

CHAPTER-IV OTHER TAX RECEIPTS

4.1 Results of audit

Test check of the records of the concerned departmental offices conducted during the year 2006-07, disclosed non/short realisation or loss of revenue of Rs. 57.00 crore^s in 310 cases under the following broad categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
	Land Revenue		
1.	“Allotment/unauthorised occupation of the Government land” (A review)	1	47.93
2.	Non-realisation of collection charges	11	0.07
3.	Non-recovery of fee for supplying <i>Kisan bahis</i>	2	0.01
4.	Other irregularities	55	0.18
	Total:	69	48.19
	Stamp Duty and Registration Fee		
1.	Short levy due to misclassification of documents	81	3.27
2.	Short levy of stamp duty and registration fee due to under valuation of properties	113	3.01
3.	Short deposit of stamp duty on bonds	11	0.01
4.	Other irregularities	28	0.79
	Total:	233	7.08
	Entertainment Tax		
1.	Non-realisation of unutilised maintenance charges	7	0.08
	Total:	7	0.08
	Weights and Measures		
1.	Revenue lost due to non-observance of the provisions of the Act/Rules	1	1.65
		1	1.65
	Grand total	310	57.00

A review of “Allotment/unauthorised occupation of Government land” involving a total financial effect of Rs. 47.93 crore and a few illustrative cases involving Rs. 1.49 crore are included in the following paragraphs.

^s Accepted and recovered figure from concerned departments is nil.

LAND REVENUE

4.2 Allotment/unauthorised occupation of Government land

Highlights

- Lack of a system/procedure for disposal of the estate land through sale/auction resulted in loss of revenue by way of cost of land amounting to Rs. 433.24 crore.
(Para 4.2.6.1)
- Due to lack of a database on the status of lease granted, the Government was deprived of revenue of Rs. 142.18 crore and stamp duty of Rs. 14.22 crore.
(Para 4.2.6.2)
- Lack of a time bound plan for disposal of *nazul* land resulted in non-disposal by way of sale. Lack of maintenance of a database on the status of lease granted of *nazul* land resulted in non-reversion after termination of the lease period. The loss of revenue was Rs. 2,074.72 crore.
(Para 4.2.6.3)
- Lack of a specified time frame for regularisation of unauthorised occupations of *nazul*/estate land deprived the Government of revenue of Rs. 1,763.64 crore.
(Para 4.2.7)
- Non-payment of cost of ceiling land utilised by the developmental authority and other organisations deprived the Government of revenue of Rs. 251.91 crore.
(Para 4.2.9.3)
- Under valuation of land resulted in short levy of stamp duty of Rs. 2.04 crore and cost of land amounting to Rs. 25.56 crore.
(Para 4.2.10.1)

4.2.1 Introduction

Entry 18 of the second list of the seventh schedule to the Constitution, empowers the State Government to legislate on land, i.e. rights over land, land tenure, collection of rents, transfer and alteration of agricultural land, land improvement, etc.

Government land is the land vested in the State Government. It includes *nazul*¹

¹ It is the land confiscated from the zamindars, nawabas, rajas etc. It was neither acquired nor was the cost thereof paid.

land, estate land¹, land acquired through ceiling⁵. The State Government is empowered to dispose off the land in its possession by lease or sale as the case may be. The land revenue comprises receipts from land revenue/tax, rates and cesses on land and other receipts. All the receipts from Government land are deposited in the consolidated fund of the State.

The management, administration of Government land and the related activities are governed by the provisions of the Uttar Pradesh *Nazul* Manual, 1949 (hereinafter referred as the *Nazul* Manual), Government Property Management (Amendment) Rules, 2003, Uttar Pradesh Urban Land (Ceiling and Regulation) Act, 1976 and the Government orders issued from time to time.

A review of the functioning of the Land Revenue Department regarding allotment and occupation of Government land was conducted which revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

4.2.2 Organisational set up

The Principal Secretary Avas, Uttar Pradesh is the administrative head of Government land at the Government level. Chairman, Board of Revenue (BOR) is the overall incharge of Government land and the district magistrate (collector) of the respective district is responsible for the management and administration of Government land. He is assisted by the officer incharge/additional district magistrate.

4.2.3 Scope and methodology of audit

The review of the efficacy of the system of allotment/unauthorised occupation of Government land was conducted from July 2006 to March 2007. For this purpose, records for the period between 2002-03 and 2006-07 were test checked in the offices of additional district magistrate, *nagar nigams/nagar palika parishads*/development authorities and sub registrars in 22² out of 70 districts.

