

CHAPTER IV STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of records of Stamp Duty and Registration Fees conducted in audit during the year 2002-03, revealed underassessments/short levy of revenue amounting to Rs.122.68 crore in 167 cases indicated below:-

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation of deficit stamp duty	54	9.54
2.	Blockage of Government revenue	37	2.05
3.	Undue remission of stamp duty and registration fees	01	0.23
4.	Review: Levy, collection and arrears in collection of stamp duty and registration fees	41	110.51
5.	Other irregularities	34	0.35
Total:		167	122.68

During the course of the year 2002-03, the concerned Department accepted underassessments etc. of Rs.73.86 crore involved in 97 cases of which 86 cases involving Rs.73.64 crore had been pointed out in audit during the year 2002-03 and the rest in earlier years. An amount of Rs.42.04 lakh was recovered at the instance of audit.

A few illustrative cases and a review, “**Levy, Collection and Arrears in Collection of Stamp Duty and Registration Fees**” involving Rs.84.50 crore highlighting important observations are given in the following paragraphs:

4.2 Review : Levy, Collection and Arrears in Collection of Stamp Duty and Registration Fees

Highlights:

Lack of action by Registering Officers resulted in non-realisation of stamp duty and registration fees of Rs.8.52 crore

(Paragraph 4.2.8)

Delay in disposal of cases referred to the Collector for determination of market value resulted in non-realisation of deficit stamp duty and registration fees of Rs.38.89 crore

(Paragraph 4.2.9)

Non-registration of flats resulted in non-realisation of stamp duty and registration fees of Rs.29.44 crore

(Paragraph 4.2.10)

Collectors allowed irregular refund of value of excess/spoiled/misused non-judicial stamps of Rs.94.08 lakh

(Paragraph 4.2.14)

Delay in giving effect to the amended Act resulted in undermobilisation of revenue of Rs.96 lakh

(Paragraph 4.2.15)

4.2.1 Introduction

The levy and collection of stamp duty and registration fees are regulated under the Indian Stamp Act, 1899 and the Indian Registration Act, 1908 and the Rules framed thereunder respectively as applicable in West Bengal. Instruments registrable under the Act are chargeable to stamp duty and registration fees at the rates prescribed by the State Government from time to time.

Stamp duty is paid by the public under self assessment system by purchasing stamps direct from the treasury or stamp vendors except in the case where the executant produces any instrument under section 31 before the Collector for assessment of proper stamp duty. Any public officer in performance of his official function is empowered to impound any instrument which appears to him not duly stamped and send the same to the Collector for realisation of the deficit stamp duty. The documents which are to be registered compulsorily, are produced after execution before the Registering Officer for registration.

Under the Indian Stamp Act, the stamp duty on an instrument, depends on the real nature or substance of the transactions recorded in the instruments and not on any title or description or nomenclature given by the parties who execute the instruments.

The Registering Officer is also empowered to ascertain the market value of the properties which is the subject matter of the instrument and to compute proper stamp duty chargeable thereon in the prescribed manner as provided in the Act and to send to the concerned party a notice calling upon him to make payment of the deficit amount of stamp duty and registration fees within the specified

period. If the party does not make payment of the deficit stamp duty and registration fees within the specified period, the Registering Officer shall refer the case to the Collector/Deputy Inspector General of Registration for determination of the market value and proper stamp duty payable thereon. The Collector/Deputy Inspector General of Registration, after giving the parties a reasonable opportunity of being heard and after holding an enquiry, if necessary, shall determine the market value of the property and thereafter, issue notice directing the concerned party to make payment of the deficit stamp duty and registration fees under intimation to the Registering Officer. The aggrieved party, however, may prefer appeal against the order passed by the Collector/Deputy Inspector General of Registration to the Appellate Authority viz. Commissioner of the respective Divisions within 60 days from the date of receipt of the order or such further period as may be allowed by the said Authority. The party can challenge the assessment order/decision of any officer of the Registration Department at any stage in the Court of Law. Neither any time limit has been prescribed for disposal of the cases of undervaluation by the Registering Officer nor has it been fixed for disposal of such cases by the Collector/Deputy Inspector General of Registration.

