

CHAPTER III: STAMP DUTY AND REGISTRATION FEE

3.1 Tax administration

Receipts from the stamp duty (SD) and registration fee (RF) in the State are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. SD is leviable on the execution of instruments as per Schedule I-A of the IS Act and RF is payable at the prescribed rates fixed by the State Government. At the Government level, the Financial Commissioner and Principal Secretary, Revenue Department, Haryana, Chandigarh (FCR) is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The overall control and superintendence over levy and collection of SD and RF vests with the Inspector General of Registration (IGR), Haryana, Chandigarh. The IGR is assisted by the 21 Deputy Commissioners (DCs), 67 teshildars and 46 naib teshildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

3.2 Analysis of arrears of revenue

The department stated that the information relating to arrears of revenue was awaited from the office of the Divisional Commissioner. The Department had not supplied the details of arrears pending at the beginning of the year, arrears added and collected during the year and arrears pending at the end of the year due to non-availability of centralised database at the apex level. Thus, the department could not monitor and expedite the progress of recovery of arrears.

3.3 Cost of collection

The gross collection in respect of Stamps and Registration Fees, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2009-10 along with the relevant all India average percentage of expenditure of collection to gross collection for the relevant year are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2005-06	1,339.73	5.63	0.42	2.87
2006-07	1,764.98	10.59	0.60	2.33
2007-08	1,763.28	12.04	0.68	2.09
2008-09	1,326.39	16.31	1.23	2.77
2009-10	1,293.56	13.72	1.06	-

Source: Finance Accounts.

3.4 Revenue impact of the Audit

3.4.1 Position of Inspection Reports

The performance of the Revenue Department to deal with the irregularities detected in the course of local audit conducted during the year 2008-09 and the corresponding figures for the preceding four years is tabulated below:

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2004-05	179	4,153	6.53	1,225	4.88	18	0.05
2005-06	179	8,349	22.10	5,878	13.19	108	0.07
2006-07	179	3,476	8.99	2,352	6.67	104	0.03
2007-08	180	85,543	44.43	2,136	6.04	240	0.07
2008-09	180	1,157	6.50	310	1.90	7	0.01
Total	897	1,02,678	88.55	11,901	32.68	477	0.23

We observed that the recovery in respect of accepted cases during the years 2004-05 to 2008-09 was only one *per cent*.

3.4.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short levy/realisation of SD and RF, evasion due to non-execution of conveyance deeds, non-presentation of documents for registration, misclassification of documents, incorrect grant of exemptions/remissions, application of incorrect rate etc., with revenue implication of ₹ 57.59 crore in 17 paragraphs (including two reviews). Of these, the Department/Government had accepted audit observations in 17 paragraphs (including two reviews) involving ₹ 46.12 crore and recovered ₹ 26.53 lakh. The details are shown in the following table:

Year	Paragraphs included		Paragraph accepted		Amount recovered	
	(₹ in crore)		(₹ in crore)		(₹ in lakh)	
	Number	Amount	Number	Amount	Number	Amount
2005-06	3	7.25	3	7.25	1	11.42
2006-07	3	0.34	3	0.34	1	1.31
2007-08	4 1 (Review)	1.70 24.69	4 1	1.70 15.11	1 -	0.87 -
2008-09	5	0.76	5	0.76	1	1.43
2009-10	1 (Review)	22.85	1	20.96	1	11.50
Total	17	57.59	17	46.12	5	26.53

We observed that the Revenue Department had recovered only ₹ 26.53 lakh out of accepted cases amounting to ₹ 46.12 crore during the years 2005-06 to 2008-09. Thus, the recovery in respect of the accepted cases was very low (0.6 per cent). The slow progress of recovery even in respect of accepted cases is the indicative of failure on the part of the heads of offices/department to initiate effective action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

3.5 Results of audit

Test check of the records of various registration offices during the year 2009-10 revealed non/short levy of SD and RF and non-deposit of mutation/copying fee amounting to ₹ 23.07 crore in 481 cases, which fall under the following categories:

(₹ in crore)			
Sr. No.	Category	Number of cases	Amount
A- Revenue Department – Stamps and Registration Fees			
1.	Levy and collection of stamp duty and registration fee (A review)	1	22.85
2.	Miscellaneous irregularities	92	0.12
	Total	93	22.97
B- Land Revenue			
1.	Miscellaneous irregularities	388	0.10
	Total	481	23.07

During the year 2009-10, the department accepted underassessment and other deficiencies of ₹ 20.99 crore involved in 159 cases which had been pointed out during 2009-10. The department recovered ₹ 13.27 lakh in 18 cases during the year 2009-10, of which one case involving ₹ 11.50 lakh related to the year 2009-10 and the balance to the earlier years.

A Review of “Levy and collection of stamp duty and registration fee” with financial impact of ₹ 22.85 crore is mentioned in the following paragraphs.

3.6 Levy and collection of stamp duty and registration fee

3.6.1 Highlights

- No system was devised by the Department to ensure that SD and RF had been levied on all the instruments due for registration as per provisions of the Acts. The non-levy of SD and RF on documents due for registration under the Acts but not presented for registration had deprived the Government of revenue of ₹ 3.58 crore.

(Paragraph 3.6.8.1 to 3.6.8.4)

- Irregular remission of RF of ₹ 4.33 crore in the absence of enabling provision to remit the fee under the IR Act.

(Paragraph 3.6.9)

- SD and RF of ₹ 9.19 crore was short levied on sale deeds of plots with an area less than 1,000 square yards due to application of lower rates and non-reckoning of the market value of the properties as per rates fixed by the Evaluation Committee.

(Paragraph 3.6.10.1 and 3.6.10.2)

- Lack of a prescribed time frame for the disposal of cases under adjudication resulted in non-finalisation of 1,163 cases of undervaluation of immovable properties involving SD of ₹ 5.34 crore.

(Paragraph 3.6.11)

- SD and RF of ₹ 6.37 crore was short levied/realised due to misclassification of instruments.

(Paragraph 3.6.12.1 and 3.6.12.2)

- Delay in implementation of the enhanced rates of RF resulted in short realisation of RF of ₹ 1.13 crore.

(Paragraph 3.6.13)

3.6.2 Introduction

SD, RF and penalty are the major receipts of the department. These are regulated under the IS Act, IR Act, Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. SD is leviable on the execution of instruments as per Schedule I-A of the IS Act and RF is payable at the prescribed rates. SD is paid by the executors of instruments by using impressed stamps or by affixing non-judicial stamps of proper denomination. Undervaluation of properties, non-presentation of documents in the offices of the registering authority and non/short payment of SD by the executants on the documents submitted before the registering authorities results in evasion of SD and RF.

We undertook a performance audit of “Levy and collection of stamp duty and registration fee”. The review revealed number of system and compliance deficiencies, which are discussed in the succeeding paragraphs.

