

**FIFTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2023-2026)**

**FORTY EIGHTH REPORT**

(Presented on 26<sup>th</sup> June, 2024)



**SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM**

**2024**

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2023-2026)**

**FORTY EIGHTH REPORT**

**On**

**Paragraphs relating to Registration Department contained in the Reports  
of the Comptroller and Auditor General of India for the years ended 31<sup>st</sup>  
March, 2013, 2014, 2015, 2016 and 2017 (Revenue Sector)**

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COMMITTEE ON PUBLIC ACCOUNTS  
(2023-2026)

**Composition**

*Chairman :*

Shri Sunny Joseph.

*Members :*

Shri Manjalamkuzhi Ali

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Shri M. Vincent.

*Legislature Secretariat :*

DR. N. Krishna Kumar, Secretary

Shri Selvarajan P.S., Joint Secretary

Shri Jomy K. Joseph, Deputy Secretary

Smt. Beena O.M., Under Secretary.

## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Forty Eighth Report on paragraphs relating to Registration Department contained in the Reports of the Comptroller and Auditor General of India for the years ended 31<sup>st</sup> March, 2013, 2014, 2015, 2016 and 2017 (Revenue Sector).

The Reports of the Comptroller and Auditor General of India for the years ended 31<sup>st</sup> March, 2013, 2014, 2015, 2016 and 2017 (Revenue Sector) were laid on the Table of the House on 10<sup>th</sup> June, 2014, 11<sup>th</sup> March, 2015, 24<sup>th</sup> February, 2016, 6<sup>th</sup> March, 2017 and 12<sup>th</sup> June, 2018, respectively.

The Committee considered and finalised this Report at the meeting held on 08<sup>th</sup> May, 2024.

The Committee place on records our appreciation of the assistance rendered to us by the Accountant General in the examination of the Audit Report.

Thiruvananthapuram  
26<sup>th</sup> June, 2024.

SUNNY JOSEPH  
*Chairman,  
Committee on Public Accounts.*

## REPORT

### REGISTRATION DEPARTMENT

*[Paragraphs 6.8 to 6.12 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March ,2013 (Revenue Sector)].*

#### **Stamp duty and Registration fees**

#### **6.8 Tax administration**

The Registration Department is under the control of the Secretary to Government, Taxes at Government level and the Inspector General of Registration is the head of the department. Instruments affecting immovable property are to be presented for registration in the Office of Sub Registrar within whose jurisdiction the whole or some portion of the property is situated. The Registration Department administers the Acts and Rules relating to stamp duty and registration fees.

Non-testamentary instruments which purport or operate 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 one hundred rupees and upwards, to or in immovable property and other instruments mentioned under Section 17 of the Registration Act, 1908 are to be registered compulsorily and the registration of documents mentioned under Section 18 is optional.

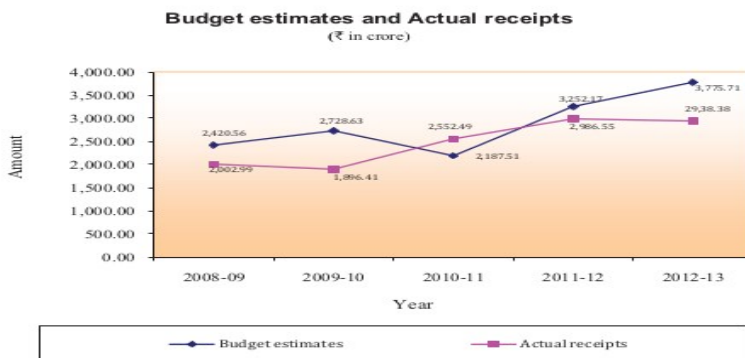
#### **6.9 Trend of receipts**

Actual receipts from stamp duty and registration fees during the last five years (2008-09 to 2012-13) along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual Receipts	Variation	Percentage of variation	Total Tax receipts of the State	Percentage of actual receipts to total tax receipts	Percentage of growth over previous year
2008-09	2,420.56	2,002.99	(-) 417.57	(-) 17.25	15,990.18	12.53	(-) 1.23
2009-10	2,728.63	1,896.41	(-) 832.22	(-) 30.50	17,625.02	10.76	(-) 5.62
2010-11	2,187.51	2,552.49	(+) 364.98	(+) 16.68	21,721.69	11.75	34.59
2011-12	3,252.17	2,986.55	(-) 265.62	(-) 8.17	25,718.60	11.61	17.01
2012-13	3,775.71	2,938.38	(-) 837.33	(-) 22.18	30,076.61	9.77	(-) 1.61

Source: Finance Accounts of the relevant years.



Audit noticed variation of (-) 22.18 per cent between the budget estimates and actual receipts during the year 2012-13. The revenue collection during 2012-13 showed a decrease of 1.61 per cent compared to the preceding year. The Department stated that the reason for decrease in revenue receipts was due to application of uniform rate of stamp duty for partition deed, gift deed etc., and the reduction in number of documents registered during the year.

### 6.10 Cost of collection

The gross collection of revenue receipts under the head Stamps and Registration fees, expenditure incurred on collection and the percentage of expenditure to gross collection during 2008-09 to 2012-13 along with the All India average percentage of expenditure on collection to gross collection for relevant years are mentioned below :

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage of the preceding year
	(₹ in crore)			
2008-09	1,931.75	82.97	4.30	2.09
2009-10	1,812.89	100.70	5.55	2.77
2010-11	2,477.19	101.56	4.09	2.47
2011-12	2,906.89	144.85	4.98	1.60
2012-13	2,862.07	128.73	4.50	1.89

*Source: Finance and Department figures*

Audit noticed that the revenue collection and the expenditure on collection of revenue showed a decrease of 1.54 per cent and 11.13 per cent respectively in 2012-13 over the preceding year. Audit also noticed that the expenditure on collection was consistently higher than the All India Average percentage during the years from 2008-09 to 2012-13.



### 6.11 Impact of audit

During the last four years, undervaluation of documents, short levy of stamp duty etc. with revenue implication of ₹ 66.61 crore were pointed out in 888 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 8.50 crore and recovered ₹ 0.18 crore. The details are shown in the following table:

(₹ in crore)

Year	Paragraphs included in the LARs		Paragraphs accepted during the year		Recovery during the year	
	No.	Amount	No.	Amount	No.	Amount
2008-09	235	7.02	54	0.38	52	0.03
2009-10	258	9.04	176	3.02	54	0.03
2010-11	235	47.24	87	2.75	74	0.05
2011-12	160	3.31	90	2.35	76	0.07
<b>Total</b>	<b>888</b>	<b>66.61</b>	<b>407</b>	<b>8.50</b>	<b>256</b>	<b>0.18</b>

It is seen from the table that the Department had recovered only 2.12 per cent of the total amount accepted during the four years.

### 6.12 Working of Internal Audit Wing

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) and team do the audit in the district. The sub-registry offices are audited annually. The total number of staff deputed for the internal audit work in this Department is sixty two. The team leader is the DR (Audit) who is assisted by his subordinates. There is no separate manual for internal audit in the Department. Training of staff in the audit wing is included in the Department training programme undertaken through the Institute of Management in Government. The auditee offices are selected after giving special preference to those offices where the Registering Officer is due to retire shortly which itself is a risk analysis aimed at avoiding revenue loss. During 2012-13, IAW has audited 245 units out of 297 units planned for audit. They observed that the implementation of fair value has blocked evasion of stamp duty and they noted

that non-stipulation of guidelines for the value of buildings is a system deficiency in the fair value reform which may lead to leakage of stamp duty.

***[Note received from the Government on the above audit paragraphs is included as Appendix II]***

**Excerpts from the discussion of Committee with officials concerned.**

1. Considering the audit para 6.12, Working of Internal Audit Wing, the Committee enquired about the present status of preparation of Internal Audit Manual. The Committee further pointed out that according to the reply furnished in 2014 by the department with regard to this audit para, decision has been taken to form a Committee including experts from Registration Department for preparing the Internal Audit Manual. The witness, Joint Inspector General of Registration Department informed that the preparation of Internal Audit Manual is under progress.

2. To a query of the Committee, Inspector General of Registration Department informed the Committee that the delay in preparing the Internal Audit Manual by incorporating the Internal Audit Manual of Finance Department and the orders of Kerala Registration Manual was due to the delay in finalizing the Registration Manual. He also informed the Committee that the Registration Manual was finalized only two months ago. He assured the Committee that the Internal Audit Manual would be submitted to the Committee within three months.