4.2.2 Audit Objectives

Test check of the records of Registration Department was conducted with a view to ascertain:-

- the efficiency and effectiveness of system in collection of stamp duty and registration fees;
- the disposal of appeal cases by the Appellate Authorities;
- compliance with different provisions of the Acts in determining proper value of the properties;
- lacunae in the Acts/Rules that have led to loss of revenue.

4.2.3 Organisational Set Up

The State Government exercises control over stamp administration through the Secretary, Finance (Taxation) Department aided by the Inspector General of Registration. The Inspector General of Registration administers the collection of stamp duty and registration fees through the nine Deputy Inspectors General of Registration, 19 District Registrars, 24 District Sub-registrars, 163 Additional District Sub-registrars and 56 Sub-registrars.

4.2.4 Scope of Audit

The review, "Levy, Collection and Arrears in Collection of Stamp Duty and Registration Fees" covers the period from 1997-98 to 2001-02. Test check of records of 27¹ Registration Offices out of 262 along with the records of eight² offices of the Deputy Inspector General of Registration (DIGR) out of nine, covering 11³ districts out of 19, was done between August 2002 and March 2003.

4.2.5 Trend of revenue

The position of budget estimates and actual collection of revenue from 1997-98 to 2001-02 was as under:

(Rupees in crore)

Year	Budget Estimates	Actual Receipts	Variation		Per cent variation	
			Increase(+)	Short fall(-)	Increase(+)	Shortfall(-)
1997-98	418.00	335.82		(-)82.18		(-)20
1998-99	460.00	372.18		(-)87.82		(-)19.09
1999-2000	406.34	411.72	(+)5.38		(+)1.32	
2000-01	511.37	474.01		(-)37.36		(-)7.31
2001-02	600.00	555.39		(-)44.61		(-)7.44

It would be seen from the above that variation was very high during 1997-98 and 1998-99.

4.2.6 Cost of Collection

Expenditure incurred on collection of revenue during the period was as under:

(Rupees in crore)

Year	Revenue Collected	Cost of Collection	Percentage of cost of collection to collection	
			West Bengal	All India average
1997-98	335.82	22.43	6.68	3.14
1998-99	372.18	34.22	9.19	5.45
1999-2000	411.72	35.83	8.70	4.62
2000-01	474.01	37.65	7.94	4.39
2001-02	555.39	37.51	6.75	3.51

It is seen from the above that cost of collection was very high as compared to the all India average. The Department stated that cost of collection was high

¹ ADSR: Alipore, Asansol, Barasat, Barrackpore, Behala, Berhampur, Burdwan, Chandannagore, Chinsurah, Dum Dum, Durgapur, Howrah, Kharagpur, Krishnanagar, Malda, Midnapore Serampore and Uluberia.

ARA: I, II and III

DSR-I: Burdwan, Chinsurah and South 24 Parganas

DSR-II: South 24 Parganas

DR: Howrah, West Midnapore.

² DIGR: Range I to VIII

³ Burdwan, Hooghly, Howrah, Jalpaiguri, Kolkata, Malda, Murshidabad, Nadia, North 24 Parganas, South 24 Parganas and West Midnapore.

due to low rate of stamp duty as compared to other states and upward revision of pay and allowances of the collecting officers and staff since 1998. It was further stated that efforts were being made to increase the revenue collection to lower the percentage of cost of collection.

4.2.7 Position of pending cases

As per the information made by the Department 442 cases were pending in different Courts of Law. Calendar year wise position is as under:

• **Position of cases pending with courts:**

Calendar Year	Opening Balance	No. of cases filed	Total	No. of cases disposed	Balance cases	Percentage of disposal Col. 5 to 4
1	2	3	4	5	6	7
1998	189	70	259	19	240	7.33
1999	240	127	367	44	323	11.99
2000	323	131	454	102	352	22.47
2001	352	92	444	39	405	8.78
2002	405	56	461	19	442	4.12

The percentage of disposal during 1998 to 2002 ranged from 4 - 12 per cent except in 2000 when it was 22 per cent.