3.6.3 Organisational set up

At the Government level, the FCR is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The IGR, Haryana, Chandigarh is the head of the Registration Department and exercises overall control and superintendence over the working of the department as regards to the levy and collection of SD and RF. He is assisted by the DCs, tehsildars and naib tehsildars acting as Registrars, SRs and JSRs respectively. The State has been divided into four¹ commissionerates, 21 districts¹ having 21 Registrars-cum-Collectors, 74 SRs and 42 JSRs. Instruments are registered in the offices of SRs/JSRs. The Registrars exercise superintendence and control over the working of offices of SRs and JSRs of the district.

3.6.4 Audit objectives

We conducted the review with a view to ascertain whether:

- budget estimates (BEs) were prepared in accordance with the laid down procedure and were realistic;
- adequate system had been devised by the department to ensure that documents due for registration were presented and SD of proper denomination and registration fee due was levied;
- adequate system and procedures were in place to ensure that the exemptions/remissions were correctly granted;
- internal control mechanism was effective and sufficient to safeguard collection of SD and RF on the instruments;
- the provisions of the Act/Rules and departmental instructions are adequate and enforced accurately to safeguard revenue of the State; and
- registering authorities were discharging their functions in levying and collecting SD in accordance with the prescribed rules and procedures.

3.6.5 Scope and methodology of audit

The instruments and other relevant records relating to levy and collection of SD and RF in the offices of IGR, 10 (out of 21) Registrars² and 55 (out of 116) registering offices in 10 (out of 21) districts in the State for the years 2004-05 to 2008-09 were test checked during April to October 2009. We have selected eight districts³ on random sample selection basis by applying formula of probability proportional to size method (without replacement) and Faridabad and Gurgaon districts on the basis of risk analysis. We have also

¹ Ambala Commissionerate: Ambala, Kaithal, Kurukshetra, Panchkula and Yamunanagar; Gurgaon Commissionerate: Faridabad, Gurgaon, Mewat at Nuh, Mohindergarh at Narnaul, Palwal and Rewari; Hisar Commissionerate: Bhiwani, Fatehabad, Hisar, Jind and Sirsa, and Rohtak Commissionerate: Jhajjar, Karnal, Panipat, Rohtak and Sonipat.

² Faridabad, Gurgaon, Hisar, Jhajjar, Karnal, Kurukshetra, Panchkula, Rohtak, Sirsa and Yamunanagar.

³ Hisar, Jhajjar, Karnal, Kurukshetra, Panchkula, Rohtak, Sirsa and Yamunanagar.

included points of similar nature noticed during audit for the period 2004-05 to 2008-09 and persuaded for their replies during April to October 2009.

3.6.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Revenue Department in providing necessary information and records for audit. An entry conference was held on 20 July 2009 and attended by the Under Secretary (Revenue) of the Revenue Department. The audit objectives, audit methodology and selection of districts for the review were discussed and agreed. The suggestions of the Department were kept in view at the time of selection of units and conducting audit. We had forwarded the draft review report to the Department and Government in April 2010. An exit conference was held on 7 July 2010, with the Under Secretary (Revenue) of the Revenue Department. During the exit conference, the findings of the review and recommendations were discussed. The replies furnished by the Department during the exit conference and at other times have been appropriately incorporated in the respective paragraphs. In July 2010, the Revenue Department had given interim reply in respect of paragraphs number 3.6.10, 3.6.12, 3.6.14 to 3.6.18 and 3.6.20 that the cases had been sent to the Collectors for determination of SD and Collectors were being persuaded for early decision. We are yet to receive their final reply in these cases.

The Revenue Department also stated in July 2010 that the recommendations would be examined and considered. Necessary action would be taken accordingly.

3.6.7 Trend of receipts

Under Para 3.2 of the Punjab Budget Manual, as applicable to the State of Haryana, BEs of the revenue receipts for the ensuing year should be based on original BE of the year just closed; actual of the two years preceding the year that just closed; actual of previous year for last six months and actual of current year for first six months to make the estimates more realistic.

The variations between BEs and actuals of SD and RF receipts and total tax/non-tax receipts for the years 2005-06 to 2009-10 are mentioned below:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess(+)/shortfall (-)	Percentage of variation (Col. 4 to Col. 2)	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-à-vis total tax/non-tax receipts (Col. 3 to Col. 6)
1	2	3	4	5	6	7
2005-06	820.00	1,339.73	(+) 519.73	(+) 63	11,537.21	12
2006-07	1,000.00	1,764.98	(+) 764.98	(+) 76	15,518.52	11
2007-08	1,780.00	1,763.28	(-) 16.72	(-) 01	16,714.90	11
2008-09	2,100.00	1,326.39	(-) 773.61	(-) 37	14,893.73	9
2009-10	1,225.00	1,293.56	(+) 68.56	(+) 6	15,960.90	8

Source: State Budget and Finance Accounts.

We observed that BEs were not prepared as per the norms laid down in the Budget Manual. The percentage of actual receipts of SD and RF to total tax/non-tax receipts of the State decreased from 12 *per cent* in 2005-06 to eight *per cent* in 2009-10. There was a steep rise in revenue collection during the years 2005-06 and 2006-07 which was mainly due to increase in transactions of immovable properties and revision of rates of RF with effect from November 2006. Shortfall in revenue during 2008-09 was due to global slowdown of economy leading to decrease in transactions of the immovable properties.

Audit findings

3.6.8 Absence of mechanism to detect evasion of stamp duty by not presenting documents for registration

As per proviso (3) to Section 33 (2) of the IS Act, the State may determine what offices shall be deemed to be public offices and who shall be deemed to be persons in charge of public offices. Further Section 73 also provides that every public officer having in his custody any records, documents and proceedings etc., the inspection whereof may tend to secure any duty or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised by the Collector to inspect for such purpose the records, documents and proceedings etc. All Government offices and Government undertakings are generally public offices but the Revenue Department had not inspected any offices so far. **We observed that the Revenue Department did not have any system to periodically collect information from various departments to ensure that the documents (agreements, contracts, leases, conveyance deeds etc.) are properly registered and realisation of proper SD and RF.**

3.6.8.1 Contracts for collection of toll by private entrepreneurs

Under Section 2 (16) (c) of the IS Act, 'lease' means a lease of immovable property and includes any instrument by which tolls of any description are let, a *patta*⁴, a *kabuliyat*⁵ or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immovable property. Any instrument of toll contract is chargeable to SD as an instrument of lease deed at the prescribed rates. The expenses on SD are to be borne by the lessee in the case of a lease or agreement to lease under Section 29 (c) of the IS Act. Section 17 (1) (d) of the IR Act provides that lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent is to be registered compulsorily. SD on lease deed is chargeable at the prescribed rates for a consideration equal to the amount or value of fine, premium or advance in addition to the amount of the average annual rent reserved and on the basis of the period of lease. As per Article 35 (a) (ii) of Schedule 1-A of the IS Act, the rates of SD in the case of lease of one year to five years is 1.5 *per cent* of the amount of the annual average rent.

⁴ A *patta* is a lease of land for cultivation.

⁵ *Kabuliyat*: means *malkana*/possession.