3. Further, to a query of the Committee, the Joint Inspector General informed that a Committee was constituted three years ago for the preparation of the Internal Audit Manual with the Joint Inspector General as the Chairman of the Committee, and Law Officer and Finance Officer as members.

4. While discussing the present status of steps taken to fix the fair value of flats, the Inspector General of Registration informed that the Government has issued orders, to follow the guidelines of Central Public Works Department (CPWD) for valuation of buildings. Eventhough, valuation is done according to CPWD guidelines, undervaluation cases are found out which resulted in loss of revenue and this was brought to the notice of the Government. As a result, Sub-registrars held a meeting with the valuers of their jurisdiction and explained the

matter. This has helped to achieve increase in revenue. Registration Department has submitted a proposal to Government for developing a software to conduct valuation as envisaged by the Tamil Nadu Government. He concluded by assuring that the development of such a software would prevent undervaluation and it would increase the revenue.

5. Senior Deputy Accountant General added to the discussion by informing that the Certificates given by the valuers do not contain relevant details. The valuation details and Stipulation of Guidelines for valuation would ensure observance of rules which would be useful until the time-consuming process of developing the software is completed.

6. To a query of the Committee, the witness, Joint Inspector General informed that the engineers with licence issued from Local Self Government Department were conducting the valuation and that the Registration department had no control over them.

7. The Senior Audit Officer informed the Committee that the CPWD norms are clear but only ultimate value is shown without stating the criteria, at present. The Senior Deputy Accountant General added that the method of calculation should also be mentioned.

8. The Joint Inspector General informed that Government has prepared a format for the calculation of fair value. The Inspector General added to it by saying that document writer who quote lower price for land has greater demand.

9. To a query of the Committee the Joint Inspector General informed that under each Local Self Government bodies there is only one engineer and enforcing stringent rules which insist on building valuation to be carried out by the engineers of that local body itself would increase the work load. He also informed the Committee that in a meeting with the local engineers, they were informed that if the valuation was not done properly, their licence would be cancelled and after this meeting, there was a change in the attitude of the engineers.

10. The Committee opined that licensed writers should inspect the site properly and Government should give stringent instructions in this regard. Competent engineers should be made responsible to value land under each local

bodies and the valuator must be made responsible to the Government. The certificate issued by the valuator must contain the criteria of valuation.

### **Conclusions/Recommendations**

11. The Committee notes that the Internal Audit Manual is inevitable for the effective functioning of the Internal Audit Wing, and directs that the Internal Audit Manual shall be prepared in a time bound manner and submitted to the Committee at the earliest.

12. The Committee observes that even though the valuation of buildings is done according to CPWD guidelines, undervaluation cases are found, which result in loss of revenue. Therefore, the Committee urges the department to develop a software, the use of which shall check undervaluation, where by loss of revenue is minimised.

13. The Committee recommends that urgent steps should be taken to ensure inclusion of the relevant details and the criteria of valuation in the certificates issued by valuers as they are found to be missing currently.

*[Paragraphs 6.13 to 6.14.6.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2013 (Revenue Sector)].*

### **6.13 Results of audit**

In 2012-13 Audit test checked the records of 135 units relating to the Registration Department and detected undervaluation of documents and other irregularities involving ₹ 18.18 crore in 79 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Levy of Stamp Duty and Registration Fee on Development/Construction Agreement	1	14.47
2	Undervaluation of documents	52	0.77
3	Other lapses	26	2.94
	<b>Total</b>	<b>79</b>	<b>18.18</b>

The Department accepted undervaluation and other deficiencies of ₹ 0.57 crore in 75 cases, of which nine cases involving ₹ 0.05 crore were pointed out in audit during the year 2012-13 and the rest in earlier years. An amount of ₹ 0.08 crore was realised in 67 cases during the year of which five cases involving ₹ 0.33 lakh pertained to 2012-13.

## **6.14 Levy of Stamp Duty and Registration Fee on Development/**

### **Construction Agreements**

#### **6.14.1 Introduction**

The Stamp duty leviable on instruments executed is regulated under Kerala Stamp Act, 1959 (KSA)/Kerala Stamp Rules, 1960 (KSR). Registration fee leviable on such instruments registered within the state are determined and notified by State Government from time to time.

Stamp duty leviable on all types of agreements was ₹ 100 upto 31<sup>st</sup> March 2007. The registration fee leviable is at two per cent of the consideration set forth in the document.

The rates of stamp duty for sale of flats/apartments/villas were seven per cent, eight per cent and nine per cent respectively on the consideration set forth in the document in panchayat, municipality and corporation areas respectively upto June, 2013.

Development agreement is an innovative mechanism introduced (April, 2007) by the Government to encourage the construction of houses. Under this the land owner retains the ownership of the land and permits the developer to construct and sell buildings/flats in the land. In turn, the land owner may give a lump sum consideration or a share in the property constructed to the land owner. After entering into agreement with land owner, the builder/developer enters into agreements with the prospective buyers for sale of flats that he has proposed to construct in the land in which he has development rights. From 1<sup>st</sup> April, 2007, stamp duty leviable on development agreements is at the rates applicable to sale deeds.

Audit conducted a study on the levy of stamp duty and registration fee on the development/construction agreements executed in the state during the period 2010-11 and 2011-12.

#### **6.14.2 Audit objectives**

The Audit was conducted to –

- study adequacy of the system of levy of stamp duty/registration fee in the case of transfer of flat/apartment/villas.
- identify the weakness, if any, in the departmental mechanism, leading to undervaluation of flats/apartments/villas.
- assess the effect of the amendment to KSA to plug tax evasion by developers/builders.
- see whether the departmental mechanism evolved to enforce the provisions of the new amendment was adequate and ascertain its effectiveness.

#### **6.14.3 Audit criteria**

The criteria for this audit were derived from provisions of central and state Act/Rules viz.

##### Central

- i. The Indian Stamp Act, 1899.
- ii. The Registration Act, 1908

##### State

- iii. The Indian Stamp (Kerala) Rules, 1960
- iv. The Kerala Stamp Act, 1959.
- v. The Kerala Stamp Rules, 1960.

#### **6.14.4 Scope and methodology of audit**

Audit was conducted from April, 2013 to July, 2013 covering the period 2010-11 and 2011-12. Out of 14 districts in the State, five districts, viz., 915/2024

Ernakulam, Kottayam, Kozhikode, Thiruvananthapuram and Thrissur, where large scale construction of flats/apartments/villas have taken place were selected for audit. Audit analysed the activities of seventeen<sup>5</sup> builders in the State for 2011-12. As per declarations in Form 49<sup>6</sup> collected from CTOs (WC), they had projects for undertaking construction of 2,244 flats. All of these constructions were located in above five districts.

Sale deeds executed by the builders/developers in favour of the purchasers were cross verified with the construction/sale agreements and Form 49 filed in the respective Commercial Tax Office (Works Contract) to detect undervaluation, if any, and the short levy of stamp duty and registration fees. Evidences were collected from Sub Registry Offices and Commercial Tax Offices (Works Contract) of Commercial Taxes Department.

#### **6.14.5 Limitation of Audit**

In the existing system, builders execute agreements with prospective buyers incorporating with the terms and conditions of sale of flat/apartment. Subsequently when the flat is transferred to the buyer conveyance deed is executed. The agreements are not being registered since as per Registration Act registration of agreements is not mandatory. Hence, it is difficult to find out undervaluation, if any, in the conveyance deed registered subsequently.

Development, construction and sale of flat/apartment/villas by developers have been increasing from year to year during the last few years. A scrutiny of the Book 1<sup>7</sup> register revealed that registration of development agreements between owner of land and the builders being not mandatory, were rarely brought under reports of the registering authority. In the absence of a proper mechanism to monitor the agreements, audit could not ascertain the number of development agreements executed in the State during the audit period and verify whether adequate stamp duty has been levied on them.

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5 Monarch builders, Skyline, Heera, Artech, Cordial, Hoyssala, Abad, Asset homes, Almark housing, Galaxy homes, Kent Constructions, Thrissur builders, Unidesign, Creations india, Cheloor, Gopuram and Forus initiative Builders.

6 Form 49 is a declaration prescribed under Rule 24 B of Kerala Value Added Tax Rules, 2005 to be filed along with returns by contractors/ promoters/developers or by what so ever name called who undertakes construction or developments of flats/apartments/villas.