4.2.4 Audit objectives

The review was conducted with a view to:

- assess the efficiency and effectiveness of the system of allotment of Government land (*nazul* land, estate land and land acquired through ceiling) on lease or otherwise;

¹ Property which are under the management and administration of Board of Revenue is defined as estate land.

⁵ Land obtained through ceiling pertains to such land which has been acquired by the Government under the provisions of Urban Land (Ceiling and Regulations) Act, 1976.

² Agra, Allahabad, Banda, Bareilly, Basti, Bijnore, Bulandshahar, Faizabad, Ghaziabad, Gorakhpur, Jaunpur, Jhansi, Kanpur, Lucknow, Mathura, Meerut, Moradabad, Raebareili, Rampur, Saharanpur, Sitapur and Varanasi.

- assess the efficiency and effectiveness of the department in initiating eviction proceedings against unauthorised occupants of Government land; and
- assess the effectiveness of the internal control mechanism installed by the department to ensure proper realisation of the cost of Government land.

4.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Land Revenue Department in providing the necessary information and records to audit. The draft review report was forwarded to the department and Government in June 2007 and was discussed in the Audit Review Committee meeting held in August 2007. The Special Secretary (Avas) represented the Government while the Additional Commissioner, BOR represented the department. Views of the department/Government have been incorporated in the relevant paragraphs.

Audit findings

System deficiencies

4.2.6 Management of Government land

4.2.6.1 Non-disposal of estate land

Under the provisions of the Government Property Management (Amendment) Rules and the Government order of January 2003 issued under these Rules, estate land absolutely vacant and not let out earlier is required to be disposed off by way of sale/auction on or before 31 March 2004 after keeping in reserve 40 *per cent* of the land for use of the Government. **Audit noticed that no system/procedure for disposal of land i.e. by way of sale/public auction/allotment to any development authority or any other body was prescribed by the Government. In the absence of any system/procedure, the orders could not be implemented and the land remained undisposed in various districts.**

Test check of the revenue records of four districts¹ revealed that total estate land measuring 95.77 lakh square metres (sqm) was available as on January 2003 in these districts. On reserving 38.74 lakh sqm land for the Government purpose (40 *per cent* of the total estate land), 57.03 lakh sqm land was required to be disposed off within the scheduled time (31 March 2004) by way of sale/auction. No action, however, has been initiated by the department to dispose off the land till now (July 2007). This deprived the Government of revenue by way of cost of land of Rs. 433.24 crore.

After the cases were pointed out, the department/Government accepted (August 2007) that the time schedule in this case was not adhered to.

¹ Faizabad, Mathura, Rampur and Sitapur.

The Government may consider formulating system/procedure for allotment through sale/auction of idle land to unlock the revenue from such land and to protect it from encroachment.

4.2.6.2 Non-regularisation of estate land after termination of lease period

Under the provisions of the Government Property Management (Amendment) Rules, the Government is empowered to lease out estate land with or without transferable rights to anyone. Transferable lease for building purposes where these have expired can be regularised on depositing 50 *per cent* of the cost of land based on the current market value. **Audit noticed that no database is being maintained in respect of the lease granted.**

Test check of the revenue records of four districts¹ revealed that in 954 cases, the periods of lease for building purposes expired between March 1938 and June 2002 in respect of leased out land measuring 10.60 lakh sqm. None of the persons got the lease regularised by depositing 50 *per cent* of the cost of land based on the current market value. Of these, four cases of lease with land area of 5,205 sqm expired after March 2001 alone. **Thus, due to lack of maintenance of a database on the status of lease granted, the Government was deprived of revenue of Rs. 142.18 crore and stamp duty of Rs. 14.22 crore.** Of this, Rs. 1.30 crore and Rs. 13 lakh towards cost of land and stamp duty respectively pertains to lease that had expired after 2001.

4.2.6.3 Non-disposal of *nazul* land

Under the provisions of the *Nazul* manual, *nazul* land can only be leased out. Under the provisions of rule 22 of *Nazul* manual, lease for *nazul* land shall not ordinarily be for a period shorter than 30 years in the first instance and shall, in all cases, provide for renewal after expiry of the first and subsequent terms upto a maximum period of 90 years. The granting of lease in perpetuity in respect of any *nazul* land on any term is prohibited. Under the above provisions, the *nazul* land let out on lease for a stipulated period is required to be evacuated as and when the concerned lease terminates. With the introduction of the new *Nazul* Policy, 1998, *nazul* land can be disposed off by way of sale. If any sale deed is executed, cost of land is to be recovered on the basis of market rate and stamp duty as a conveyance.