We collected the information from the office of the Managing Director, Haryana State Roads and Bridges Development Corporation Limited, Panchkula in March 2010 and noticed that the corporation entered into agreements with 49 entrepreneurs between June 2004 and March 2009 for collection of toll (toll contracts) for the periods ranging between one year and two years between June 2004 and June 2010 on different roads near borders of the State for the total consideration of ₹ 107.23 crore. As per clause number 31 of the agreement, the entrepreneur/agent shall bear and pay the SD in respect of these agreements as per IS Act. These toll contracts were required to be registered compulsorily as lease deeds in the offices of concerned SRs. None of these agreements for collection of tolls were registered with the concerned registering authorities as the corporation accepted the agreements on non-judicial stamp paper of ₹ 100 in each case. In accordance with the terms of the lease, SD due on these agreements worked out to ₹ 1.61 crore on total consideration of contracts amounting to ₹ 107.23 crore, but SD paid by the entrepreneurs on all these toll contracts was ₹ 4,900. This deprived the Government of revenue of ₹ 1.68 crore (SD: ₹ 1.61 crore; RF: ₹ 6.63 lakh).

3.6.8.2 Contracts for catching fish from public ponds

The right to catch fish is profit *a prendre*⁶ and benefit to arise out of the land is an immovable property for the purpose of levy of SD. Right to catch and carry away fish from a tank/reservoir for a specified period for consideration is immovable property as defined in Section 3 (26) of the General Clauses Act, 1897. If the period for which the benefit given is from year to year or for any period exceeding one year or reserving a yearly rent, it is an instrument and compulsorily registrable. As such these instruments are liable to SD under Article 35 (b) of the Schedule I-A of the IS Act. The rates of SD in the case of lease of any period in which consideration of lease paid in lump sum is three *per cent* of the amount of the contract.

We collected the information from the office of the Director of Fisheries, Haryana, Panchkula in December 2009 and noticed that the Fisheries Department granted licences to 15 licensees on annual basis to catch fish in the public waters specified for the period between September 2007 and August 2008. The licensees paid lump sum consideration of ₹ 41.55 lakh for the grant of licences and also furnished security. The Fisheries Department accepted the instruments as agreements on non-judicial stamp paper of denomination between ₹ 2 to ₹ 20 in 2007-08 and did not insist upon the licensees to get these instruments registered as lease deeds with the concerned 15 SRs/JSRs⁷. Non-execution of lease deeds by these licensees deprived the Government of revenue of ₹ 1.44 lakh (SD: ₹ 1.24 lakh⁸; RF: ₹ 20,300).

After we pointed out the case in December 2009, the Revenue Department stated in July 2010 that instructions had been issued to the Director, Fisheries Department that contract/agreement between the entrepreneurs and Director Fisheries attract the provisions of IS Act and IR Act for registration and levy

⁶ Profit *a prendre* means a right to take the produce of the soil.

⁷ Ambala, Bhiwani, Faridabad, Gurgaon, Hisar, Jhajjar, Jind, Kaithal, Karnal, Kurukshetra, Panipat, Rewari, Rohtak, Sonipat and Yamunanagar.

⁸ SD: ₹ 41,55,500 X 3 *per cent* = 1,24,665 (-) 204 = ₹ 1,24,461.

of SD and RF as lease deed and directed to recover the deficient amount. The stamp auditors had also been directed to conduct audit regarding SD and court fee account of the Districts Fisheries offices at least once a year. We are yet to receive their further reply (August 2010).

3.6.8.3 Sale of industrial units through public auction by Haryana Financial Corporation (HFC)

Under Section 2 (10) of the IS Act, 'conveyance' includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule 1-A. Section 17 of the IR Act stipulates that conveyance is a compulsorily registrable document.

We collected the information from the office of the HFC, Chandigarh in May 2010 and noticed that mortgaged properties of 131 defaulting/sick industrial units were sold by the HFC through auction between April 2004 and March 2009 for the consideration of ₹ 30.08 crore. These deeds were required to be registered with the registering authorities but the purchasers had not registered these conveyance deeds. Non-execution of conveyance deeds of industrial units sold by the HFC deprived the Government of revenue of ₹ 1.74 crore (SD: ₹ 1.66 crore; RF: ₹ 8.18 lakh).

After we pointed out the case in May 2010, the Revenue Department stated in July 2010 that the HFC had been requested to send their reply with reference to the deficient amount. We are yet to receive their further reply (August 2010).

3.6.8.4 Contracts for mining

Under the IR Act, registration of lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent is compulsory. RF was leviable at the prescribed rates subject to a minimum of ₹ 1.75 and maximum of ₹ 500 upto 5 November 2006 and thereafter at the revised rates subject to a minimum of ₹ 50 and maximum of ₹ 15,000 depending upon the value of the consideration of the document. A mention of "Short levy of SD" was included as paragraph 3.2.16 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 (Revenue Receipts) - Government of Haryana. The Revenue Department, while discussing the Report stated before the Public Accounts Committee (PAC) that detailed guidelines had been issued by the Government to all Commissioners/DCs/Mining Officers/Revenue Officers etc. in April 2005 to ensure compulsory registration of such lease instruments keeping in view the provisions of the IS Act and IR Act. The PAC directed the department to make all out efforts to recover the balance amount in a time bound manner and the position of recovery be intimated to them on quarterly basis. **However, we observed that the Department had not taken effective steps to monitor these as evidenced from succeeding paragraph.**

We collected the information from the Department of Mines and Geology, Haryana, Chandigarh in December 2009 and noticed that 123 mining leases/contracts were granted for different periods ranging between one year and seven years during the years 2004-05 to 2008-09 by 13 Assistant Mining

Engineers/Mining Officers⁹. These instruments of leases and contracts were required to be registered compulsorily on payment of SD and RF. However, these deeds were executed with the Mining Department after levying SD on non-judicial stamp papers of proper denomination but were not registered with the concerned registering authorities. Non-registration of instruments deprived the Government revenue of ₹ 14.43 lakh (RF).

After we pointed out the case in December 2009, the Revenue Department admitted the audit observations and stated in July 2010 that Mining Department had been requested to send their reply as regards recovery of RF of ₹ 14.43 lakh. We are yet to receive their further reply (August 2010).

With a view to prevent the evasion of SD and RF, the Government may consider laying down norms/targets for the inspection of these public offices by the Registrars/SRs of the concerned districts to ensure the correctness of property classified for the purpose of levy of SD and RF. The Government may also consider prescribing a periodical return to be furnished by them to the Revenue Department on the number and nature of documents presented and deficient SD/RF.

3.6.9 Irregular grant of exemption of registration fee

Section 78 of the IR Act empowers the State Government to fix the fee for the registration of various documents and other instruments enumerated in clauses (a) to (i). **However, there is no enabling provision in the IR Act similar to Section 9 of the IS Act, empowering the State Government to remit fees payable in respect of any matter enumerated in clauses (a) to (i) of Section 78 of the Act.** Seven States/UT have amended the IR Act by inserting a provision under Section 78-A which empowers the Government to remit the fee payable in respect of any matter enumerated in clause (a) to (i) under Section 78 either generally or for any particular class or person. The RF was leviable at the prescribed rates subject to a minimum of ₹ 1.75 and maximum of ₹ 500 upto 5 November 2006 and thereafter at the revised rates subject to a minimum of ₹ 50 and maximum of ₹ 15,000.