7 Book 1 Register in Sub Registry Office.

### **6.14.6 System Deficiency**

Important deficiencies noticed in the existing system are narrated below:

#### **6.14.6.1 Absence of mandatory provision in the Act resulted in provisions relating to development agreement ineffective**

Under KSA, stamp duty leviable on agreements is ₹100. Under Act 15<sup>8</sup> of 2007, stamp duty as applicable to conveyance, on the value or the estimated cost of proposed construction/development of such property is payable on agreements giving authority or power to a promoter or developer for construction, development or sale or transfer of any immovable property was introduced with effect from April, 2007 and it was specified that when sale deed is executed, the parties will be granted rebate of stamp duty paid on the agreement.

The registering authorities were not obtaining copies of development/construction agreements at the time of registration of sale deeds executed after 1<sup>st</sup> April, 2007, by builders/developers/promoters in favour of purchasers, in order to ensure that the documents bear proper stamp duty on the consideration which represents the actual transfer value of flats/apartments sold. Moreover, the registration of agreements not being compulsory, the sufficiency in collection of stamp duty on the agreements was not ensured at any point. Audit could not collect the details of development/construction agreements executed in the State since none of the offices in the State including Sub Registry Offices are in a position to furnish such details.

After this was pointed out (September, 2013), Government stated (November, 2013) that action had been taken to plug the leakage of revenue by way of non- levy of stamp duty by making the registration compulsory for agreements and revising the stamp duty leviable on development agreements at par with that of conveyance deeds.

The registration of development/construction agreements may be made compulsory and the registering authorities be directed to insist the production of such agreements while sale deed is produced before him for registration.



#### **6.14.6.2 Undervaluation of sale deeds due to lack of co-ordination between departments**

Audit collected copies of 21 Agreements from two<sup>9</sup> commercial tax offices (CTO) and copies of 5,255 Form 49<sup>10</sup> from six<sup>11</sup> CTOs and cross verified with the details of conveyance deeds registered in 22<sup>12</sup> Sub Registry Offices. Test check of Form 49 filed in respect of 17 builders in the five districts selected with reference to records of sub Registry Offices revealed undervaluation in 820 sale deeds executed by the builders involving deficit stamp duty and registration fee amounting to ₹13.88 crore as shown in the Annexure XIII.

Audit scrutiny revealed that there was lack of co-ordination between Registration Department and Commercial Taxes Department to ascertain the actual sale value of flats/villas/apartments from Form 49 and sale agreements filed with CTO. A comparison of the sale values appearing in the sale deed registered between April, 2010 and March, 2012 with the sale agreements filed with the CTO showed undervaluation of sale deeds executed by builders/developers in favour of buyers of flats/villas/apartments.

After this was pointed out, (September, 2013) Government accepted the audit observation and stated (October, 2013) that necessary directions had been given by the Government for obtaining data from the Commercial Taxes Department.

*A system should be evolved by way of inserting provision in the manual in the Department to cross verify the details furnished by the contractors in other departments, to ensure that the value shown in the conveyance deeds are correct and duty levied on them are sufficient.*

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9 CTO (WC) Thiruvananthapuram and Thrissur.

10 Under Kerala Value Added Tax Rules, 2005, every dealer in works contract shall file copies of agreements executed for construction along with application for compounding. Further, every contractor/promoter/developer who undertakes construction or development of flats or apartments or villas shall file a declaration in Form 49 containing the details of ongoing projects, transfer of flats/villas/apartments constructed by him along with returns.

11 Ernakulam, Kottayam, Kozhikode, Mattancherry, Thiruvananthapuram and Thrissur.

12 Addl. SRO Kottayam, Ayyanthole, Chala, Chalapuram, Chavakkad, Chevayoor, Edappally, Ernakulam, Ettumanur, Fort, Kazhakuttam, Kottappady, Kozhikode, Maradu, Meenchantha, Pattom, Principal SRO Kottayam, Puthen Cruz, Sasthamangalam, Thrikkakara, Thrissur, and West Hill.

#### **6.14.6.3 Instruments not duly stamped not impounded by Public officers**

The Schedule to Kerala Stamp Act, 1959 provides for levy of stamp duty on instruments which require compulsory registration as well as instruments, the registration of which is optional. In respect of instruments requiring compulsory registration, the sufficiency of stamp duty is ensured by the registering authority when presented before them for registration. In respect of instruments that do not require compulsory registration, the sufficiency of stamp duty cannot be ensured since it is not presented before the registering authority.

Stamp duty leviable on all types of agreements was ₹ 100 upto 31<sup>st</sup> March 2007. However, from 1<sup>st</sup> April, 2007, in the case of development agreements rates applicable were that of conveyance deeds. Section 34 of KSA stipulates that instruments chargeable with stamp duty shall be acted upon by any public officer only if they are duly stamped.

Verification of 21 development agreements submitted before six CTOs revealed that none of the development/construction agreements submitted in commercial tax offices were properly stamped as per article 5(c) of KSA. The agreements were found to be executed on stamp paper worth ₹100. Had the agreements been stamped at the same rate as conveyance deed as envisaged in Act 15 of 2007, the Government could have earned additional revenue of ₹ 59.04 lakh as shown in Annexure XIV.

The Commercial Taxes Department as the public office did not ask the contractor for stamping the papers at the correct rate.

When this was pointed out (September, 2013), Government stated (November, 2013) that the DRs are already empowered to inspect public offices to detect whether instruments are duly stamped.

These were pointed out in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31<sup>st</sup> March, 2011. However, the mistake continues to be committed.

*It is recommended that the Government may issue direction to all public officers to ensure that the agreements entered into are duly stamped.*

***[Notes received from the Government on the above audit paragraphs are included as Appendix II]***

**Excerpts from the discussion of Committee with officials concerned.**

14. While considering the audit para 6.14.6.1, the Inspector General informed that if the parties were interested they could register the agreements. The Senior Deputy Accountant General explained that according to the government order of 2013, agreements must be registered, but there is no system to enforce this. Even if it is found later that agreements are not registered, no enquiry can be initiated against the individuals. Therefore agreement registration is not taking place properly. The Joint Inspector General pointed out that Registration Act is a Central Government Law and that the amendment made by Kerala Legislature in 2008 got assent in 2013. The Senior Deputy Accountant General added to the discussion and said that the audit had pointed out the issue before registration was made compulsory. She pointed out that Compulsory Registration is not yet implemented.

15. The witness Inspector General, Registration Department clarified that only registered agreements are considered as evidence if any problem ensues. To a query of the Committee he replied that to register an agreement the stamp duty is 8%. He added that as the stamp duty for agreement registration is set off in sale deed, there is no loss incurred in agreement registration. The Senior Audit Officer informed that in many sale deeds there is a reference to the agreement and this helps the sub-registrars to know that an agreement was placed. The witness, Inspector General, informed the Committee that the matter of issuing a circular to make the registered document compulsory would be examined if the sale deed had a reference to an agreement.

16. The Committee was not satisfied with the reply furnished by the department. The Committee observes that it is a serious lapse from the part of the department which does not enforce the registration of agreement of sale even if it is mentioned in the sale deed, even after the Registration Act was amended by the

State. The Committee recommends to take necessary steps to enforce the registration of agreement of sale as per the Registration Act.

17. While going through the audit para 6.14.6.2, the Committee pointed out that the department had taken action against 349 cases of under valuation of sale deeds out of 820 cases. The Committee enquired about the difference in no. of cases of undervaluation in sale deeds found out by the audit and asked about its current status. The Senior Deputy Accountant General explained that on the basis of the report of the Accountant General, the department conducted a special enquiry and found out 725 cases where undervaluation was done and only in 622 cases action was taken. Out of the 820 cases pointed out by AG only in 349 cases the department took action. Accountant General had listed out the 820 cases and handed it over to the department.

18. The witness, Joint Inspector General, Registration Department informed that AG found out the undervaluation in sale deeds when it were submitted for permit in the Commercial Taxes Department. The amount submitted to the Commercial Taxes Department was more than the amount included in the actual sale deed in the Registration Department. The cases pointed out by the AG were those in which the amount shown in the sale deeds received in the Registration Department was lesser than the actual amount shown in the sale deed submitted in Commercial Taxes Department. So many cases dealing with the same issue were found out by AG. He also added that AG had listed out only a few cases and the other cases were found out by the Internal Audit Wing.

19. When the Committee specifically asked about the discrepancy in the number of cases dictated by the AG and the departmental figure, the Inspector General replied that perhaps the officials who prepared the report had made a mistake.

20. The Committee was dissatisfied with the reply of the department officials and stated that it was handled very carelessly and such serious lapse in statistical data from the side of the department could not be entertained. The Committee directed the department to furnish a detailed reply to the 820 cases pointed out by the AG. The Inspector General, Registration agreed to submit the reply within 15 days.