- **The policy provides the guidelines to regularise the possession of land in unauthorised occupation. But the time frame and procedure to dispose off *nazul* land in custody of the Government have not been prescribed in the policy or by any subsequent Government order.**

Test check of the revenue records of four districts² revealed that *nazul* land measuring 47.86 lakh sqm was not disposed off. **Lapse on the part of the department in not initiating allotment of land deprived the Government of revenue of Rs. 617.26 crore by way of cost of land which could have been recovered as per the provisions of the *Nazul* policy.**

¹ Agra, Bulandshahar, Mathura and Raebareli.

² Bulandshahar, Faizabad, Lucknow and Mathura.

- **Audit noticed that the Government/department has not prescribed a procedure for renewing the lease as per the provisions of the manual or for taking back possession of the land after the expiry of the lease period. This has led to the continuance of unauthorised occupation. Penal provisions and accountability of the competent authorities in exercising control over the land have also not been laid down in the *Nazul* manual. No database is being maintained in respect of the lease granted.**

Test check of the revenue records of eight districts¹ revealed that 3,771 lease cases where *nazul* land measuring 56.73 lakh sqm was in possession of the lessee for building purposes expired between March 1939 and October 2006. Of these, 234 lease cases with land area of 46,000 sqm expired after March 2001. **Due to lack of maintenance of a database, no action to get the land evacuated or reverse the title by way of sale was taken by the department.** As a result the land remained in unauthorised possession of the lessees after termination of the lease period. The cost of land at current market value worked out to Rs. 1,324.97 crore and stamp duty of Rs. 132.49 crore was also leviable. Of these, amount totalling Rs. 36.93 crore and Rs. 3.69 crore towards cost of land and stamp duty respectively pertains to leases expired after 2001.

The Government may consider formulating a time bound plan for allotment of idle land awaiting disposal so as to unlock its value and also to protect it from encroachment. It may also institute appropriate systems for maintenance of database on the status of lease granted, to facilitate efficient monitoring.

4.2.6.4 Unauthorised retention of the Government's share of lease rent

Under Paragraph 76 of the *Nazul* manual, one fourth of the gross annual demand of the lease rent realised by the *nagar nigams/nagar palika parishads* is required to be credited to the Government treasury within three months from the start of the financial year. These local bodies are also responsible for maintaining the lease rent account as per the provisions of the *Nazul* manual. **Audit noticed that the Government has not prescribed any return to watch the revenues due from the concerned body.**

Scrutiny of the records of four districts² revealed that from 2001-02 to 2006-07, *nagar nigams/nagar palika parishads* realised Rs. 39.15 lakh on account of lease rent but failed to credit Rs. 9.79 lakh (one fourth share of the Government) into Government account.

The Government needs to institute appropriate mechanism for regular and effective monitoring of the cases of non-deposit of the Government share of lease rent within time.

¹ Bulandshahar, Faizabad, Lucknow, Meerut, Moradabad, Raebareli, Saharanpur and Varanasi.

² Allahabad, Banda, Jhansi and Saharanpur.

4.2.7 Regulation of Government land

4.2.7.1 Non-regularisation of unauthorised occupations

The Government decided, vide its order dated 1 December 1998, that any unauthorised possession of *nazul* land (prior to 1 January 1992) shall be regularised on realising the cost of land from the unauthorised occupants at the rate of 120 *per cent* and 200 *per cent* of the current circle rates for residential and commercial occupations respectively. **Audit noticed that neither has the Government nor the department framed a time schedule for regularising the unauthorised occupations of land and realising the amounts due from the unauthorised occupants.**

Test check of the revenue records of four districts¹ revealed that in 1,283 cases 4.46 lakh sqm of *nazul* land was in possession of unauthorised occupants. **In the absence of a prescribed time schedule, no action to regularise the land in possession of unauthorised occupants as per the Government decision has been initiated so far (May 2007).** Thus, the Government has been deprived of revenue amounting to Rs. 59.97 crore by way of value of land and Rs. 6 crore as stamp duty.

The Government may consider specifying a time frame for getting the land vacated or regularising it within the frame work of law.

4.2.7.2 Unauthorised occupation of estate land

Rule 6(A) of the Government Property Management (Amendment) Rules, provides that land under unauthorised occupation can be regularised by way of lease with transferable rights on deposit of 100 *per cent* of the cost of land based on the current circle rate. As per the instructions of the Government of January 2003, the district administration was required to evict cases of unauthorised occupation after 1992. **Audit noticed that neither has the Government nor the department framed a time schedule to regularise the unauthorised occupation and realise the amounts due from the unauthorised occupants.**

Test check of the revenue records of 13 districts² revealed that 170.80 lakh sqm of land was in unauthorised possession of 21,289 persons but no action had been initiated by the department to regularise the land as per the Rules. Out of the total unauthorised possession, 213 cases with land area of 34,720 sqm in Raebareilly district pertained to period after 1992 but action to evict unauthorised occupations was not initiated in terms of the Government instructions of January 2003. Thus, the Government was deprived of revenue of Rs. 1,543.34 crore by way of the value of land and stamp duty of Rs. 154.33 crore.