Goa, Kerala,
Pandicherry (UT),
Rajasthan,
Tamilnadu,
Uttar Pradesh and
West Bengal

The State Government issued a notification on 5 October 1983 remitting RF on any instrument executed by the agriculturists in favour of any commercial bank for securing loans upto the specified amount and for specified purposes under Section 78 of the IR Act. **In the absence of an explicit provision in the IR Act to remit the RF, the notification issued by the State Government was not valid.**

During test check of the records of 46 SRs/JSRs in the selected 10 districts, we noticed that 82,389 deeds of mortgage (without possession of the property) were registered during the years 2007-08 and 2008-09 by the agriculturists for securing loans from the banks, but no RF was charged under the aforesaid notification. Since the notification issued were not in conformity with the provisions of IR Act, the department, instead of bringing out these facts to the notice of the Government, allowed remission of RF of ₹ 4.33 crore.

⁹ Ambala, Bhiwani, Faridabad, Jind, Karnal, Kurukshetra, Mohindergarh at Narnaul, Panchkula, Panipat, Rewari, Rohtak, Sonipat and Yamunanagar.

After we pointed out these cases, the Revenue Department stated in July 2010 that Section 21 of General Clauses Act empowers the State Government to add, amend, vary or rescind the table of fees so prepared. The reply of the department is contrary to factual position since the State Government had remitted the fee under Section 78 and 79 of the IR Act which did not empower the State Government to remit or exempt or reduce the fee and there was no explicit provision/clause in the General Clauses Act empowering the Government to remit the fees payable.

The Government may request GOI to take steps for inserting an explicit provision under the IR Act to specify the power to remit the RF.

3.6.10 Failure to levy stamp duty on land sold with less than 1,000 square yards as residential property and the market value of immovable properties

In order to check evasion of SD in sale deeds, the Government issued instructions in November 2000 to all registering authorities in the State to the effect that land sold within municipal limits and near the residential areas in villages with an area of less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards be valued at the rate fixed for the residential property of that locality for the purpose of levying SD. The Government constituted Evaluation Committees from time to time for fixation of minimum market value of properties in various areas of the State for the guidance of registering authorities and a copy of these rates is supplied to them by the Department. The Evaluation Committees have also fixed separate rates for prime land. Under Section 47-A of the IS Act, if the registering officer, while registering any instrument relating to transfer of any property, has reason to believe that the value of the property or the consideration, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration and the proper duty payable.

During the course of review, we observed that the registering authorities had not evolved any system for detection of undervaluation in the cases wherein SD on the land sold less than 1,000 square yards was not levied as per rates fixed for residential properties, and SD was levied/assessed on consideration of immovable properties less than its market value in the same locality fixed by the Collector/Evaluation Committee.

3.6.10.1 During test check of the records of 109 registering offices in 20 districts¹⁰ between July 2005 and February 2010, we noticed that 1,613 sale deeds¹¹ of plots registered between April 2004 and March 2009 with an area less than 1,000 square yards and in other registered cases where purchasers were more than one and the share of each purchaser was less than 1,000 square yards. The deeds were liable to be assessed for ₹ 123.34 crore

¹⁰ Ambala, Bhiwani, Fatehabad, Faridabad, Gurgaon, Hisar, Jhajjar, Jind, Kaithal, Karnal, Kurukshetra, Mohindergarh at Narnaul, Mewat, Panchkula, Panipat, Rewari, Rohtak, Sirsa, Sonapat and Yamunanagar.

¹¹ Within municipal limit/urban areas: 187 sale deeds; in or near residential areas in villages: 1,426 sale deeds.

based on the rates fixed for residential areas and SD of ₹ 6.89 crore (including RF) was chargeable. However, the registering authorities assessed the deeds for ₹ 39.52 crore based on the rates fixed for agricultural land and levied SD of ₹ 2.26 crore (including RF). The registering authorities had not gone through the contents of the deeds wherein it was clearly stated that sale deeds of plots presented for registration were less than 1,000 square yards or share of each purchasers (in cases where purchasers were more than one) was less than 1,000 square yards and registered these documents based on the rates fixed for agricultural land instead of rates fixed for residential land in violation of Government instructions issued in November 2000. Further, the registering authorities did not refer these deeds, after registration, to the Collectors for determining the value or consideration of the immovable properties and duty payable thereon. This resulted in short levy of SD and RF amounting to ₹ 4.63 crore.

After we pointed out these cases between July 2005 and February 2010, 62 registering authorities stated (between April 2009 and April 2010) that 1,150 cases involving revenue of ₹ 3.46 crore had been sent to the Collectors for determination of value of properties and duty payable thereon. We have not received further progress of recovery and reply in respect of remaining 463 deeds from registering authorities (August 2010).

3.6.10.2 During test check of the records of the offices of 90 registering authorities in 20 districts¹⁰ between May 2006 and February 2010, we noticed that 457 instruments of conveyance were registered between April 2005 and March 2009. The registering authorities were required to determine the consideration for levy of SD on the basis of market value fixed by the Collector/Evaluation Committee at the time of registration of documents but registered these documents on stamp papers valued as ₹ 6.05 crore on the basis of the consideration set forth in the instruments. The market value of these properties in conveyance deeds fixed by the Collectors on the basis of minimum market value, however, worked out to ₹ 181.27 crore on which SD of ₹ 10.61 crore (including RF) was leviable. Non-reckoning of the market value of the immovable properties by registering authorities resulted in short levy of SD of ₹ 4.56 crore (including RF).

After we pointed out these cases between May 2006 and February 2010, 79 registering authorities stated (between April 2009 and April 2010) that 365 cases involving revenue of ₹ 3.98 crore had been sent to the Collectors for determination of value of immovable properties and proper duty payable thereon. We have not received further report and reply in the remaining cases (August 2010).

3.6.11 Absence of time limit for disposal of undervaluation cases referred to the Collector

Under Section 47-A of the IS Act, if the registering officer has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or the consideration and the proper duty payable. Thereafter, the Collector, after issue of notice to the concerned person, is required to conduct summary enquiry as he may deem

proper and assess the amount of deficient duty recoverable from the person concerned after determining the value of property. The cases so referred to the Collector are entered in register in Form 3 maintained in the office of the Collector. The adjudication orders are also entered in this register. After their finalisation these adjudication cases are returned to the concerned registering officer who will watch the recovery of deficient duty. **We observed that no time limit had been prescribed for disposal of such cases under adjudication.**

During test check of the Reference Register of seven Collectors¹², we noticed that 1,163 cases involving SD of ₹ 5.34 crore out of 2,488 cases involving revenue of ₹ 11.42 crore referred between 2004-05 and 2008-09 by 21 SRs/JSRs were pending adjudication. Delay in deciding the cases resulted in delay in realisation of the revenue and in certain cases the possibility of recovering the dues may become remote.