21. While considering the audit para 6.14.6.3, the Committee directed the department to furnish a detailed reply about the present status of the 21 cases pointed out by AG. The witness agreed to submit the same within 15 days.

### **Conclusions/Recommendations**

**22. The Committee observes that, there is no system to enforce the stipulation requiring the agreements between the buyer and seller of immovable property prior to the execution of sale deed, to be registered. Therefore, the Committee recommends that the department should take necessary steps to enforce the registration of such agreements as per the relevant provisions.**

**23. The Committee directs the Registration Department to furnish a detailed reply regarding 820 cases of undervaluation of sale deeds as pointed out by the Accountant General.**

**24. The Committee requires the Registration Department to submit a detailed report about the present status of 21 cases of development agreements that were not properly stamped as per article 5(c) of KSA as pointed out by the Accountant General and to clarify whether any remedial action was taken to prevent recurrence of such instances in future.**

***[Paragraphs 7.1, 7.2 and 7.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2014 (Revenue Sector)].***

#### **7.1 Tax Administration**

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Kerala are administered at the Government level by the Secretary to Government, Taxes Department. The Inspector General of Registration (IGR) is the head of the Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by the District Registrars (DR) and Sub Registrars (SR).

## 7.2 Internal Audit

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) and team do the audit in the district. The sub-registry offices are audited annually. The total number of staff deputed for the internal audit work in this Department is sixty eight. The team leader is the DR (Audit) who is assisted by his subordinates. There is no separate manual for internal audit in the Department. Training of staff in the audit wing is included in the Department training programme undertaken through the Institute of Management in Government. The auditee offices are selected after giving special preference to those offices where the Registering Officer is due to retire shortly which itself is a risk analysis aimed at avoiding revenue loss. During 2013-14, IAW has audited 284 units out of 299 units planned for audit. During the year 2013-14, 1,776 audit observations could be cleared out of the 7,829 outstanding observations, which was 22.68 per cent of the outstanding observations.

## 7.3 Results of Audit

In 2013-14, test check of the records of 78 units of the Registration Department showed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 0.51 crore in 34 cases which fall under the categories given in Table-7.1

**Table - 7.1**

Sl. No.	Categories	₹ in crore)	
		Number of cases	Amount
1	Non/short levy of stamp duty and registration fees	10	0.09
2	Other irregularities	24	0.42
	<b>Total</b>	<b>34</b>	<b>0.51</b>

During the course of the year, the Department accepted undervaluation and other deficiencies involving ₹1.25 crore in 91 cases, which were pointed out in

earlier years. Four cases involving ₹0.06 crore were pointed out during the year 2013-14. An amount of ₹ 0.06 crore was realised in 80 cases during the year 2013-14. Compliance Audit on the Fixation of Fair Value of Land in the State and an illustrative case involving ₹4.73 lakh are discussed in the following paragraphs.

***[Notes received from the Government on the above audit paragraphs is included as Appendix II]***

### **Excerpts from the discussion of Committee with officials concerned.**

25. Regarding the audit para 7.2 “ Internal Audit” , the Committee enquired about the present status of preparation of Internal Audit Manual. The witness, Inspector General of Registration Department informed the Committee that the draft of the Internal Audit Manual was published in February and it would be finalized within 20 days and agreed to submit a copy before the committee.

### **Conclusion/Recommendation**

#### **26. No comments**

***[Paragraphs 7.4 to 7.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2014 (Revenue Sector)].***

### **Compliance Audit Observations**

#### **7.4 Fixation of Fair Value of Land in the State**

##### **7.4.1 Introduction**

The receipts from Stamp Duty (SD) and Registration Fee (RF) are regulated by the Indian Stamp Act (IS Act), 1899, the Registration Act, 1908, the Kerala Stamp Act (KS Act), 1959 and the rules<sup>1</sup> made thereunder. At

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1 The Kerala Stamp (Fixation of Fair Value of Land) Rules, 1995, The Kerala Stamp Rules, 1960.

Government level, Secretary, Taxes Department is responsible for the administration of the IS Act, 1899, KS Act 1959 and rules framed thereunder. IGR, Kerala is responsible for collection of RF levied by Government and to see the adequacy of SD paid for executing the instrument presented for registration. SD is leviable on execution of instrument and RF is payable at the prescribed rates. Major portion of the receipts from SD and RF in the State is derived from registration of transfer of property effected by way of instruments such as conveyance, gift, settlement, partition, release etc. The SD and RF leviable in such cases are at ad-valorem specified in Schedule to the KS Act, 1959 vide instances shown in Appendix XIV.

The Revenue and Disaster Management (R&DM) department is responsible for the fixation of fair value of land and Registration Department for registration of documents, collection of RF and monitoring the adequacy of SD paid on documents.

The receipts from sale of stamps and registration fees in the State of Kerala (State) during 2013-14 was ₹ 2,593.29 crore and contributed around 8 *per cent* of the total tax revenue of the State.

The objective of fixation of fair value was to prevent the understatement of value or consideration in transactions relating to land shown in the documents presented for registration, consequent evasion of SD, bringing transparency in the registration process and to eliminate corruption connected with the land transactions and its registration.

There was a delay of 22 years in fixation of a minimum value/fair value for land in the State, aimed at preventing understatement of value or consideration shown in the instruments presented for registration as shown in Table-7.2.



**Table - 7.2**  
**Milestones in fixation**

Year	Event	Remarks
1988	Introduction of Section 28A and 45A of KS Act, 1959 relating to minimum value of land	Minimum value of land was fixed for the first time by the District Collectors
1991	Section 28A and 45A of KS Act, 1959 relating to minimum value of land were withdrawn	Withdrawn due to discrepancies in the minimum value fixed and reduction in number of documents presented for registration.
1994	Introduced Section 28A and 45A of KS Act, 1959 relating to fair value	New Section was introduced fixing criteria for determination of fair value of lands.
2004	Fixed the fair value in January 2004 and withdrew the same in February 2004	The fair value was withdrawn on basis of complaints from public regarding the fixation of fair value.
2006	In Budget 2006 the fixation of fair value was introduced again	Land was assigned classification into 15 categories.
2008	The draft fair value was published in May 2008	Seeking suggestions from the public
2010	Published the fair value in March 2010	Implemented with effect from 1 April 2010

Though the Government fixed fair value through orders issued in 2010 as indicated above, as of March, 2014, the exercise was still incomplete.

Audit was conducted during May, 2014 to September, 2014, covering the period from April, 2009 to March, 2014 with reference to rules, regulations and guidelines framed by the Government for fixing and implementation of the fair value system.

Audit test checked the files and records maintained by the Commissioner of Land Revenue, seven<sup>10</sup> District Collectorates out of fourteen, seven<sup>11</sup> Revenue Divisional Offices (RDOs) out of twenty one, seven<sup>12</sup> Taluk Offices out of sixty three and twenty one<sup>13</sup> village offices out of 1,635 villages under the R&DM department. Audit also test checked the files and records maintained by the IGR, Kerala and six<sup>14</sup> Sub Registrar Offices (SROs). Soft copy of the database on fair value fixed for land in the State maintained and provided to Audit by the IGR, Kerala were also analysed and audit queries raised.

10 Thiruvananthapuram, Kollam, Ernakulam, Palakkad, Malappuram, Kozhikode and Kannur

11 Thiruvananthapuram, Kollam, Fort Kochi, Palakkad, Perinthalmanna, Kozhikode and Thalasserry

12 Thiruvananthapuram, Kollam, Fort Kochi, Palakkad, Perinthalmanna, Kozhikode and Thalasserry

13 Corporation Area (Sasthamangalam, Mundakkal, Fort Kochi, Mattancherry, Thoppumpady, Chevayur, Kasaba, Nagarom, Vengeri); Municipal area (Perurkada, Vattiyurkavu, Eravipuram, Yakkara, Palakkad1, Palakkad3, Perinthalmanna, Thalasserry); Panchayat area (Mayyanadu, Angadipuram, Thiruvangadu and Kodiyei).

14 Sasthamangalam, Palakkad, Chevayur, Kozhikode, Perinthalmanna, Thalasserry

## Audit findings

The following deficiencies in the fixation of fair value of land were noticed.