Age wise analysis of the pending cases is as under:

- Cases pending for more than 10 years: 69 cases
- Cases pending for more than seven years but less than 10 years: 158 case
- Cases pending for more than five years but less than seven years: 189cases
- Cases pending for less than five years: 26 cases

• **Position of cases pending adjudication with Collectors:**

As per the information collected from/furnished by the Department, 46,989 cases were pending with Collectors as on 31 March 2002. The year-wise breakup is given as under:

Year	No. of cases
1996-97	5,382
1997-98	8,046
1998-99	9,844
1999-2000	9,682
2000-01	9,311
2001-02	4,724
Total:	46,989

The opening balance and yearly disposal, if any, were not made available to audit. As such the overall progress in disposal of the cases could not be evaluated.

• **Position of cases pending with Registering Officers:**

The position of pendency of documents with Registering Officers was not made available. No return was prescribed for monitoring the position of arrears either by the Inspector General of Registration (IGR) or by Government. Thus, an important instrument of maintaining and control was lacking. The information regarding pendency as collected by audit in respect of 18 Registration Offices out of 44 test checked revealed that 5,712 deeds involving revenue of Rs.8.52 crore were pending with Registering Officers. This has been discussed in the following paragraph.

4.2.8 Lack of action by Registering Officers resulted in non-realisation of stamp duty and registration fees

Under the Indian Stamp Act, 1899 as applicable in West Bengal read with departmental circular issued in July 1998, where the Registering Authority has reason to believe that the market value of the property had not been truly set forth in the document presented for registration, he is authorised to register such document provisionally. Thereafter, he is required to ascertain the market value of the property and issue a notice to the party for payment of deficit stamp duty and registration fees, if any, within 30 days. In the event of non-payment by stipulated period of 30 days, the case is to be referred to the District Collector within 15 days for determination of market value of property and collection of deficit stamp duty and registration fees.

Scrutiny of records of 18⁴ Registration Offices revealed that the Registering Officers had ascertained the market value of properties in respect of 5,712 instruments as Rs.141.53 crore as against value set forth therein of Rs.44.65 crore registered provisionally between 1995 and 2002. Thereafter, no notices were issued to the concerned parties for payment of the deficit stamp duty and registration fees. This resulted in non-realisation of stamp duty and registration fees of Rs.8.52 crore. A few cases are given below:

⁴ ADSR - Asansol, Barasat, Barrackpore, Baruipur; Behala, Burdwan (East), Coochbehar (Sadar), Dhupguri, Durgapur, Howrah, Krishnanagar, Midnapore Murshidabad (Sadar) and Sonarpur.

DSR - I, North 24 Parganas, South 24 Parganas and DSR - II, South 24 Parganas, ARA - II, Kolkata.

(Rupees in crore)

Name of office	No. of deeds	Amount of Stamp Duty and Registration Fees involved	Period involved	Delay between
ADSR, Asansol	2,515	1.00	1997 and 2002	1 and 5 years
ADSR, Durgapur	511	0.29	1997 and 2002	1 and 5 years
DSR-I, South 24 Parganas	210	1.22	2001 and 2002	1 year
ADSR, Barasat	313	0.28	2001	1 year
DSR-II, South 24 Parganas	268	2.22	2000 and 2001	1 and 2 years
ADSR, Howrah	581	1.55	1995 and 2001	1 and 7 years

On this being pointed out in audit, the Registration Offices accepted audit observation and stated that notices would be issued to the concerned parties and action for sending the cases to Collectors would be taken accordingly. The reasons for non-issue of notices were stated to be due to shortage of staff.

4.2.9 Delay in disposal of cases referred to the Collector for determination of market value resulted in non-realisation of deficit stamp duty and registration fees

In accordance with the notification dated 27 October 1999, Deputy Inspector Generals of Registration (DIGR) have also been entrusted with the power for disposal of referred cases u/s 47A of the Indian Stamp Act, 1899. Further, the notification dated April 2001 provides that the Collector or Deputy Inspector General of Registration shall issue a notice within 30 days from the date of receipt of the cases referred to them by the Registering Officers. He should, thereafter, hold an enquiry for correct determination of market value after hearing the parties concerned. No time limit or norm has been fixed for final disposal of these cases.