After we pointed out these cases between April and October 2009, the Revenue Department stated in July 2010 that a strict time limit could not be fixed for disposal of such cases being court cases involving legal procedures under Stamp Act. However, instructions had been issued to the field functionaries to decide these cases in the earliest possible time.

The Government may consider fixing norms for finalisation of cases of undervaluation referred to the Collector for adjudication.

3.6.12 Short levy of stamp duty and registration fee due to misclassification of documents

Section 2 (10) of the IS Act, provides that ‘conveyance’ includes conveyance on sale and every instrument by which property whether movable/immovable is transferred *inter vivos* and which is not otherwise specifically provided for by schedule I-A of the Act. Section 54 of the Transfer of Property Act, 1882 defines “sale” as transfer of ownership in exchange for a price paid or promised or part paid or part promised. The classification of an instrument depends upon the nature of the transaction recorded therein. **In case possession of the property is handed over after receipt of the full amount of consideration or promise to pay consideration later on, the instrument becomes a conveyance deed and SD becomes leviable under the IS Act.**

3.6.12.1 During test check of the records of 19 registering offices¹³ between July 2007 and January 2010, we noticed that 50 instruments conveying possession and transfer of property after receipt of full consideration of ₹ 84.99 crore to the vendees were executed between April 2006 and March 2009. Since the vendors received full amount in lieu of the property sold and the possession of the immovable property was also handed over to the purchasers in all the cases, the deeds were liable to be treated as conveyance deeds and SD of ₹ 5.89 crore was leviable. However, the registering authorities misclassified and registered these instruments as

¹² Hisar, Karnal, Kurukshetra, Panchkula, Rohtak, Sirsa and Yamunanagar.

¹³ Adampur, Ateli, Ballabgarh, Bahadurgarh, Barwala, Bhiwani, Charkhi Dadri, Gurgaon, Hansi, Hathin, Hisar, Kanina, Mahendragarh at Narnaul, Nighdu, Pataudi, Pehowa, Ratia, Sohna and Sonipat.

agreements charging SD between ₹ 3 and ₹ 100 in each case which was incorrect. This resulted in short realisation of SD of ₹ 5.89 crore.

After we pointed out these cases between July 2007 and January 2010, the registering authorities stated (between May 2009 and February 2010) that 16 cases involving SD of ₹ 5.77 crore were referred to the Collectors for determination of value of properties and proper SD payable thereon and notices were issued for recovery of ₹ 4.08 lakh in 14 cases. We have not received further report on recovery and action taken (August 2010).

3.6.12.2 During test check of records of the offices of five SRs/JSRs¹⁴ between January and September 2009, we noticed that eleven collaboration agreements having transaction value zero were registered between September 2007 and March 2009 in respect of land on which SD of ₹ 100 each (nine deeds) and ₹ 1,500 each (two deeds) was levied as applicable in the case of an agreement not involving sale of land. Scrutiny of these agreements further revealed that the owners of land authorised the developers to take possession of the land with the right to construct, develop and deal with the land in accordance with the terms and conditions of the agreements. In exchange of the consideration, the owners of land were entitled to a part of the developed land. The developers were entitled to dispose off their shares of developed land in such a manner as they deemed fit without requiring any consent from the owners. Hence, the development right/collaboration agreements were conveyance of right to develop, construct and sell the property and were liable to pay SD on sale of property in respect of the developers' share of land. However, as per rates fixed by the Collector applicable in the concerned areas, total value of land transferred to the developers worked out to ₹ 5.68 crore. Misclassification of these sale deeds resulted in short levy of SD of ₹ 47.13 lakh and RF of ₹ 68,000.

After we pointed out these cases between January and September 2009, SRs Farukhnagar, Gurgaon and Tauru stated (November 2009 and February 2010) that six cases (₹ 27.52 lakh) had been sent to the Collectors for determination of value of properties and proper duty payable thereon. We have not received further report on action taken and reply from JSR Dharuhera and Manesar (August 2010).

3.6.13 Delay in implementation of enhanced rates of registration fee

As per notification issued in November 2006, the Government revised the rates of RF with effect from 6 November 2006. The RF was leviable at the prescribed rates subject to a minimum of ₹ 1.75 and maximum of ₹ 500 upto 5 November 2006 and thereafter at the revised rates subject to a minimum of ₹ 50 and maximum of ₹ 15,000 depending upon the value of the consideration of the document.

During test check of the records of 72 JSRs/SRs of 13 districts¹⁵ (between April 2007 and February 2008), we noticed that the registering authorities registered 5,341 instruments relating to immovable properties between

¹⁴ Dharuhera, Farukhnagar, Gurgaon, Manesar and Tauru.

¹⁵ Ambala, Bhiwani, Fatehabad, Jhajjar, Jind, Kaithal, Mahendragarh at Narnaul, Mewat at Nuh, Panchkula, Panipat, Rohtak, Sirsa and Yamunanagar.

6 November and 8 December 2006 and charged RF amounting to ₹ 26.15 lakh at the pre revised rates instead of ₹ 1.39 crore at the revised rates. This resulted in short realisation of RF of ₹ 1.13 crore.

After we pointed out these cases between April 2007 and February 2008, the department stated (between July 2009 and February 2010) that a sum of ₹ 11.50 lakh had been recovered in 609 cases between April 2008 and December 2009, notices had been issued between July 2009 and January 2010 by seven SRs/JSRs to recover the amount of ₹ 9.21 lakh in 479 cases and efforts were being made by 37 SRs/JSRs to recover the amount of ₹ 46.24 lakh in 2,192 cases. The remaining 15 SRs/JSRs stated (between April 2009 and February 2010) that the recovery of ₹ 19.78 lakh in 965 cases was not justified as the revised rates were adopted from the date on which copy of notification was received. The reply of the registering authorities is contrary to the clarification issued by the Government in May 2008 since the notification regarding enhancement in the rates of RF was applicable from 6 November 2006. The Government further directed (May 2008) the Registrars to recover the differential amount in case the documents had been registered by charging RF at the pre-revised rates. The Revenue Department stated in July 2010 that strenuous effort was being made for the early recovery. We have not received further report on action taken and any report on recovery (August 2010).

3.6.14 Evasion of stamp duty due to undervaluation of immovable property

Sections 27 and 64 of the IS Act provide that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amounts of duty with which it is chargeable, should be fully or truly set forth therein. The IS Act further provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to ₹ 5,000 per instrument. With a view to curb evasion of SD due to undervaluation of immovable property, Revenue Department issued instructions in November 1992 that all the deed writers should be asked to submit a copy of the agreement to sell, to each SR, immediately after it was entered into the register of deed writers. In case the agreement pertains to property situated in the jurisdiction of some other SR, it should be transmitted to the concerned SR. In case any deed writer is not found doing so, his license should be cancelled immediately. Revenue Department clarified in July 1993 that cases, wherein the seller and purchaser had registered sale deeds for a lesser amount than the specified amount agreed upon in agreement to sell by them, should be treated as evasion of SD instead of undervaluation of properties. Such cases should not be referred to the Collector under Section 47 A of the Act for determination of the value of the property.