The Government may consider specifying a time frame for getting the land vacated or regularising it within the frame work of law.

¹ Mathura, Raebareilly, Rampur and Sitapur.

² Agra, Allahabad, Bijnore, Banda, Gorakhpur, Jaunpur, Jhansi, Kanpur, Mathura, Meerut, Raebareilly, Rampur and Sitapur.

Compliance deficiencies

4.2.8 Evacuation of unauthorised occupation

As per the provisions of the Government notification¹ dated 11 December 1996 issued under the Urban Land (ceiling and regulation) Act, the land acquired by the district magistrate is required to be transferred to the development authority of the district as *nazul* land for management. In case, any unauthorised occupation is detected, the authority would evacuate it with the assistance of the district administration.

Test check of the revenue records of Gorakhpur district revealed that ceiling land measuring 12.26 lakh sqm was transferred to the Gorakhpur Development Authority. Out of which 99,975 sqm of land was not in possession of the authority and was in the hands of unauthorised occupants. Cross verification of title in revenue records in nine cases revealed that though the land had been acquired, but was still recorded in the names of the *bhumidhars*. Due to this irregularity, Government land recorded in the names of *bhumidhars* could be transferred through sale deed, power of attorney etc. at the discretion of the *bhumidhars*. No action to evacuate the land valued as Rs. 22.61 crore had been initiated by the development authority.

4.2.9 Allotment of Government land through lease

4.2.9.1 Utilisation of leased land for the purpose other than that set forth

Under the provisions of Rule 20 of the *Nazul* manual, every lease or sale of *nazul* land at concessional rates under Rule 18 or 19 of the rules shall be subject to the condition that if the land leased or sold is not utilised within a period to be fixed by the State Government or for the purpose for which it was given, the State Government has the power to cancel the lease or sale and resume possession thereof.

Test check of the revenue records of the Collectorate at Mathura, revealed that during the period 1980 and 1986, *nazul* land measuring 1.12 lakh sqm was allotted on lease to the Mathura Development Authority for constructing housing colonies for the weaker sections. The land was, however, misutilised in the year 1992 by letting it out on further lease instead of providing accommodation to the weaker sections. The department issued notices in the year 1999-2000 but failed to evacuate the land by cancelling the lease and taking over its possession as required under the provisions of the *Nazul* manual. Thus, the Government was deprived of revenue of Rs. 19 crore by way of value of the land and stamp duty of Rs. 1.90 crore.

4.2.9.2 Loss of stamp duty due to non-execution of lease deed

Under the provisions of the *Nazul* manual, if any *nazul* land is transferred by way of sale or lease etc., execution of deed is required and stamp duty is chargeable as a conveyance as laid down in the Indian Stamp Act, 1899. In

¹ No. 2893/9-NL-96-109 Uc/81 dated 11 December 1996

terms of the Government notification¹ of February 1984 issued under the Urban land (ceiling and regulation) Act, land acquired by the district magistrate and allotted to any organisation or institution by way of perpetual lease, is to be registered by executing a lease deed in favour of the lessee. Stamp duty and registration fee is also chargeable on the consideration money set forth in the lease deed.

- Test check of the revenue records of the Collectorate at Jhansi revealed that *nazul* land measuring 4,878 sqm was let out on lease in January 2003 for the consideration money of Rs. 36.32 lakh but no lease deed was executed. This resulted in loss of stamp duty and registration fee amounting to Rs. 3.68 lakh.
- Test check of the revenue records of three districts² revealed that in eight cases, ceiling land measuring 1.63 lakh sqm was allotted to different organisations or institutions on lease between October 1987 and July 2000. The lessor has not executed the lease deed in these cases so far (May 2007). As such, Government was deprived of revenue of Rs. 15.60 lakh by way of stamp duty and registration fee to be charged.

Thus, consideration money had not been recovered and lease deeds of land transferred to various institutions/organisations had not been executed even after the lapse of periods ranging from 6 to 24 years.

4.2.9.3 Loss due to non-payment of the cost of ceiling land utilised by the development authority and other organisations

In terms of Government notification³ of February 1984 issued under Urban land (ceiling and regulation) Act, for land acquired by the district magistrate and allotted to an organisation or institution, the cost is required to be paid by the allottee at the current market rate as prescribed by the collector of the district concerned on which stamp duty is also chargeable. In case of non-payment, recovery certificate for realisation of dues is required to be issued under the provisions of UP Public Money (Recovery of dues) Act 1972 (RR Act).