Scrutiny of records of five⁵ DIGR and 14⁶ Collectorate offices for the period between 1994 and 2002 revealed that 24,598 deeds provisionally registered and referred to them by Registering Authorities for determination of correct market value had remained undisposed for a period ranging from one to eight years as on 31 March 2003. Not a single notice had been issued either by the Collectors or DIGRs. Consequently, stamp duty and registration fees of Rs.38.89 crore involved in these cases remained un-realised. A few instances are given below:

⁵ DIGR offices: Range-I, II, III, VI and VIII.

⁶ Bankura, Burdwan, Coochbehar, East Midnapore, Hooghly, Howrah, Jalpaiguri, Kolkata, Malda, Murshidabad, Nadia, North 24 Parganas, South 24 Parganas and West Midnapore.

(Rupees in crore)

Name of office	No. of deed	Periods involved between	Deficit Stamp Duty and Registration Fees involved	Delay of time between
Collector, Burdwan	11,790	1996 and 2002	1.70	1 and 6 years
Collector, Howrah	99	1995 and 1999	0.41	1 and 7 years
DIGR-I, Alipore	4,601*	1996 and 2002	24.37	1 and 6 years
DIGR-II, Barasat	359	2000	0.30	3 years
DIGR-III, Chinsurah	398*	1998 and 2001	0.80	1 and 4 years
DIGR-VI, Murshidabad	1,127*	1997 and 2002	0.18	1 and 5 years

* DIGR-I, III and IV inherited the old cases from the concerned Collectors.

On this being pointed out, the concerned Authorities stated that action could not be taken due to improper infrastructure and shortage of staff. The reply is not tenable as the fact remains that a large number of cases involving a substantial revenue remained uncollected due to inaction on the part of the Collectors/DIGRs. The Department should consider fixing of norms as well as time limit for timely and efficient disposal of cases by each Collector/DIGR as also provision for effective enforcement of the same.

4.2.10 Non-registration of flats resulted in non-realisation of stamp duty and registration fees

Under the provisions of the Indian Registration Act, 1908 all instruments relating to sale or lease of immovable property for any term exceeding one year are required to be registered. There is, however, no provision in the said Act to prevent delay in preparation and execution of instruments affecting sale or lease of immovable property nor has any time limit been fixed for registration of the properties.

Scrutiny of survey reports conducted between July 2000 and March 2002 by six⁷ Registration Officers revealed that 4,678 flats valued at Rs.337.14 crore were sold during the periods February 1999 to December 2001 but the documents for transfer of property were not registered by the owners. The Registering Authorities had issued notices from time to time for the registration of the flats in 4,289 cases whereas no notice for registration was given in other cases. In absence of any specific time limit and deterrent clauses, no action could be taken by the Department to get the documents

⁷ ARA-II, Kolkata
DR- Burdwan, North 24 Parganas and South 24 Parganas
ADSR-Alipur and Behala.

registered. This resulted in non-realisation of stamp duty and registration fee to the tune of Rs.29.44 crore.

On this being pointed out, the Registering Officers confirmed the facts and stated in May 2003 that possession of the flats were taken over by the purchasers after making full payment as per agreements but documents thereof were not registered by them.

4.2.11 Short realisation of stamp duty

Under the provisions of Notification No.4398 dated 15 November 1995, remission of stamp duty and registration fees up to the value of Rs.3.50 lakh is permissible in respect of any instrument executed by or on behalf of a Co-operative Society or a member thereof.

Scrutiny of records of District Sub-registrar-II, Alipore and Additional Registrar of Assurance-II, Kolkata revealed that the West Bengal Housing Board (WBHB) constructed 56 flats at Chakthakurani in the district of South 24 Parganas and 124 flats at VIP Road, Kolkata and sold the flats to the intending purchasers on receipt of full consideration. However, the Registering Officers exempted the sale deeds from payment of stamp duty and registration fees upto a consideration of Rs.3.50 lakh in each case on the plea that the purchasers were members of Co-operative Societies. A perusal of records, however, revealed that no Co-operative Society was formed at the time of transaction of sale and as such exemption of stamp duty and registration fee of Rs.33.76 lakh was not correct. This resulted in short realisation of Government revenue to that extent.