During test check of the records of 34 offices of SRs/JSRs in 15 districts¹⁶ between September 2006 and February 2010, we noticed that 99 conveyance

¹⁶ Bhiwani, Fatehabad, Gurgaon, Hisar, Jhajjar, Jind, Kaithal, Kurukshetra, Mewat, Panchkula, Panipat, Rohtak, Sirsa, Sonipat and Yamunanagar.

deeds were registered between June 2004 and March 2009 on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was ₹ 15.91 crore. Further we cross verified these deeds with the agreements executed between the concerned parties between February 2004 and March 2009 and recorded with the various document writers and noticed that the total sale value of the agreements worked out to ₹ 35.62 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than that agreed upon between the affected parties. Undervaluation of immovable properties in conveyance deeds resulted in evasion of SD of ₹ 77.13 lakh (including RF). Additionally, penalty of ₹ 4.95 lakh for undervaluation made with intent to defraud the Government was also leviable.

After we pointed out these cases between September 2006 and February 2010, JSRs Behal and Rajaund stated that notices had been issued to recover the amount of ₹ 11.51 lakh in six cases. SRs Bahadurgarh, Beri and Charkhi Dadri stated that efforts were being made to recover the amount of ₹ 1.71 lakh in six cases. Fourteen SRs/JSRs¹⁷ stated (between April 2009 and May 2010) that 33 cases involving revenue of ₹ 27.78 lakh had been sent to the Collectors for determination of value of properties and proper duty payable thereon. The reply of the 14 SRs/JSRs is not correct as the value of the property had already been agreed upon between the parties and there was no need to refer the cases to the Collector for decision. We have not received any report on recovery and reply from the remaining registering authorities (August 2010).

3.6.15 Non-levy of stamp duty on collusive decrees¹⁸

Under Section 17 of the IR Act, non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future any right, title or interest, whether vested or contingent, of the value of ₹ 100 and upwards, to or in immovable property are compulsory registrable documents. Thus, a compromise decree¹⁹ which is not bonafide²⁰ is liable to be charged as an instrument of conveyance. The FCR issued instructions in September 1996 to all the registering authorities that mutated property registered on the basis of a compromise decree which is not bonafide is liable to be charged as an instrument of conveyance as per Schedule 1-A of the IS Act. The SRs were asked to carefully examine each document so as to ensure that there is no deliberate attempt for evasion of SD and the same is properly stamped under the Act.

During test check of the records of offices of seven SR/JSR²¹ between July 2007 and October 2009, we noticed that 14 compromise decrees which were not bonafide were registered between February 2007 and March 2009 without any consideration therein. These parties obtained collusive decrees to

¹⁷ Bass, Chhachhrauli, Dhand, Hansi, Hisar, Jhajjar, Meham, Morni, Narnaund, Pataudi, Pehowa, Sonipat, Thanesar and Tosham.

¹⁸ Collusive decree means the decree obtained by the parties by fraudulent secret understanding.

¹⁹ Settlement of property by mutual consent.

²⁰ Which is related by blood relation.

²¹ Bass, Hisar, Panipat, Pehowa, Rania, Sirsa and Sohna.

evade SD and RF. The registering authorities did not comply with the instructions of the FCR issued in September 1996 and did not levy SD and RF in 13 deeds without confirming the facts that properties mutated were executed between blood relations and levied SD and RF of ₹ 45,000 (instead of ₹ 11.01 lakh leviable) in one deed of Sohna. These decree deeds were liable to be assessed for ₹ 7.69 crore based on the rates fixed by the Collector and accordingly SD and RF of ₹ 43.21 lakh was chargeable. This resulted in non-levy of SD and RF of ₹ 42.76 lakh.

After we pointed out these cases between July 2007 and October 2009, five SRs/JSRs²² stated (between August 2009 and February 2010) that 11 cases involving revenue of ₹ 38.52 lakh had been sent to the Collector for decision. We have not received further report and reply from SR Rania and Sirsa (August 2010).

3.6.16 Irregular remission of stamp duty on instruments of compensation awards

By a notification issued on 11 August 1995, the Government remits SD in respect of the sale deeds to be executed by the farmers whose land is acquired by the Government of Haryana for public purposes and who purchase agricultural land in the State within one year of the amount of compensation received by them for the acquired land. This remission is subject to the conditions viz. the remittance will be limited to the compensation amount only and the additional amount involved for the purchase of agricultural land will be liable to SD as per rules. Such farmers will have to obtain a certificate from the concerned Land Acquisition Controller (LAC) regarding acquisition of their land by Government and the amount of compensation being paid to them and produce the same before the registering authority while getting the sale deed registered in respect of the agricultural land being purchased with the amount of compensation.

During test check of the records of 20 offices of SRs between November 2008 and December 2009, we noticed that the registering authorities had registered deeds of conveyance in the following 63 cases between April 2007 and March 2009 and did not levy SD of ₹ 86.79 lakh under aforesaid notification without verifying the conditions specified therein as mentioned below:

(₹ in lakh)

Name of the registering authority	Number of instruments	Period	SD leviable	Nature of irregularity
Jhajjar	1	2008-09	11.13	Remission was incorrectly allowed to the Company though it was allowable only to the farmers.
Badhra, Bapoli, Beri, Bhiwani, Charkhi Dadri, Panipat and Rewari	23	2007-08 and 2008-09	62.96	Certificate from LAC was not produced.

²² Bass, Hisar, Pehowa, Sirsa and Sohna.

Name of the registering authority	Number of instruments	Period	SD leviable	Nature of irregularity
Ballah, Bondkalan, Chhachhrauli, Fatehabad, Kalayat, Panipat, Ratia, Rohtak and Sampla	31	2007-08 and 2008-09	6.65	Remission was incorrectly allowed on purchase of residential land.
Bapoli, Gharaunda, Nathusari Chopta and Rania	8	2007-08 and 2008-09	6.05	Land was purchased after one year from the date of receipt of amount of compensation.
Total	63		86.79	

After we pointed out these cases between November 2008 and December 2009, six SRs²³ stated (between July 2009 and June 2010) that 19 cases had been sent to the Collector for decision. Six SRs²⁴ stated between September 2009 and February 2010 that necessary action would be taken in 34 cases as per provisions of the Act/Rules. We have not received further report (August 2010).

3.6.17 Excess remission of stamp duty on the instrument in which immovable property purchased by woman and man jointly

As per notification issued on 19 July 2005, the Government allows reduction of SD by one *per cent* on conveyance on sale in respect of purchase of immovable property where a woman is joint holder with a man. Further, the Government clarified in November 2008 that if a man and a woman purchase property jointly in equal share/proportion then SD by one *per cent* is to be exempted on total value of consideration in the sale deed. Where their share is not in equal proportion in such cases concession by two *per cent* in SD was to be given on the value of consideration in the sale deed to the extent of share of a woman/women involved.