### 7.4.2 Process in fixation of fair value and its deficiencies

As per Section 28A of the KS Act, 1959 and Rule 3 of the Kerala Stamp (Fixation of Fair Value of Land) Rules, 1995 (KS(FFVL) Rules, 1995) RDO shall, for the purpose of fixation of the fair value of the land ascertain the fair value of land by classifying the land as those lying in (i) Municipal Corporation areas (ii) Municipalities and (iii) Rural areas. Within the above categories, fair value shall be fixed by the RDOs giving regard inter alia to the following matters, namely:

(a) development of the area in which the land is situated such as the commercial importance, facilities for water supply, electricity, transport and communication;

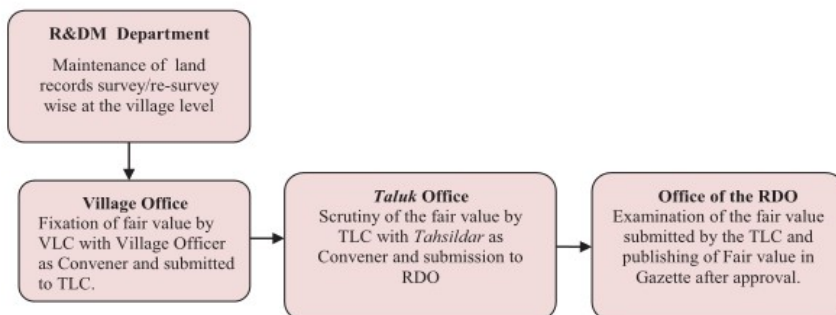
(b) proximity of the land to markets, bus stations, railway stations, factories, educational institutions or other institutions;

(c) the geographical lie of the land, the nature of the land such as dry, waste, wet or garden land, fertility, nature of crop, yielding capacity and cost of cultivation; and

(d) such other matters as may be provided in the rules made under KS Act, 1959.

A flow chart indicating the procedure of fixation of fair value is shown below.

**Chart 1**  
**Procedure for fixation of fair value**



As per Rule 4 of the KS (FFVL) Rules, 1995, after fixing, the fair value is to be published in Form A appended to the above rule. In the Schedule attached to Form A, each piece of land, with reference to survey/resurvey number, subdivision wise, is to be classified according to their use by selecting one of 15 classifications<sup>15</sup> given therein.

#### **7.4.2.1 Lack of proper guidelines, procedure, methodology etc. for fixing true market value/fair value**

No comprehensive guidelines specifying clearly the procedure and methodology for fixing the fair value was issued by the Principal Secretary R&DM Department/ the Secretary, Taxes Department/the Commissioner of Land Revenue/the IGR, Kerala. Audit observed that in the absence of the clear parameters based upon which the market value of land is determined, the Department was not able to fix the fair value of the land as decided by Government. Though the land was classified into fifteen categories, the detailed procedure/parameters for classifying the land under each category were not prescribed. The classification adopted by the respective RDOs for arriving at the fair value was inconsistent as explained in para 7.4.4.

#### **7.4.2.2 Lack of public involvement in fair value fixation through various committees**

Audit found that in respect of all the twenty one villages test checked, VLC was not formed in any of the villages to fix the fair value of land as required in the above government orders/instructions. Out of the seven Taluk offices test checked, TLC was formed only in three<sup>16</sup> Taluks. Audit was not able to ascertain the formation of VLC/TLC from the RDOs concerned as records were not available with these offices.

Failure to constitute the VLC or TLC resulted in fixation of fair value without local participation as desired by government. There was no system to monitor the constitution and convening of VLC or TLC.

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15 1. Commercially important plot 2. Residential plot with NH/PWD road access, 3. Residential plot with Corporation/Municipality/Panchayat road access 4. Residential plot with Private road access 5. Residential plot without vehicular access 6. Garden land with road access 7. Garden land without road access 8. Coastal belt 9. Water logged land 10. Rocky land 11. Waste land (land in close proximity to dumping yards, grave yards or similar other circumstances etc) 12. Wet land 13. Hill tract with road access 14. Hill tract without road access 15. Government land

16 Kollam, Ernakulam and Thalassery

On being asked by Audit, Village Officers/Tahsildars and RDOs did not produce any records based on which fair value was fixed.

Audit could not assess the basis for the fixation of fair value. The Village Officers fixed the fair value on a presumptive amount which had no bearing on the market value of the land as shown in paragraph 7.4.4.3

#### **7.4.3 Failure to fix fair value for all survey numbers**

RDO shall issue Notification for the fair value for each plot/land to be fixed and published sub-division wise by showing the survey/resurvey number in Form A as appended to the KS (FFVL) Rules, 1995. The Commissioner of Land Revenue<sup>17</sup> directed all RDOs in the State to ensure that all the survey numbers in all villages are included in the fair value register/compact disk. Audit scrutiny revealed that in several cases, the fair value was not fixed as explained below.

A scrutiny of the fair value registers/database of the selected seven Taluks<sup>18</sup> under seven<sup>19</sup> RDOs revealed that the fair value was not fixed in case of 1,32,991 survey/resurvey numbers in 89 villages.

Among the seven RDOs, RDO Kollam stated (August, 2014) that fair value of some of the missing survey numbers pointed out by Audit were fixed. However it did not specify the survey numbers for which fair value has been fixed and the database was also not updated. It was stated by five RDOs that these cases would be examined. Final reply has not been received (October 2014).

RDO, Fort Kochi stated that Government land in 223 survey numbers in Njarakkal, Elamkunnappuzha and Puthuvypu villages was not included in the fair value register/database. This is in violation of the classifications prescribed in Form A as appended to the Notification of the KS (FFVL) Rules, 1995 and the specific directions of the Commissioner of Land Revenue to include all survey numbers in the fair value list.

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17 In his proceedings No LRA3-46270/2006 dated 8 June 2009

18 Thiruvananthapuram, Kollam, Fort Kochi, Perinthalmanna, Palakkad, Kozhikode and Thalassery

19 Thiruvananthapuram, Kollam, Fort Kochi, Perinthalmanna, Palakkad, Kozhikode and Thalassery

It was seen that the process of fixation of fair value was still incomplete even after four years of publishing of final fair value in 2010 by the RDOs. Audit found that as on March, 2014, fair value was fixed by RDOs in approximately 16,180 cases. In all these cases, the fixation was based on request of the land owner and was not detected by the Department.

The Department was not able to explain the reasons for non fixation of fair value in the above cases.

Non-fixation of fair value for escaped survey/resurvey numbers is putting hardship for title holders at the time of registration of documents/deeds.

#### **7.4.4 Irregularities in fixation of fair value**

Audit came across three types of irregularities in the fixation of fair value as described below which will have significant revenue impact.

##### **7.4.4.1 classification and fixation of fair value of land without ascertaining the actual use.**

As per Rule 4 of the KS (FFVL) Rules, 1995 and Form A appended to the rules land is to be classified (out of the fifteen classifications prescribed therein) according to its use. Principal Secretary (R&DM) directed (November, 2006) that the land is to be classified according to the actual state at the time of fixation of fair value.

Test check of the fair value register of Palakkad-I village revealed that in eighteen cases (detailed in Appendix XV) 1.07 Ha. Land was classified as residential plot or wet land. Audit found that the land so classified was already ordered for conversion to 'commercial purpose' as per Kerala Land Utilisation Orders 1967 by the RDO, Palakkad during 2006-08 i.e., prior to fixation of fair value. The land is presently used for commercial or religious purposes. Thus, the classification of the land was not on the basis of actual state/use at the time of fixation of fair value.

In the fair value register of Yakkara village, Palakkad Taluk, no land has been classified as “ Commercially important Plots” through some areas of the

village are in the heart of the Palakkad town. On scrutiny of the maps, field measurement book available in the village office and on physical verification of plot/land etc., it was found that some parts of the survey numbers<sup>20</sup> are in the commercially important area of the town. However, all the plots in those survey numbers are classified as residential plot or wet land instead of “ Commercially Important Plots” .

As such, the fixation of fair value had been done without considering the actual use/stage of the land resulting in non compliance with the directions of the Government facilitating the RDOs to fix the fair value on presumptive basis.

On this being pointed out, Department stated that steps would be taken to rectify the mistakes (August and September 2014).

#### **7.4.4.2 Anomalies in fixation of fair value of similar/comparable plots**

The Government issued instructions to conduct 'Zonal Centralised Verification' of fair value in order to fix fair value at uniform rates in respect of plots with survey numbers falling in common boundaries of villages. The Commissioner of Land Revenue, Thiruvananthapuram directed<sup>21</sup> that during the centralised verification, adequate care should be taken to ensure that fair value of similar or comparable plots in the village boundaries are uniform. Plots lying on either side of the road/boundary were verified<sup>22</sup> in thirteen village offices<sup>23</sup>, and it was seen that in 448 cases the plots/fields were lying on the sides of the common boundary/roads of the villages and were having similar/comparable/identical nature and classification prescribed for fixation of fair value. However, there was variation ranging from four to 88 per cent in fair value fixed for identical plots. Some of the major cases are as under.