- Test check of the revenue records of three districts⁴ revealed that ceiling land measuring 3.76 lakh sqm was allotted to different organisations between the years 1985 and 2004. Against the cost of land of Rs. 10.78 crore, only Rs. 13 lakh was paid by these organisations to the Government. This resulted in non-realisation of dues of Rs. 10.65 crore and stamp duty of Rs. 22 lakh.
- Test check of the revenue records of eight districts⁵ revealed that ceiling land measuring 37.05 lakh sqm was utilised by eight development authorities in their different schemes between the year 1985 and 2006. As against the cost of land of Rs. 219.82 crore, an amount of Rs. 76 lakh was paid by the development authorities to the Government. Scrutiny of the annual accounts of these organisations as on 31 March 2005/2006,

¹ No. 559/Unchas-109 UC/81 dated 27 February 1984

² Allahabad, Lucknow and Meerut

³ No. 559/Unchas-109 UC/81 dated 27 February 1984

⁴ Lucknow, Moradabad and Saharanpur.

⁵ Allahabad, Gorakhpur, Kanpur, Lucknow, Meerut, Moradabad, Saharanpur and Varanasi.

revealed that no provisions were made by them for the outstanding dues in their accounts. The department also did not initiate recovery proceeding in these cases under the provisions of RR Act. This resulted in non-realisation of Rs. 219.06 crore. Additionally, stamp duty of Rs. 21.98 crore was also chargeable on the cost of land.

4.2.10 Allotment of Government land through sale

4.2.10.1 Short levy of stamp duty

The Government vide its notification¹ dated 11 August, 2004 decided to make available land in Ghaziabad district to M/s Reliance Energy Generation Ltd.(Reliance) for establishment of a power project in which 40 *per cent* of the cost of land including rehabilitation expenses in connection with such land was to be paid by Reliance and the balance cost was to be borne by the Government. Liability of payment of stamp duty as per the provisions of the Indian Stamp Act was also to be borne by Reliance and the Government in the proportion of 40:60.

Test check of the revenue records of the Sub-registrar, Hapur revealed that the Government acquired 850 hectare land in different areas (villages) of Hapur tehsil at the rate of Rs. 150 per square yard. The total cost of acquisition worked out to Rs. 152.50 crore and this value was considered for the transaction with Reliance although the cost of land on the basis of the current circle rate prescribed by the collector, which ranged between Rs. 165 and Rs. 360 per square yard, worked out to Rs. 216.40 crore. The land was transferred through sale deed to Reliance which paid Rs. 61 crore in government account towards 40 *per cent* of the cost of acquisition of the land. This amount was less by Rs. 25.56 crore which the company would have paid had the cost of land been worked out on the basis of the current circle rate. The stamp duty amounting to Rs. 4.88 crore was paid by the company to Government account. According to the UP Stamp (Valuation of Property) Rules, 1997, stamp duty is chargeable on the cost of land based on the current circle rate prescribed by the collector. The stamp duty payable on the transaction should, therefore, have been Rs. 17.31 crore. Of this, the share of Reliance at 40 *per cent* worked out to Rs. 6.92 crore instead of Rs. 4.88 crore that was paid. This resulted in short levy of stamp duty amounting to Rs. 2.04 crore.

4.2.10.2 Non-realisation of the cost of land

As per the Government order (GO) dated 29 August 1979, 1.24 lakh square meter of land of Irrigation Department in Kanpur Nagar valuing Rs. 3.71 crore was transferred to the Kanpur Development Authority (KDA) with the provision that at the time of transfer of the land, KDA would not make the payment of cost of the land to the Irrigation Department but it would be deemed as an interest free loan. The terms and conditions for the recovery of the loan were to be finalised separately by the Government.

¹ No. 1329/1-13-2004-20(7)/2004 Ra-13 dated 11 August, 2004

Test check of the records of the Lower Ganga Canal division, Kanpur revealed that even after the lapse of 27 years, the terms and conditions for the recovery of the loan were not finalised by the Government. The department also did not pursue the matter with the Government resulting in non-realisation of Rs. 3.71 crore.