During test check of the records of the offices of 16 SR/JSR²⁵ between July 2009 and February 2010, we noticed that 48 instruments of sale of immovable properties were registered between April 2008 to March 2009 for the consideration of ₹ 22.49 crore (Share of men: ₹ 17.39 crore; Share of women: ₹ 5.10 crore) by men/women jointly. Since the share of land purchased by them was not in equal share in all these cases, SD of ₹ 1.28 crore was chargeable on the basis of their share. The department charged SD of ₹ 1.14 crore on the basis of equal share. This resulted in excess remission of SD of ₹ 13.44 lakh.

After we pointed out these cases between July 2009 and February 2010, five SRs²⁶ stated (between November 2009 and April 2010) that 31 cases involving revenue of ₹ 9.15 lakh had been sent to the Collectors. The

²³ Bhiwani, Chhachhrauli, Jhajjar, Panipat, Rohtak and Sampla.

²⁴ Ballah, Bapoli, Beri, Fatehabad, Kalayat, and Ratia.

²⁵ Bahadurgarh, Ballabhgarh, Bhattukalan, Dhand, Farukhnagar, Guhla, Gurgaon, Kaithal, Kalayat, Kalanaur, Pataudi, Ratia, Rohtak, Sadhaura, Sirsa and Sohna.

²⁶ Ballabhgarh, Farukhnagar, Gurgaon, Rohtak and Sirsa.

remaining 11 SRs stated (between July 2009 and February 2010) that action in respect of 17 cases involving SD of ₹ 4.29 lakh would be taken as per provisions of the Act/Rule. We have not received further report (August 2010).

3.6.18 Short levy of stamp duty on lease deeds

Article 35 of Schedule I-A of the IS Act provides for levy of SD on lease deeds at prescribed rates for consideration equal to the amount or value of the fine or premium or advance in addition to the amount of the average annual rent reserved and on the basis of period of lease.

During test check of the records of the offices of SR, Gurgaon, Panipat, Pataudi, Rewari and Sohna between May 2005 and August 2009, we noticed that eight instruments of lease for the period ranging between three to thirty years were registered between February 2005 and January 2009. The lessee received advance rent amounting to ₹ 5.37 crore and annual average rent amounting to ₹ 7.94 crore. The registering authorities levied SD of ₹ 18.32 lakh against ₹ 37.49 lakh due to computation mistake and non-levy of SD on the advance rent. This resulted in short levy of SD of ₹ 19.17 lakh.

After we pointed out these cases between May 2005 and August 2009, SRs Gurgaon and Sohna stated (December 2009 and January 2010) that two cases involving short levy of duty of ₹ 6.28 lakh had been sent to the Collectors for decision. SRs Panipat and Rewari issued notices to four parties to recover the duty of ₹ 10.36 lakh. We have not received any report on recovery and reply from SR Pataudi in two cases (August 2010).

3.6.19 Non-levy of additional stamp duty on the instruments registered within municipal committee limit

As per Urban Development Department notification issued on 11 March 2004, the rate of additional duty was reduced from three to two *per cent* with effect from 25 March 2004 on the value/consideration of the instruments of transfer of immovable properties within municipal limit. Additional duty recovered shall be transferred to concerned municipality/municipal corporation.

During test check of the records of the offices of SR/JSR Ateli, Dharuhera and Mahendragarh in May 2007 and February 2009, we noticed that 53 instruments of sale of immovable properties falling within municipal limits having transaction value or consideration amounting to ₹ 7.97 crore were registered between April 2006 and October 2007. The additional duty at the rate of two *per cent* on the value/consideration of the instruments of transfer of immovable properties (₹ 7.97 crore) was neither levied nor transferred to the concerned municipalities/municipal corporations. This resulted in non-levy of additional duty of ₹ 15.94 lakh.

After we pointed out these cases in May 2007 and February 2009, SR Mahendragarh stated in June 2009 that recovery of ₹ 1.86 lakh in two cases had been decided by the Collector. SR Ateli stated in July 2009 that efforts were being made to recover the duty. We have not received further report on recovery and reply in the remaining cases (August 2010).

3.6.20 Non-levy of stamp duty and registration fee on the instrument executed in favour of public sector undertaking

As per proviso (1) under Section 3 of IS Act, no SD shall be chargeable in respect of any instrument executed by or on behalf of or in favour of Government. However, there is no provision in the Act/Rules for specific exemption/remission on the instruments executed in favour of State owned enterprises or autonomous bodies.

During test check of the records of the office of JSR, Ladwa (Kurukshetra) in April 2009, we noticed that the Municipal Committee Ladwa had gifted 40 *kanal*²⁷ land in favour of District Sports Council, Kurukshetra (an autonomous body) and registered gift deed in September 2008. The department worked out the consideration of gifted land for ₹ 50 lakh and allowed exemption from payment of duty treating District Sports Council as Government department. Since the District Sports Council is an autonomous body and not a Government Department, SD of ₹ 2.50 lakh and RF of ₹ 15,000 was leviable. This resulted in non-levy of SD and RF of ₹ 2.65 lakh.

After we pointed out this case in April 2009; the department stated (September 2009) that the case had been sent to Collector for decision. We have not received further report (August 2010).

3.6.21 Non-ascertaining the genuineness of stamp papers

Under Rule 26 of the Punjab Stamp Rules, 1934, the Collector may grant a license for the sale of stamp to any person at any place or within any area within the limits of his district provided that no person shall be licensed to sell any single stamp exceeding ₹ 1,000 up to 29 November 2006 and thereafter upto ₹ 10,000 in value in case of court fee stamps or non-judicial stamps. If stamps exceeding ₹ 10,000 in value are required by an individual then he has to approach the Treasury Officer directly for the purpose. The number and date of issue of stamps is required to be written on the face of the office copy of stamp papers. A photo/duplicate copy of the same is placed in the office of the Registrar for record so that the genuineness of stamps could be checked with reference to treasury records.

A mention of “Defects noticed in SRs offices” was made as paragraph 3.2.7 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 (Revenue Receipts) - Government of Haryana. The Revenue Department, while discussing the report, stated before the PAC that detailed guidelines had been issued by the Government to all the DCs in April 2005 that the compliance of requirements of Section 18 A of the IR Act, as regards recording of number and date of issue of stamps along with the name of issuing treasury on the face of office copy of the deed for pasting it in the records for verification.

During test check of the records of the offices of SR/JSR Bhuna, Faridabad, Pehowa and Uklana between April 2006 and August 2009, we noticed that 134 deeds involving SD of ₹ 1.34 crore were registered between April 2005 and March 2009. The particulars regarding sale of stamp papers

²⁷ *Kanal*: 20 marla or 605 square yards.

viz. name of the treasury or number and date of the issue of the stamp papers or both were not recorded in the office copies of the deeds available in the registering offices. We observed that the registering authorities had not complied with the instructions issued by the Government in April 2005. In the absence of complete particulars of the source of the purchase of the stamp papers, the genuineness of the test checked stamp papers valued as ₹ 1.34 crore could not be ascertained.

After we pointed out these cases between April 2006 and August 2009, the Revenue Department admitted the audit observations and stated in July 2010 that there was a lapse on the part of registering officers and details were being ascertained. Instructions to this effect were also issued in April 2005 and strict compliance would be ensured.