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20 Survey numbers 879, 880, 904, 907, 2396, 2400, 2403, 2405 and 2406

21 Vide UO letter No.LR(A)3-45270/2006 dated: 13 August 2009

22 With reference to Litho maps, Field Measurement Books and Basic Tax Registers

23 Mayyanadu, Eravipuram, Mundakkal, Fort Kochi, Mattancherry, Thoppumpady, Yakkara, Palakkad1, Palakkad3, Chevayur, Vengeri, Perinthalmanna, Angadipuram.

**Table - 7.3**  
**Anomaly in fixation of fair value**

Sl. No.	Survey No/Block-Resurvey No.	Class code	Fair value (₹)	Common Boundary	Sl. No.	Survey No/Block-Resurvey No.	Fair value Class code	Fair value (₹)	Percentage of variation
	Kollam district, Kollam Taluk, Eravipuram village					Kollam district, Kollam Taluk, Mayyanadu village			
1	BL25-367/18	2	1,80,000	Thattamala-Koottikada-Karikuzhi PWD Road	1	BL27-10/16	4	40,000	78
2	BL25-367/7	4	1,50,000		2	BL27-10/5	4	12,50,000	88
3	BL25-367/10	4	1,50,000		3	BL27-10/6	4	40,000	73
4	BL25-621/20	3	1,00,000		4	BL26-86/5	3	25,000	75
5	BL25-621/12	3	1,00,000		5	BL26-86/22	4	20,000	80
6	BL25-621/13	3	1,00,000		6	BL26-86/7	3	25,000	75
	Palakkad District, Palakkad taluk, Palakkad1 village					Palakkad District, Palakkad taluk, Palakkad3 village			
7	850/1A	12	3,60,000		7	2549	1	11,11,500	68
8	850/3	12	3,60,000		8	2555	1	11,11,500	68
9	852/2	12	3,11,220		9	2556	1	11,11,500	72

Further, of 29 plots in Perinthalmanna village (included in thirteen villages above) of Perinthalmanna Taluk lying opposite sides of Palakkad-Kozhikode NH 213/Nilambur-Perinthalmanna SH, also revealed that there was difference in fair value fixed for plots in 28 cases lying on the opposite/adjacent sides of the roads ranging from nine to 61 percent. Some major cases are:

**Table 7.4**  
**Anomaly in fixation of fair value**

Sl. No.	Survey No/Block-Resurvey No.	Class code	Fair value (₹)	Common Boundary	Sl. No.	Survey No/Block-Resurvey No.	Fair value Class code	Fair value (₹)	Percentage of variation
1	8	2	7,00,000	Palakkad-Kozhikode NH213	1	127	2	3,25,000	54
					2	128	01,02	2,75,000	61
2	14	2	5,50,000		3	130	1	2,75,000	50
3	105	1	9,00,000	Nilambur-Perinthalmanna SH Road	4	103	1	5,00,000	44
4	77	1	5,00,000		5	64	1	80,000	38

The Department admitted the anomaly in fixation of fair value of plots in 448 cases and 28 plots lying on the sides of Palakkad-Kozhikode NH 213 and

Nilambur-Perinthalmanna State Highway and stated (September, 2014) that the fair value of each village was fixed by Village Officer concerned and hence the variation occurred in fair value of similar/comparable land. The failure to constitute VLC, absence of joint verification of village boundaries and lack of monitoring at the higher level resulted in the anomaly in fixing fair value of similar/comparable land.

#### **7.4.4.3 Fixation of low fair value of land**

Section 28A of the KS Act, 1959, requires that every RDO shall subject to such rules as made by Government, fix the fair value of land situated within the area of his jurisdiction, for the purpose of determining the duty chargeable at the time of registration of instrument involving land.

After publication of the draft fair value on 5 May, 2008, in order to mitigate the defects crept in the fair value fixed, it was decided to fix (June, 2009)<sup>24</sup> the fair value at least 50 per cent of the market value.

- Audit test checked the sale deeds (where value shown in the document was ₹ 5 lakh or more) registered immediately before the introduction of fair value and found that in 91 documents<sup>25</sup> registered during 2009-10 (in four<sup>26</sup> SROs out of the six test checked) the fair value fixed was far less than the value disclosed in the previous documents registered. Even on considering the value shown in the previous documents registered as the market value, the fair value fixed was less than 50 per cent of the previous transaction value. Audit noticed that the fair value fixed was only 2.51 to 47.84 per cent of the value shown in the previous documents. A few cases are shown in Appendix XVI.
- Audit scrutinised 78 cases in which KINFRA<sup>27</sup> purchased<sup>28</sup> (between August, 2009 and March, 2010) land for Kannur Airport Project during 2009-10 and compared the purchase value with the fair value fixed

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24 LRA3-45270/2006 dated 8 June, 2009

25 Audit test checked 426 documents with transaction value above ₹ 5 lakh. Out of these above point was noticed in 91 cases.

26 Sasthamangalam, Kozhikode, Chevayur and Palakkad

27 Kerala Industrial Infrastructure Development Corporation is a statutory Corporation under the Government of Kerala for acquiring land for industrial purposes in the State.

28 Purchases were made through negotiation by the District Level Purchase Committee constituted by Government in Keezhallur village and Pazhassi village under RDO Thalasserry.



(highest rate among the 15 classifications of survey numbers) subsequently for the same survey numbers. Audit found that the fair value fixed for the land by the R&DM department was less than 50 per cent of the purchase value paid by the R&DM department itself through KINFRA. The fair value fixed in above cases ranged from 8.09 to 40.47 per cent of the purchase value. A few cases are shown in Appendix XVII.

Failure to constitute the VLC, non defining of the “ market value” resulted in fixation of fair value at a level lower than the previous transaction value or purchase value.

As such the fair value fixed was not fair enough to ensure proper revenue to the State defeating the primary objective for fixation of fair value.

#### **7.4.5 Impact of non-fixation/incorrect fixation of fair value**

As the fixation of fair value of land is not completed and in the cases where the fair value fixed was not in compliance with the prescribed criteria, Audit was not able to ascertain the true extent of evasion of SD. The revenue potential could be ascertained only on completion of fixation of fair value in an effective manner. IGR, Kerala stated that the Department did not conduct a study with regard to the impact of fixation of fair value on the realisation of SD.

#### **7.4.6 Non-fixation of criteria for determining the value of building set forth in documents presented for registration.**

As per Section 28(1) and 28(2) of the KS Act, 1959, the consideration and all other facts and circumstances affecting the chargeability of duty or the amount of the duty with which it is chargeable shall be fully and truly set forth in the instrument. In the case of instruments relating to immoveable property chargeable with ad valorem duty on the fair value of the land and property, it shall fully and truly set forth the value of all other properties including building, if any, in the land involved.

The IGR, Kerala directed (December, 2008<sup>29</sup>) the registering officers to classify the buildings into five categories and value the buildings at the rates

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29 Vide his letter No. RR6-8375/08 dated: 15 December ,2008

prescribed by him for each class. However, this direction was withdrawn by the IGR, Kerala on 22 December, 2008 as the Government directed that this could be implemented only after further discussions and evaluation.

No further orders have been issued by the Government in Taxes Department/Registration Department prescribing the rate and method of valuation of buildings even after a lapse of more than 5 years of the withdrawal of the direction of the IGR. Presently there is no system to check understatement of value of buildings in instruments presented for registration.

In the absence of guidelines for valuation of building, there is extensive understatement of the value of buildings in the documents presented for registration. Registering authorities report undervaluation in respect of the buildings also to the District Registrars.

#### **7.4.7 Conclusion**

Though the system of fair value was introduced in 2010 for land comprising in 1,635 villages, many cases of non fixation of fair value were noticed in 89 test checked villages. The Department did not have a system for identifying these cases and it comes to know about non fixation of fair value only when the public approaches respective SROs for service. Thus, the implementation of the scheme of fair value was still incomplete.

The Government did not prescribe the detailed procedure for classification of land for the purpose of fixation of fair value.

The system of monitoring the implementation of the scheme was also weak and the fair value was fixed without defining market value and in many cases the fair value was far below the previously registered document value. There were variations ranging from four to 88 per cent in fair value fixed for identical plots sharing common boundaries/roads.

