Assistant Superintendent of Stamps was in excess to the tune of Rs.8.40 crore as detailed below:

(In crore of rupees)

Year	Sales *	Utilisation of stamps as given by the NICs	Excess utilisation.
1998-1999	2.04	2.75**	0.71
1999-2000	2.94	3.46	0.52
2000-2001	1.85	4.78	2.93
2001-2002	2.95	7.19	4.24
Total	**9.78**	**18.18**	**8.40**

* **The sales figures were computed based on the difference between the opening stock + receipts – closing stock**

****Utilisation is the aggregate of stamps utilised by three out of five National Insurance Companies.**

It was also intimated by the NICs that the insurance stamps were procured from the sub-treasuries/LSVs from Tamil Nadu only. It was however, observed that Smt.M. Andalammal, a LSV coming under the jurisdiction of DR, Chennai (North) was found selling fake insurance stamps worth Rs.1.17 lakh in January 2001 by police department attached to New Delhi. Her licence was subsequently cancelled. DR stated that the periodical verification/checking of stock/sale accounts relating to insurance stamps was not in practice, even though insurance stamps also come under the category of non-judicial stamps. In spite of the Department being aware as early as in 2001 that fake insurance stamps were being utilised by the vendors, no system was evolved to check the sale of such stamps by vendors spread over the state with that of the utilisation of the stamps by the NICs concerned, till date.

5.2.10 Internal audit

An internal audit wing is functioning in the Registration Department to conduct internal audit of the accounts of the office of the SRs periodically. The accounts of the Registration Branch is audited once in a month and that of SRs once in three months. The internal audit of the Department had been completed upto 2002-2003.

Though the IGR had issued orders from time to time on various audit checks to be exercised by the internal audit wing, no action was taken to issue specific order entrusting the responsibility of checking the genuineness of stamp papers used for registration of documents.

5.2.11 Conclusion

The review of the sale and utilisation of stamp papers in the State revealed that

- there is no proper system for reconciling the actual sale of stamp papers with that of the value of stamp papers utilised for documents registered and

- there is no provision in the Rules for DRs to reconcile sale account of vendors with that of the purchases made in the treasuries so as to ensure the genuineness of stamp papers used.

5.2.12 Recommendations

The Government may consider the following

- forecasting and indenting of stamps needs to be streamlined by keeping in view the closing stock of previous years and the trend of sales of past years.

- DRs must reconcile sale account of vendors with that of the purchases made in the treasuries so as to ensure the genuineness of stamp used.

- specify the period upto which the stamp papers once sold will be valid and also the territorial jurisdiction within which they would be used.

- investigate the issue of excess utilisation of insurance stamps and introduce a system for periodical reconciliation of sale of insurance stamps with its utilisation.

The case was reported to Government in June 2004 and followed up with reminder in August 2004; their reply was awaited (September 2004).

5.3 Loss of revenue due to collection being barred by limitation of time

Under the Indian Stamp Act, where any instrument relating to the property in Tamil Nadu is registered in any part of India, other than the state of Tamil Nadu, it shall be liable to be charged with difference of stamp duty, on receipt of copy of such instrument in the State. No action shall be taken after a period of four years from the date of receipt of the copy of such instrument in the state of Tamil Nadu under the Registration Act, 1908.

In Sub Registry, Kollancode, it was noticed that 653 documents were registered between November 1983 and January 1994 in the State of Kerala. Though the copies of the documents were received in this State between April 1999 and November 1999 and referred to Collector, no effective action to collect the differential stamp duty of Rs.29.45 lakh was taken.

After this was pointed out, the Department replied in December 2003 that an amount of Rs.0.77 lakh pertaining to 21 cases had been collected. However, the possibility of collection of balance amount was remote since action is barred by law of limitation.

Thus, the failure of the Department to take effective action, to collect the deficit stamp duty within the prescribed time, resulted in Government exchequer being deprived of the revenue of Rs.28.68 lakh. The case was again referred to the Department in March 2004; their reply has not been received so far (September 2004).

The matter was reported to Government in March 2004 and followed up with reminder in August 2004; their reply has not been received (September 2004).

5.4 Incorrect exemption of stamp duty

Under the Indian Stamp Act, the Government may, by rule or order published in official gazette, reduce or remit the duties with which any instruments are chargeable.

Government by an order issued in March 2000, exempted payment of stamp duty in respect of instrument executed by SIDCO[22], SIPCOT[23], TACID[24] and other industrial estates formed with Government assistance relating to sale, lease and lease-cum-sale of industrial plots/shed. However, the above exemption was applicable only for such blocks which were industrially backward or most backward, as notified in G.O.Ms.No.41 dated 18 March 1996.