3.6.22 Internal control mechanism

3.6.22.1 Control mechanism to check and inspect stamp vendor's records

Rule 32 (1) of the Punjab Stamp Rules, 1934, stipulates that the vendor's registers in the prescribed form are required to be supplied to the stamp vendors free of charge on application to the Collector. Further, vendors are required to deposit their filled or partially filled vend registers with the Registrar who retains it for a period of 12 years. The aforesaid Rules also provide that the stamp vendor registers are required to be inspected by the SRs/JSRs at least once in a quarter.

During the course of review we observed that no system was evolved in the department to issue registers to the stamp vendors, ensuring deposit and preservation of filled or partially filled registers and inspection of these registers as per laid down norms.

During test check of the registering offices of nine districts²⁸, we noticed that the Collector had neither supplied the prescribed registers to the stamp vendors nor the stamp vendors deposited their filled/partially filled registers with the Registrar every year. This indicated that the work of vendors was not being monitored by the department at any stage. Further, the registers of the stamp vendors were inspected by the SRs/JSRs once in a year instead of quarterly inspection. Thus, internal checks and supervision was not adequate. Non-issuance of vend registers duly page numbered to the stamp vendors and non-deposit of filled or partially filled registers to the tehsil/district record room, the retention period of which is 12 years, the chances of misuse and destruction of vend registers at any time can not be ruled out. In the absence of records relating to issue of vend registers, the department is unable to verify the number of vend registers used and to be deposited by the stamp vendors. Further, the authenticity of these registers could not be vouched due to non-conducting of quarterly inspection by the departmental authorities.

After we pointed out these cases between April and October 2009, the Revenue Department admitted the audit observation and stated in July 2010

²⁸ Faridabad, Gurgaon, Hisar, Jhajjar, Karnal, Kurukshetra, Rohtak, Sirsa and Yamunanagar.

that detailed instructions regarding furnishing of a return/report had been issued (June 2010) to all the DCs in the State.

The Government may consider prescribing a return/report to be furnished by the Registrars and SRs/JSRs mentioning the prescribed register issued to/deposited by the stamp vendors and the quantum of inspection against the target fixed.

3.6.22.2 Internal audit

Internal audit is a tool in the hands of management to assure itself that the prescribed systems are functioning well. The Finance Department (Revenue) conducts audit of the offices of SRs/JSRs in the State. For this purpose, one stamp auditor has been posted in each district headquarter (except two stamp auditors at Faridabad) who conducts pre audit of registrable documents in the offices of the SR/JSR before these are returned to the persons/parties presenting the document for registration. The system of pre audit had been abolished vide Government order dated 24 January 2007.

We observed that though an internal audit wing was in operation in the department, information on the audit plan, organisational structure of the wing, details of inspection reports to be issued, follow up action taken on internal audit findings etc., was not furnished by the department, though called for in April and December 2009 followed by a reminder in March 2010. We observed that stamp auditors had conducted cent per cent audit of the documents registered in the registration offices and raised observations in few deeds mainly involving undervaluation of immovable properties and short remittance of RF in Government accounts etc. The objections raised by stamp auditors are not included in this review. The irregularities discussed in this review are indicators of ineffective internal audit as none of the compliance irregularities pointed out by us was detected by the internal audit.

After we pointed out the case in April and December 2009, the Revenue Department stated in July 2010 that the stamp auditors were entrusted with the responsibilities to conduct audit of each and every document registered. However report was being sought from the concerned stamp auditor of the State and information would be furnished on receipt of reply. Thus, the fact remains that the Chief Stamp Auditor at headquarter office had not maintained a centralised database of quantum of audit due and conducted, nature of objections raised/issued and complied with etc.

The Government may consider strengthening the internal audit to ensure timely detection and correction of errors in levy and collection of revenue and avoid recurrence of mistakes pointed out.

3.6.22.3 Inadequate inspection

Inspection is an important internal control in the hands of the administration for ascertaining that the rules and procedures prescribed by the department are followed to safeguard the proper collection of revenue. In the Revenue Department, the IGR is required to conduct annual inspection of the District Registrars (DRs). Under Para 208 of the Haryana Registration Manual, 1967, every SR office should be inspected by the Registrar at least once a year,

including the office at headquarters, which is usually the largest and most important in the district.

The minimum number of inspections required to be conducted in five years was 676 (IGR: 101; DRs: 575). However, the information regarding the quantum of inspection to be conducted and actual inspection conducted during the years 2004-05 to 2008-09 was not furnished to audit, though sought for from the offices of the IGR in December 2009 followed by reminder in May 2010 and to DRs in May 2010. It is evident that internal checks and monitoring at apex level were not adequate.

After we pointed out the case, the Revenue Department stated in July 2010 that sometimes being busy in administrative work, officers did not fix time for such inspections. The fact remains that they could not provide the figures of quantum of inspections done against the target fixed.

The Government may consider prescribing a report/return to be furnished by the IGR and DRs mentioning the quantum of inspections done against the target fixed.

3.6.23 Conclusion

Evasion of SD and RF is commonly effected through non-presentation of documents in the offices of registering authorities (SRs/JSRs), misclassification of instruments, exchange of properties through collusive decrees and undervaluation of immovable properties etc. There is no system in the Revenue Department to obtain data periodically from the officer-in-charge of other departments/corporations, before whom documents liable to SD were presented, to ensure realisation of proper SD and RF. The department has neither prescribed any time limit for the disposal of the cases under adjudication nor prescribed any return for sending the information to the higher authorities. It is the duty of the department to have a detailed look at the working of the registering authorities and implementation of the provisions of the Acts/Rules and departmental instructions with a view to ensure proper and actual realisation of SD and RF. The provisions of the notifications for concession/remission of SD and RF to different categories of institutions or different types of registrable documents etc. were also not complied with. The internal control mechanism to monitor levy and collection of SD and RF was ineffective as the departmental authorities and internal audit could not detect the irregularities pointed out by us in this review.

3.6.24 Recommendations

With a view to curb incidence of evasion of SD and RF, the Government may consider:

- laying down norms/targets for the inspection of departments/corporations by the Registrars/SRs of the concerned districts to ensure the correctness of property classified for the purpose of levy of SD and RF and prescribing a periodical return to be furnished by them to the Revenue Department on the number and nature of documents presented and SD/RF found deficient;

- introducing a system in the department to review the registers of pending cases and prompt disposal of all pending cases. The monitoring at the apex level may be done by prescribing periodical return. A time limit for finalisation of these cases may also be prescribed;
- prescribing a return/report to be furnished by the Registrars and SRs/JSRs mentioning the prescribed register issued to/deposited by the stamp vendors and the quantum of inspection against the target fixed;
- strengthening the internal audit to ensure timely detection and correction of errors in levy and collection of revenue and avoid recurrence of mistakes pointed out; and
- prescribing a report/return to be furnished by the IGR and Registrar of the districts mentioning the quantum of inspections done against the target fixed.