#### 7.4.8 Recommendations

*Audit recommends that Government may:-*

- *consider identification and fixation of fair value for each plot in all the villages in the State with the assistance of the Survey Department.*
- *Define the fifteen classifications of land prescribed for fair value fixation.*
- *Prescribe parameters to ascertain the market value of land for fixing the fair value.*
- *Prescribe uniform fair value for similar/comparable plots in the common boundaries/roads.*
- *Consider looking into the irregularities in the fixation of fair value in the State to ensure that fixation of fair value is done based on a prescribed criteria.*
- *Prescribe procedure/guidelines for the fixation of value for buildings shown in the documents presented for registration.*

#### 7.5 Short levy of stamp duty and registration fee due to undervaluation of sale deeds

The consideration set forth in the conveyance deeds registered was less than the fair value fixed for the land.

(SRO, Thalasserry)

As per Section 45 A of the Kerala Stamp Act 1959, if, on verification, the registering officer finds that the consideration set forth in the instrument is less than the fair value of land fixed, he shall direct the payment of proper stamp duty on the fair value of the land, and shall duly register such instrument and certify by endorsement on the instrument that proper stamp duty has been charged and paid.

In Sub Registry Office, Thalasserry two sale deeds for 8.09 ares<sup>30</sup> and 14.16 ares were registered in June, 2010 for ₹32.36 lakh and ₹ 53.87 lakh respectively. Audit found (August, 2013) that the value per are adopted<sup>31</sup> for the land in above cases was less than the fair value of rupees six lakh per are prescribed for the property in that survey numbers. Non adoption of fair value of land while registering the document resulted in undervaluation of ₹ 47.33 lakh and short levy of stamp duty and registration fee of ₹4.73 lakh.

This was pointed out to the Department in August, 2013 and reported to Government in April, 2014. While admitting the audit observations, Government stated (July, 2014) that in respect of one sale deed, the short levy has been treated as the liability of the registering authority and in respect of the other, the short levy would be realised from the registering authority concerned. Further report has not been received (October, 2014).

***[Notes received from the Government on the above audit paragraphs are included as Appendix II]***

**Excerpts from the discussion of the Committee with officials concerned.**

27. While considering the audit para 7.4, Fixation of Fair value of Land in the State, the Senior Deputy Accountant General informed the Committee that the Revenue Department is the one to reply on the audit paras related to fair value.

28. The Senior Deputy Accountant General added that the Revenue Department had not given their report and that from the office of the Accountant General the audit report was made available to Revenue Department, and even if they were not asked to submit the report on the audit paras related to them they had to submit the report by themselves.

29. The Committee decided to summon the officials of the Revenue Department to give explanation as the report was not made available. The Senior Deputy Accountant General pointed out that even though reply for some of the

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30 Are is a unit of measurement of land 1 Are=100 square metre, 100 Are=One hectare, 1 Are=2.471 cent, 247.1 cent= 1 hectare.

31 ₹ 4 lakh and ₹ 3.80 lakh per are respectively.

audit paragraphs were made available before the Committee, the audit objections had not been rectified. To a query of the Committee, the Joint Inspector General informed that in the 2018 budget it was stated that the fair value of land would be 50% of the market value. The Senior Audit Officer pointed out that the major objections raised by the Accountant General are no clear definition for the division of land into 15 categories, no accurate mention about the demarcations of land and no fair value fixation of land in all places. The Inspector General, Registration Department informed the Committee that there are a lot of anomalies existing in the case of fair value. The Government has issued orders to fix fair value in a new format in 2018, but it has not been implemented yet. The Committee decided to obtain detailed reply from the Revenue Department on the above mentioned audit paras (Audit Para 7.4.2 to 7.4.8).

30. While considering the audit para 7.5, “ Short levy of stamp duty and registration fee due to undervaluation of sale deeds” , the Senior Deputy Accountant General informed that undervaluation occurs in sale deeds due to difference in fair value. She also pointed out that in the first case, the details of the officer on whom the liability was fixed is clearly mentioned in the reply. But in the second case, the information is vague.

31. The Committee asked the department to inform the course of action taken in the second case and the department agreed to do so.

***[Notes received from the Government on audit paragraphs 7.4.2-7.4.8 are included as Appendix II]***

**Excerpts from the discussion of Committee with department officials on 16-6-2022**

32. While considering the audit paras 7.4 to 7.4.2.1, the Committee enquired about the guidelines regarding the fixation of fair value of land in the state. The witness, Joint Commissioner of Land Revenue Commissionerate replied that Revenue Department in consultation with Finance Department had issued a detailed order regarding fair value fixation on 14-8-2018. Earlier the land was categorized into 15 types for fixing fair value. This categorization was not sufficient to fix the fair value under each category of arable land or

according to the crop cultivated. As Common categorization was inappropriate for fixing fair value, the need for sub categorization arose. Under each category, there should be specific guidelines, parameters and procedures for fixing the fair value. Therefore, three Committees were formed at the village, taluk and district levels for this purpose vide the order and later people's representatives were also included in the district level committees.

33. To a query of the Committee, the Joint Commissioner, Land Revenue Commissionerate informed the Committee that the first step toward fixing the fair value of land without road access is data collection at the village level. After taking into consideration the type of roads and other parameters like fair value of the road frontage adjacent land etc., the RDO and District Collector level scrutiny has to be carried out. A Fair value would be fixed afterwards. He further informed the Committee that Government Order to implement sub classification method to rectify the anomalies in fixing fair value was delayed due to the Covid-19 and the Flood. However it would be implemented in the current year, he added.

34. The Additional Chief Secretary, Finance & Taxes Department informed the Committee that a lot of anomalies exists regarding the fixation of fair value and that the Government order issued in 2018 was not implemented till date. He also brought to the notice of the Committee that the Honbl'e Finance Minister in his budget speech had said that a high level Committee would be appointed to rectify the anomalies in fair value fixation. The Order would be issued in a month, and hopefully the new fair value fixation criteria would be announced within three months. The Committee observed that fair value fixation had been done erroneously. So that land registration in the hilly regions of northern Kerala could not be made. Likewise, an excessive rate in the fair value could block the registration of land deeds in the state. The Committee directed the Department to find out a solution to rectify anomalies.

35. To a query of the committee, the Joint Commissioner, Land Revenue Commissionerate replied that according to Section 28 A of Kerala Stamp Act, RDO has the power to rectify the anomalies related to fair value fixation. He also brought to the notice of the Committee that there is an appeal provision for fixing the fair value of land and that the RDO has the power to take decisions in such cases.

36. The Additional Chief Secretary, Finance and Taxes Department informed the Committee that if the public approached the RDO, the anomalies related to fair value fixation of land could be rectified to some extent.

37. When considering the audit Para 7.4.2.2, 'Lack of Public involvement in fair value fixation through various committees', the Committee enquired about the reasons for failure in constitution of Village Level Committee/ Taluk Level Committee (VLC/TLC) for fixing the fair value of land.

38. The Joint Commissioner, Land Revenue Commissionerate informed the Committee that a Government order was issued in this effect and it was decided to constitute the VLCs with the Secretaries of Panchayats, RDOs as Chairman in TLCs and District Collector as Chairman in DLC. To a query of the Committee, the Joint Commissioner also clarified that the various level Committees are separate bodies and the data collection would be done by VLCs. The TLC/DLC examines the report of VLCs and rectifies anomalies or errors if any. Subsequently the RDO would take a final decision.

39. To a query of the Committee, the Joint Commissioner clarified that the RDO has the power to take final decision and the Government as per G.O.(Rt) No.302/2018/Rev. Dated 14-8-2018 issued a detailed order regarding directions/guidelines for the re-fixation of fair value. The Government order further clarifies the measures taken, time limit for completion of fixation, responsibilities of the Committees, steps for increasing/decreasing of fair value, he added. He further informed the Committee that re-survey of land would be started in 200 villages soon and the data collection would be done electronically.

40. The Senior Deputy Accountant General added to the discussion by informing of the Committee that at present there is a periodic increase by 10 percent of fair value along with the development of a particular area. The method of increasing the fair value along with developments is an unscientific practice that would cause revenue loss. He also informed the Committee that there should also be a mechanism to reduce the fair value in comparison with the value of land .

41. The Committee was concerned about the increased fair value of agriculture land as well as land affected by the recent flood and other natural calamities. The Committee also opined that Government would take measures for increasing the fair values of land in the vicinity of Kannur Airport, particularly areas like Iritti and Mattannoor. It also directed to follow a realistic approach for the fixation of fair value of land.