Further, the Government in their order dated 30 September 2003, decided not to extend remission of Stamp duty and Registration Fees beyond 24 January 2000, in respect of places other than backward and most backward blocks.

In SR, Walaja Nagar and Melur, it was noticed (December 2002/ March 2003), that a sale deed and three lease deeds were executed between March and December 2000 by SIPCOT, through which industrial plots were sold/leased out to private entrepreneurs. Though the areas viz 'Ranipet' and

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22 SIDCO – Small Industries Development Corporation Limited.

23 SIPCOT – State Industries Promotion Corporation of Tamil Nadu Limited.

24 TACID - Tamil Nadu Corporation for Industrial Infrastructure Development Limited.

'Meelavittan Village' in which the above industrial plots were situated were not covered by the above said order, exemption was granted. This resulted in non levy of stamp duty of Rs.15.63 lakh**.**

After this was pointed out, the Department replied in August and December 2003 that in respect of Ranipet, Government by a notification dated 27 December 1982 had granted exemption from April 1982, to lease conveyance of industrial plots in grown centers at Ranipet, Hosur etc., and in the case of Meelavittan Village of Tuticorin, it was stated that Government by an order issued in July 2000, included Tuticorin as most backward area and hence the exemption granted was in order.

The reply is not tenable, since in respect of Ranipet the lease cum sale agreement deed was executed on 3 December 1981, which was prior to the effective date of the notification (1 April 1982) and in respect of Turicorin, the said Government order was only for the purpose of grant of incentives/ subsidies in capital investments, and not for remission of Stamp duty.

The matter was reported to the Government in April 2004 and followed up with reminder in August 2004; their reply has not been received (September 2004).

5.5 Incorrect determination of separated shares

As per Indian Stamp Act, instrument of partition is defined as any instrument whereby co-owners of any property divide or agree to divide such property in severalty.

In SR, Usilampatti, a partition deed was executed in March 2001 among family members and property valued at Rs.5.21 crore was divided into six schedules (A to F). Stamp duty was collected on the combined value of the properties mentioned in schedules B to F considering these as separated shares. On further scrutiny, it was found that the schedule A property worth Rs.5.15 crore was agreed by the four sons to be divided equally and enjoyed independently in four equal shares from the date of execution of the document. However, the separated share of this schedule was not included for levy of stamp duty and registration fees. The incorrect determination of separated share of property had resulted in short levy of stamp duty and registration fees of Rs.11.37 lakh.

After this was pointed out in June 2003, the Department accepted in May 2004 the audit observation and stated that action had been initiated to recover the deficit stamp duty and registration fees. Further report was awaited (September 2004).

The matter was reported to Government in April 2004 and followed up with reminder in August 2004; their reply had not been received (September 2004).

5.6 Short levy of stamp duty and registration fee due to misclassification of a document

According to Indian Stamp Act, "conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred. A conveyance is a transfer for consideration to another person who has no pre-existing right in the property to any extent.

In DR, Thanjavur, it was noticed in February 2003 that an extent of 2.54 acres of land with building was jointly purchased by two parties in 1986. The first party consisted of three persons and the second party consisted of only one person with each party having 50 *per cent* of share/right in the property. Subsequently, through a partition deed registered in 1994, one person of the first party renounced his share in the property in favour of the other two persons of first party and the property having been meted out with specific share and right of ownership. Due to this, parties become absolute owners to their share (50 *per cent*) of the property independently and have no right over the other party's share. Through another document registered in March 2002, the second party renounced his share of 50 *p*er cent of said property in favour of first party for a consideration of Rs.15 lakh. The document was classified as "Partition Deed" and stamp duty was collected at four *per cent* on the consideration amount.

However, it was seen that the first party had no pre-existing right in the share of property held by second party and vice versa. As the persons involved (first party and second party) did not belong to Hindu undivided family, there was no question of money in the common hotchpot[25]. Hence it cannot be termed as partition.

Further, the second party also received a consideration of Rs.15 lakh. In view of the above reasons, the document though styled as 'partition deed' had to be classified as "conveyance deed" and duty was chargeable at 12 *per cent* of the market value of the property under Article 23 of the Indian Stamp Act. The incorrect classification of document had resulted in short-levy of stamp duty and registration fee amounting to Rs.7.44 lakh**.**

After this was pointed out, the IGR accepted in October 2003 the audit observation and stated that action would be initiated to recover the deficit stamp duty.

The case was reported to Government in February/April 2004 and followed up with reminder in August 2004; their reply has not been received (September 2004).

[25] Common hotchpot – Earnings of an Hindu Undivided Family.