On this being pointed out, the District Sub-Registrar-II, Alipore stated in January 2003 that the exemption of stamp duty and registration fees were allowed to the primary members of a Co-operative Society. The reply is not acceptable as the Co-operative Societies were not formed at the time of sale and as such the question of primary members does not arise. The Additional Registrar of Assurance-II, Kolkata, however, stated in July 2002 that the exemption of stamp duty and registration fees were allowed as per above notification. The reply is not tenable as the said notification did not provide for exemption in such cases.

4.2.12 Loss of revenue due to undervaluation of property

Under the provisions of the Indian Stamp Act, 1899, as applicable in West Bengal, the consideration money, if any, or the duty with which it is chargeable, shall be fully and truly set forth therein. Further, the West Bengal Stamp (Prevention of undervaluation of Instruments) Rules, 1994, provide that market value (MV) of any immovable property shall be determined on the basis of the highest price at which sale of a property of similar nature and area, in a comparable locality, during the five consecutive years immediately preceding the date of execution of any instrument, has taken place. For this purpose each Registering Officer maintains a market value monitoring register.

Scrutiny of records in Kolkata Collectorate and three⁸ other Registration Offices revealed that in eight cases the Registering Officers determined the market value of the properties at Rs.5.81 crore instead of Rs.8.85 crore as per market value monitoring register maintained in respective offices. This resulted in undervaluation of properties by Rs.3.04 crore involving loss of stamp duty and registration fee of Rs.26.01 lakh.

On this being pointed out, one Registering Officer admitted the audit observation while no reply was received in remaining cases.

4.2.13 Non-realisation of differential stamp duty in respect of deeds registered in the other States

Under the Registration Act, 1908, the Registrar of Assurance Kolkata, Mumbai, Chennai and Delhi may receive and register any document without regard to the situation in any part of India of the property to which the document relates. Copies of such documents and of the endorsements and certificates thereon are to be forwarded to the Registrar within whose district any part of the property to which the instrument relates is situated. The said provision was, however, deleted w.e.f. 13 January 1997.

Verification of 171 documents in Kolkata Collectorate revealed that properties situated in Kolkata were registered between January 1995 and October 1996 in Delhi and Mumbai at lower market price than that prevailing in West Bengal.

⁸ ARA-I and II, Kolkata; ADSR - Durgapur.

The collector of Stamp Revenue, Kolkata, however, did not initiate any action for assessment and realisation of deficit stamp duty in respect of the said documents even after five years. This resulted in non-realisation of differential stamp duty to the extent of Rs.27.18 lakh worked out on the market value of Rs.2.77 crore.

On this being pointed out, the Collector of Stamp Revenue, Kolkata stated in March 2003 that the cases were pending due to shortage of staff and non-receipt of any order from the Government to transfer those cases to the concerned Authority. The reply of the Department is not tenable as the cases are to be referred to the Registrar within whose district the property is situated. The reply further indicated lack of co-ordination between the Authorities functioning in the Department.

4.2.14 Irregular refund of value of excess/spoiled/misused non-judicial stamp

As per provision of the Indian Stamp Act, 1899 and the rules made thereunder, Collector of the district has been empowered to make refund against spoiled, excess, misused stamps and stamps not in immediate use after deducting 10 paise per rupee of the value of those stamps. In order to prevent any loss or defalcation, the genuineness of spoiled/misused stamps are required to be verified by the concerned Treasury Officer who is required to furnish a certificate to that effect before refund is granted in each case.

Scrutiny of records of the Collectors of eight⁹ districts revealed that in 5,064 cases, refund of value of non-judicial stamp of Rs.94.08 lakh was allowed between 1997-98 and 2001-02 without obtaining certificate from the concerned Treasury Officers regarding genuineness of the stamps though such certificate was a pre-requisite for grant of refund of stamp duty. Thus the allowance of refund was irregular.