4.2.11 Conclusion

Land is one of the most important assets of any Government which is also highly vulnerable to misuse. The Government have, through different Acts made provisions for disposal and regularisation of vacant Government land. Audit noticed that no system/procedure has been prescribed for disposal of estate/nazul land resulting in locking of the value of land and encroachment. No database was maintained resulting in the lease of Government land not being monitored effectively. Lack of a database resulted in non-reversion of land after termination of lease period thus depriving the Government of substantial revenue. Though the Acts provide for regularisation of unauthorised occupations by realising the cost of land, yet no time frame has been prescribed for the regularisation. This resulted in continued unauthorised occupations. Government land was thus mismanaged resulting not only a vital source of revenue not being tapped effectively but also in encroachment.

4.2.12 Summary of recommendations

The Government may consider:

- formulating system/procedure for allotment through sale/auction of idle land to unlock the revenue from such land and to protect it from encroachment;
- formulating a time bound plan for allotment of idle land awaiting disposal so as to unlock its value and also to protect it from encroachment. It may also institute appropriate systems for maintenance of database on the status of lease granted to facilitate efficient monitoring;
- instituting an appropriate mechanism for regular and effective monitoring of the cases of non-deposit of the Government share of lease rent within time; and
- specifying a time frame for getting the land vacated or regularising it within the frame work of law.

STAMP DUTY AND REGISTRATION FEE

4.3 Short levy of stamp duty due to undervaluation of property

Under the IS Act (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. As per the Uttar Pradesh Stamp (Valuation of property) Rules, 1997, market rates of various categories of land/property situated in a district are to be fixed biennially by the collector concerned for the guidance of the registering authorities. As per the instruction of Inspector General of Registration (IGR) of June 2003, a property cannot be sold by splitting up in more than one part for different purposes i.e. one for agriculture and the other for non-agriculture.

4.3.1 Test check of the records of SR-II Agra revealed (August 2006) that two deeds of conveyance showing the sale of land measuring 6,983 sqm situated at Lakhanpur on 100 feet wide road was registered in June 2005. For levy of stamp duty and registration fee, valuation of part of land measuring 1,983 sqm was done at the residential rate and the remaining land measuring 5,000 sqm was assessed at agricultural rate, whereas the whole property was required to be assessed at residential rate in terms of the instructions of June 2003. Thus, due to the under valuation of property, the Government lost stamp duty and registration fee totalling Rs. 24 lakh.

4.3.2 Test check of the records of SR-I Lucknow revealed (October 2005) that a deed of conveyance for a property situated at 4A Park Road, Lucknow, was registered in December 2004. For levy of stamp duty it was valued at commercial rate of Rs. 12,000 per sqm. In another deed of conveyance a property situated at 5A Park Road, Lucknow, purchased by a hotel company, was valued at the residential rate of Rs. 6,000 per sqm instead of the commercial rate in contravention of the instructions of June 2003. This resulted in short levy of stamp duty and registration fee totalling Rs. 3.68 lakh.

4.3.3 Test check of the records of SR-IV Agra revealed (April 2005) that a deed of conveyance showing the sale of land measuring 352.83 sqm situated at Dhanuli on 40 feet wide road was registered in February 2005. For levy of stamp duty it was valued at the rate of Rs. 800 per sqm instead of Rs. 3,000 per sqm as fixed by the collector. Thus, due to undervaluation of the property, the Government lost stamp duty and registration fee of Rs. 78,000.

The matter was reported to the department and the Government in November 2006; their replies have not been received (August 2007).

4.4 Short levy of stamp duty due to misclassification of document

Under Article 48 (ee) (Schedule 1-B) of the Indian Stamp Act, 1899 (IS Act) (as amended in its application to Uttar Pradesh from 1.11.1991), when irrevocable authority is given to the attorney to sell immovable property, the

same duty as conveyance on the market value of the property forming subject matter of such authority is chargeable. The Chief Controlling Revenue Authority (UP) held¹ that in case the interest of the agent is explicitly inbuilt in the properties, the instrument is chargeable to duty under Article 48(ee).

Test check of the records of two sub registrar (SR) offices between October 2005 and July 2006 revealed that in six cases power of attorney had been executed in favour of agents and their interest had been explicitly inbuilt in the property. Although duty was chargeable on the instruments as conveyance, yet it was not charged by the registering authority. This resulted in short levy of stamp duty and registration fees amounting to Rs. 25.69 lakh as mentioned below:

(Amount in Rupees)

Sl. No.	Name of unit	Document No./Year	Area/Location	Rate per sqm	Market value leviable (as per rate list)	Stamp duty plus registration fees		Short levied
						Leviable	Levied	
1.	SR Gonda	Book No. 4 Khand-23 Deed No. 54/ 2005-06	Khasra no. 1,104 2,670 sqm/ Aurangabad, Khalsa, Lucknow.	1,400	37,38,000	3,78,800	110	3,78,690
		Book No. 4 Khand-23 Deed No. 55/ 2005-06	Khasra no. 1,160 2,600 sqm/ Aurangabad, Khalsa	1,400	36,40,000	3,69,000	110	3,68,890
		Book No. 4 Khand-23 Deed No. 5/ 2005-06	Khasra no. 1,156 4,340 sqm/ Aurangabad, Khalsa	1,400	60,76,000	6,12,600	110	6,12,490
		Book No. 4 Khand-23 Deed No. 6/ 2005-06	Khasra no. 1,159 4,380 sqm/ Aurangabad, Khalsa	1,400	61,32,000	6,18,200	110	6,18,090
		Book No. 4 Khand-23 Deed No. 4/ 2005-06	House no. 532 (b)/24 289.172 sqm/ Pandey Tola Aliganj, Lucknow	3,850 (Land) 4,000 (Constt.)	22,70,000	2,32,000	110	2,31,890
2.	SR I Lucknow	Book No. 4 Khand-358 Deed No. 73/ 2004-05	Khasra no. 1,579 2,530 sqm/ Aurangabad Khalsa, Lucknow	1,400	35,42,000	3,59,200	50	3,59,150
					2,53,98,000	25,69,800	600	25,69,200

The matter was reported to the department and the Government between January 2006 and September 2006; their replies have not been received (August 2007).

4.5 Short levy of stamp duty and registration fee due to incorrect computation of lease period

Under the IS Act, on an instrument where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purport to be for any definite term, stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property. The IGR clarified on 22 April 2003 that if a

¹ Stamp revision no. 1516 of 1993-94 (Anil Kumar Tripathi versus State)

lease for a period less than 30 years, contained provision for further extension for a certain or indefinite period, stamp duty may be charged on the consideration of market value of the property.

Test check of the records of four SRs¹ revealed between June 2005 and August 2006 that four lease deeds for a period ranging between 29 and 30 years were registered during September 2003 to June 2005 on which stamp duty of Rs. 2,640 and registration fees of Rs. 580 were levied. The recital of deeds, however, revealed that provision for further extension of lease was also made with transfer of ownership rights to the lessees. Consequently, the lessees were required to pay stamp duty and registration fees of Rs.10.87 lakh and Rs. 19,000 respectively at the prevailing market rates. This resulted in short levy of stamp duty and registration fees amounting to Rs. 11.06 lakh.

The matter was reported to the department and the Government between October 2005 and December 2006; their replies have not been received (August 2007).

WEIGHTS AND MEASURES

4.6 Revenue lost due to non-observance of the provisions of the Act/Rules

4.6.1 Registration/renewal of registration of users

Under the provisions of the Standard of Weights and Measures (Enforcement) Act, 1985, (SOWM) of the Government of India read with Rule 10 of the UP Standard of Weights and Measures (Rules) 1990 (UPSWM), no person, not being an itinerant vendor[§], shall use any weight or measure in any transaction or for industrial production or for protection unless he is registered in accordance with the provisions prescribed for it. He shall apply in form A-1 of the schedule 1 of the Rule accompanied by a fee of Rs. 5 to the Controller or such other officer as the Controller may, by general or special order in writing, authorise in this behalf for the registration of his name and every such application shall be made within 90 days from the commencement of the use of weights and measures. The renewal of registration will be done after five years on payment of Rs. 5. A register of users shall also be maintained thereafter in the form set forth in schedule III of the Rules in which name and address of the user, nature of business carried on, weights and measures used, date of registration and renewal in respect of every user are to be exhibited.

During test check of the records of 17 offices* of Senior Inspectors, Weights and Measures in four regions and information collected from Assistant

¹ Balrampur, Chail, Farrukhabad and Sahjanwan

[§] Mobile vendor

* S I Rambagh, S I Murrey Co., S I Sarojini Nagar, S I Kidwai Nagar (Kanpur Region), S I Lahurabir, S I Chaukaghat, S I Mughalsarai, S I Mirzapur (Varanasi Region), S I Lucknow, S I Chowk Lucknow, S I Alambagh, S I Indiranagar, S I Malihabad, S I Mohan Lal Ganj (Lucknow Region) S I Jeevani Mandi, S I Civil Line and S I Id-Gah (Agra Region).