4.2.15 Undermobilisation of revenue

Article 48 of Schedule IA of the Indian Stamp Act, 1899 as amended in 1998 provides that in case of deed of power of attorney given to a promoter, for construction, development, sale or transfer (in any manner whatsoever) of any

⁹ Burdwan, Hooghly, Howrah, Jalpaiguri, Murshidabad, Nadia, South 24 Parganas and West Midnapore.

immovable property, the same duty as for conveyance for the market value of the property is leviable. The said amended Act was first published in the Kolkata Gazette on 21 June 1999 on receipt of assent of the President of India, but came into effect on 15 March 2001 as notified by Government.

Scrutiny of 123 registered power of attorney documents in six¹⁰ Registration Offices in three districts registered between 1 July 1999 and 14 March 2001 revealed that power of attorney for 16.87 acres of land was delegated to the developers/promoters for construction and sale of flats. The documents empowered the promoters/developers for construction/development and sale of immovable properties. However, in the absence of enactment of the notification dated 21 June 1999 during this period duty was realised as general power of attorney. Thus delay in giving effect to the amended Act resulted in undermobilisation of Government revenue of Rs.96 lakh.

On this being pointed out, two¹¹ Registering Authorities admitted the fact of undermobilisation of Government revenue.

4.2.16 Loss due to irregular remission of stamp duty and registration fees

Under the provision of the West Bengal Co-operative Societies Act, 1983 read with clarificatory Government order, stamp duty and registration fees was exempted for registration of mortgage deed in favour of a co-operative bank subject to the condition that persons executing such deeds shall be general members of the said bank having voting right with entitlement to earn dividend. For this purpose the mortgage deeds were required to indicate clearly that the mortgager was a general member.

Scrutiny of 180 mortgage deeds registered between February 1998 and December 2001 in seven¹² Registration Offices, revealed that the Registration Authorities accepted and registered documents executed in favour of different co-operative banks without realisation of stamp duty and registration fee inspite of the fact that none of the mortgagers was a general member of the banks. This irregular remission of stamp duty and registration fees resulted in loss of revenue to the extent of Rs.8.61 lakh.

¹⁰ ADSR - Alipore, Barasat, Chinsurah, Cossipore-Dum Dum, Howrah, Serampore.

¹¹ ADSR - Cossipur-Dum Dum and Serampore

¹² ADSR-Cossipore - Dum Dum, Midnapore, Barrackpore, Kharagpur and Howrah.
DSR- West Midnapore and DSR-I- West Midnapore.

4.2.17 Loss of revenue due to incorrect determination of premium

Indian Stamp Act provides that where lease is granted for a premium, the stamp duty shall be charged at the rates applicable to conveyance deeds. The premium or the cost of land is monitored by a market value monitoring register.

A piece of land measuring 62.92 acres covering three mouzas of the Asansol-Durgapur Development Authority (ADDA) was transferred on lease in October 2001 to a private sector authority for 60 years for construction of a cement factory at a premium of Rs.2.41 crore. However, premium as per the market value monitoring register amounted to Rs.14.52 crore. Thus there was short determination of premium of Rs.12.11 crore resulting in short levy of stamp duty and registration fee of Rs.36.94 lakh*.

On this being pointed out in audit, the Registration Office confirmed the audit contention. Further action taken has not been intimated.

4.2.18 Internal Audit System

There exists no internal audit system in the Department of Registration, Government of West Bengal. Thus, the delay in disposal of pending cases and levying of stamp duty at incorrect rates were not brought to the notice of the Authorities at apex level.

4.2.19 Conclusions and Recommendations

The review has revealed lapses in the monitoring of receipt and collection of Government revenues due to non-finalisation of cases by the Registrars and Collectors. As a result, amounts due to Government have remained unrealised. The position of disposal of pending cases was not monitored at any level. The Government may consider the following suggestions for correct assessment, speedy settlement and prompt realisation of Government revenue:

- The Department should take steps to introduce internal audit to ensure correct and speedy disposal of cases.
- The Department should introduce periodical return to be furnished by the Registering Officers indicating details of revenue realised, exemption allowed and cases pending at different levels involving blockage of revenue.

* calculated after allowing 50 per cent as remitted by the Government.

- The Department should prescribe and enforce a time limit for ascertaining market value of properties and for disposal of cases.
- The Government should introduce deterrent clauses to get immovable properties registered immediately on transfer of the same.

The above paragraphs were referred to the Government in May 2003; their reply has not been received till November 2003.