Controller (HQ) UP, Lucknow it was noticed between September 2006 and December 2006 that registration of the users of weights and measures was not carried out in the state since 1985. The details of the number of users whose weights and measurements were stamped for use during the period 2001-02 to 2005-06 in respect of which neither registration/renewal of registration was carried out nor any fee realised, were as under:-

(No. of users)			
Year	Opening balance	Increase (during the year)	Closing balance
2001-02	7,08,884	14,241	7,23,125
2002-03	7,23,125	61,134	7,84,259
2003-04	7,84,259	64,468	8,48,727
2004-05	8,48,727	57,185	9,05,912
2005-06	9,05,912	21,964	9,27,876

Thus, due to non-observance of the provisions of the Act/Rules, the Government lost revenue amounting to Rs. 81.83 lakh, on account of registration fee of Rs. 46.39 lakh[#] and minimum renewal fee of Rs. 35.44 lakh[§] during the last five years alone. The amount will be much higher if the earlier years are also reckoned.

After the cases were pointed out, the department and the Government stated in March 2007 that the registration of users was not done because a proposal of amendment relating to section 16 to 18 had been pending since 1994. The reply is not tenable because the provisions relating to registration referred to in the Act/Rule are still effective.

4.6.2 Verification/reverification of users

Under the provisions of the SOWM Act read with rule 14 and 15 of the UPSWM Rules, every person in possession, custody or control of any weight or measure* which he intends to use or is likely to use in any transaction or for industrial production, shall present such weight and measure for verification or reverification by an inspector and get it stamped at least once in a year on payment of the prescribed fees. Contravention of the provisions of the Act attracts punishment under section 47 with fine which may extend to Rs. 500. Further, under rule 17 (3) of the UPSWM Rules, additional fee at half the rates specified in schedule XII of the UPSWM Rules is also payable after expiry of the validity of stamping for every quarter of the year or part thereof for reverification.

Scrutiny of the case register in 17 offices¹ of Senior Inspectors, Weights and Measures revealed that during 2003-04 to 2005-06 while checking business

[#] (9,27,876 X 5)

[§] (7,08,884 X 5)

* includes capacity measurement (storage tank, tank lorries, dispensing measurements etc.), weigh bridges, electronic weighing machines etc.

¹ S I Rambagh, S I Murrey Co., S I Sarojini Nagar, S I Kidwai Nagar (Kanpur Region), S I Lahurabir, S I Chaukaghat, S I Mughalsarai, S I Mirzapur (Varanasi Region), S I Lucknow, S I Chowk Lucknow, S I Alambagh, S I Indiranagar, S I Malihabad, S I Mohan Lal Ganj (Lucknow Region) S I Jeevani Mandi, S I Civil Line and S I Id-Gah (Agra Region).

places of 164 users, it was found that they were using their weights and measures without getting it verified after the lapse of the valid period of one year. Though these cases were compounded under section 47 of the Act but users did not get their weights and measures verified by the department. This resulted in non-realisation of fee and additional fee of Rs. 1.48 lakh.

After the cases were pointed out, the department and Government stated (March 2007) that weights and measures used by the user agencies were seized and such cases were compounded but fees and additional fees were not realised because the seized weights and measures were not taken back by the users and were lying in the offices of the inspectors. The reply is not tenable as seizure of all weights and measures used is not possible as these include heavy objects like tank lorries, weigh bridges and electronic weighing machines, etc.

4.6.3 Deposit of revenue receipts in Government account

Under the provisions of Paragraph 21 of UP Financial Hand book Volume V Part I, it is the responsibility of the departmental authority to see that all revenue receipts due to the Government are correctly and properly assessed and credited to Government account without undue delay. Under Rule 18(3) of the UPSWM Rules, the inspector shall receive fee and other charges payable by the users and issue a receipt and shall keep a copy of such receipts on record. The inspector shall also maintain a register in the prescribed form, which shall be written day to day. The payment received by the inspector during the week shall be paid into the Government treasury on dates/days specified by the Controller of Weights and Measures from time to time. According to the instructions issued by the Controller, Weights and Measures in November 1977, all revenues collected during the week are to be deposited in the Government treasury on every monday of the week.

During test check of the cash book of the seven offices¹ of the Senior Inspectors for 2003-04 to 2005-06, it was noticed that revenue received from the users during the week amounting to Rs. 80.51 lakh was not deposited in the treasury on every monday of the week. It was either deposited fortnightly, monthly or bimonthly which was in contravention of the financial rules and instructions issued by the department. The extent of delay ranged from one week to two months.

After the cases were pointed out, the department and the Government stated that action was being taken in cases of default and further instructions were being issued to deposit the receipts in time.

¹ S I (W&M) Murrey Co. Kanpur S I (W&M) Rambagh Kanpur, S I (W&M) Lucknow Centre Lucknow, S I (W&M) Indira Nagar Lucknow, S I (W&M) Mohanlalganj Lucknow, S I (W&M) Civil Lines Agra, S I (W&M) Jeevani Mandi Agra.