4.3 Non/short levy of additional stamp duty in Kolkata Municipal Corporation and Howrah Municipal Corporation

Under the provisions of Howrah Improvement Act, 1956 as amended in 1995 and Kolkata Improvement Act, 1911, two per cent of additional stamp duty is leviable on the assessed market value of the properties of the instruments presented for registration within Uluberia Municipality and Kolkata Municipal Corporation.

Scrutiny of records of Additional District Sub-Registrar, Uluberia and three¹³ offices in Kolkata Municipal Corporation revealed that the Registration Authorities did not levy or levied short, additional stamp duty on assessed market value of Rs.103.80 crore in respect of 6,830 number of deeds registered between 1995-96 and 2001-02. This resulted in loss of revenue of Rs.2.07 crore.

On this being pointed out, the Registering Officers accepted the audit observation but did not furnish the reasons for non/short collection.

4.4 Short realisation of stamp duty

Article 48 of schedule IA of the Indian Stamp Act, 1899 as amended in 1998 provides that in case of deed of power of attorney given to a promoter, for construction, development, sale or transfer (in any manner whatsoever) of any immovable property, the same duty as for conveyance for the market value of the property is leviable. The said amended Act was first published in the Kolkata Gazette on 21 June 1999 on receipt of assent of the President of India, but came into effect on 15 March 2001 as notified by Government.

Scrutiny of 33 registered power of attorney documents in three¹⁴ districts registered on or after 15 March 2001 revealed that power of attorney for 4.73 acres of land valued at Rs.23.64 crore were delegated to developers/promoters for construction and sale of flats. The stamp duty

¹³ ADSR - Alipore, DIG - Range I and Collector of Stamp Revenue, Kolkata.

¹⁴ ADSR - Alipur, Howrah and Addl. Registrar of Assurance, Kolkata.

payable on these deeds amounted to Rs.1.91 crore against which stamp duty of Rs.1,650 only was levied.

This resulted in short realisation of revenue to the extent of Rs.1.91 crore worked out on the market value of land.

On this being pointed out, ADSR, Alipur accepted audit observation and stated that action to recover the amount would be taken. The other two Registering Authorities furnished no specific reply.

4.5 Misclassification of deeds led to loss of revenue

Under the Indian Stamp Act, the stamp duty on an instrument, depends on the real nature or substance of the transactions recorded in the instruments and not on any title or description or nomenclature given by the parties who execute the instruments. The rates of stamp duty and registration fees depend upon the recitals of instrument executed by the parties.

A test check of the recitals of different types of deeds in the following nine Registration Offices in eight districts revealed that 181 deeds, registered between January 1998 and March 2001, were misclassified by the Registering Officers which resulted in loss of revenue of Rs.44.05 lakh as shown in the table below:

Name of Sub-Registrar District	No. of instruments Date of execution consideration value (In crore)	Nature of misclassification	Stamp Duty & Regn. Fees leviable (In lakh)	Stamp Duty & Regn. Fees levied (In lakh)	Stamp Duty & Regn. Fees levied short (In lakh)
ARA-I, Kolkata	One Deed 1999 Rs.2.80	Sale deed was misclassified as lease deed	Rs.22.69	Rs.0.12	Rs.22.57
DSR-I, Hooghly	86 deeds (Jan.'98-Dec.'99 Rs.1.44)	Bonds were misclassified as agreement	Rs.7.35	Nil	Rs.7.35
DSR-I West Midnapore	3 deeds April 2000-March 2001 Rs.0.42	Mortgage deeds were misclassified as security Bond	Rs.2.56	Rs.0.00160	Rs.2.56
ADSR/Kharagpur, Barrackpur, Malda, Alipur, Asansol DSR/Howrah	91deeds January'99 to March 2000 Rs.2.60	Settlement deeds were misclassified as Gift deeds	Rs.13.46	Rs.1.89	Rs.11.57
			Rs.46.06	Rs.2.0116	Rs.44.05

On this being pointed out, three¹⁵ Registering Officers accepted audit observation and stated that the cases would be examined, while other six registering officers did not furnish any reply.

¹⁵ ADSR - Alipur, Asansol and Malda.