42. The Inspector General of Registration Department informed the Committee that as per the amendment made to the Finance Act 2020, the fair value of land may be increased by adding 30% to the existing rate by issuing a notification in this respect. However, the provision is hardly used to increase the fair value of land in commensurate with the development of an area, he added. He further pointed out that the matter was brought to the notice of Government.

43. To a query of the Committee, the Joint Commissioner, Land Revenue Commissionerate replied that the RDO can fix the fair value of survey numbers according to Stamp Act, if the value is not fixed. No data could be available on such survey numbers where the fair value had not been fixed. Action can be taken only if the survey numbers that do not fix the fair values are noticed. Based on the report from the Village Officer, the Sub collector/RDO can fix the fair value, if any anomalies arise after hearing it, it is finalized and notified. When asked about the number of cases pending, the Joint Commissioner replied that the actual number of cases were not readily available to him, but could be submitted to the Committee.

44. The Senior Deputy Accountant General added to the discussion that usually RDO's are over burdened and they do not have time to take actions in such cases promptly.

45. The Inspector General, Registration Department replied that in most cases, the decision would be taken after conducting site inspections, that was also one of the reasons for the pendency of cases.

46. While considering the Audit Paras 7.4.4, 7.4.4.1, 7.4.4.2, 7.4.4.3, the Senior Deputy Accountant General informed the Committee that the report was submitted after OPEN PEARL review two years ago.



47. The Inspector General, Registration Department replied that as the said report had not yet been received, he would furnish the reply after receiving it.

48. While considering the audit paras 7.4.5, 7.4.6, 7.4.7, 7.4.8, 7.5, the Committee enquired whether changes had been introduced in the Act/Rules for avoiding undervaluation of buildings. The Additional Chief Secretary, Finance and Taxes Department deposed the Committee that an order has been issued based on the Plinth Area Rates of Central Public Works Department for fixing fair value of flat/apartment. It has also been made applicable to buildings in 2020.

### **Conclusions/Recommendations**

49. The Committee directs the department to submit the final report regarding the course of action taken by the department to plug in the revenue loss occurred due to the undervaluation of sale deeds in Document No. 1467/2010 and Document No. 1450/2010 of SRO, Thalassery.

50. The Committee expresses concern over the absence of comprehensive guidelines and criteria specifying clearly the procedure and methodology for fixing the fair value of land and recommends that an effective and proper mechanism should be formulated on the matter jointly by Registration Department and Revenue Department in consultation with Finance Department so as to prevent revenue loss to the Government in future.

51. The Committee observes that the Government order of 2018 for fixing the fair value of land has not been implemented and due to erroneous method of fair value fixation, only few land registration is done in the hilly areas of Northern regions and excessive rate in the fair value could lead to stalemate in the registration of land deeds in the State. The Committee expresses its deep concern over the increased fair value of agriculture land as well as the recent flood affected and other natural calamity hit areas.

52. The Committee directs the department to rectify the anomalies in the fixation of fair value of similar comparable plots and urges to follow a realistic approach for the fixation of fair value of land.

53. The Committee realizes that as the common categorization adopted for fixing the fair value of different types of land is unsuitable and impractical, the need for sub classification arises and the department has issued orders on 14-8-2018 in this direction. Therefore, the Committee wants to know how far the implementation process of refixing the fair value has been accomplished on the basis of the above orders.

54. Non fixation of fair value for escaped survey/ resurvey numbers is putting hardship for the title holders at the time of Registration of deeds. So, Committee directs the department to complete the process with utmost care in a time bound manner.

55. The Committee notices certain cases in the fixation of fair value without considering the actual use/stage of the land which has led to the determination of fair value by the authority in a presumptive manner. The Committee wants to rectify the anomalies in such cases in compliance with the directions given by the government.

56. The Committee wants to get a detailed reply regarding the present status of the objections raised by the Accountant General in the audit paras 7.4.2 to 7.4.8

57. The Committee directs the Revenue Department to submit within six months the district wise details of land in respect of which fixation of fare value is still pending.

*[Paragraphs 7.5 to 7.8 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2015 (Revenue Sector)].*

## **7.5 Tax Administration**

Receipts from stamp duty and registration fee are regulated under the India Stamp Act, 1899 (IS Act), India Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Kerala and are administered at the Government level by the Principal Secretary to Government, Taxes Department. The Inspector General of Registration (IGR) is the head of the Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by the District Registrars (DR) and Sub Registrars (SR).

## **7.6 Internal Audit**

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) and team do the audit in the district. The sub-registry offices are audited annually. The total number of staff deputed for the internal audit work in this Department is sixty nine. There is no separate manual for internal audit in the Department. Training of staff in the audit wing is included in the Department training programme undertaken through the Institute of Management in Government. The auditee offices are selected after giving special preference to those offices where the Registering Officer is due to retire shortly which itself is a risk analysis aimed at avoiding revenue loss. During 2014-15, IAW audited 267 units out of 298 units planned for audit. During the year 2014-15, 1295 audit observations could be cleared out of the 9028 outstanding observations, which was only 14.34 per cent of the outstanding observations.

## **7.7 Results of Audit**

The records of 88 offices relating to Registration Department were test checked during 2014-15. Non/short levy of stamp duty and registration fee and other irregularities amounting to ₹ 0.84 crore were detected in 66 cases which fall under the following categories as given in Table-7.9.

Table – 7.9

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of stamp duty and registration fees	19	0.20
2	Other irregularities	47	0.64
	<b>Total</b>	<b>66</b>	<b>0.84</b>

During the course of the year, the Department accepted under-valuation and other deficiencies involving ₹ 0.65 crore in 48 cases which involved one case amounting to ₹ 4.41 lakh pointed out during the year. An amount of ₹10.24 lakh was realised in 45 cases during the year of which one case involving ₹4.41 lakh pertained to 2014-15.

The reason for non/short realisation of amounts pointed out by Audit even in cases accepted by the Department were called for in October, 2015. The Department stated (November, 2015) that cases related to undervaluation were settled through One Time Settlement Compounding scheme during 2009-12 and hence the amount realised does not coincide with the amount pointed out by Audit. Also, in undervaluation cases, on finalisation of  *suo motu* proceedings the amount pointed out by Audit and the amount determined by the District Registrar may differ. The Department also stated that  *suo motu* proceedings and revenue recovery proceedings take long duration for completion and causes delay to collect the deficit amount.

The chapter contains one illustrative case involving ₹9.32 lakh.

### 7.8 Short levy of stamp duty and registration fee due to undervaluation of documents

Suspected cases of undervaluation were not reported by Sub Registrar to District Registrar.

• **Sub Registry Office, Olavakkode**

Government notified<sup>32</sup> the fair value of land in Kerala by classifying entire land into 15 categories based on usage of land. Government issued instructions<sup>33</sup> that when the instruments were brought for registration, if it was found that fair value has been omitted to be fixed in respect of the survey/resurvey/sub division numbers of the properties, the Sub Registrars should report the same to the District Collector for necessary action. Section 45 (B) (1) of Kerala Stamp Act (KSA), 1959 stipulates that if the registering authority has reason to believe that the value of the property or the consideration has not been fully set forth in the instrument brought before him for registration, he may after registering the document, refer the same to the District Collector for determination of the value or consideration and proper duty payable thereon. As per Section 45B (3) of the KSA, 1959, the District Collector may *suo-motu* within two years from the date of registration of any instruments not already referred to him under sub section (1) above, call for and examine the instrument and if he has reason to believe that the value or consideration has not been truly set forth in the instrument he may determine the value and the duty which shall be payable by the person liable to pay the duty.

In Sub Registry Office, Olavakkode two sale deeds<sup>34</sup> involving 84.82 Ares<sup>35</sup> and 66.16 Ares were registered in 2012 and 2013 for ₹21.96 lakh and ₹20.75 lakh respectively. Audit found (February, 2015) that the value per Are adopted for the land in above cases were less than the fair value of ₹90,000 per Are prescribed for the property with similar classification in that survey number. Suspected undervaluation in the cases amounted to ₹93.17 lakh and consequent short levy of stamp duty and registration fee of ₹9.32 lakh. However, the Sub Registrar did not report the matter to District Collector as a suspected case of undervaluation.

Government stated (September, 2015) that based on the audit observation, District Registrar had taken *suo-motu* action in July, 2015 on both documents as

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32 GO(P)/515 dated: 06.03.2010

33 GO(Ord)/77/10/TD dated: 27.03.2010

34 Doc.No.381/2012 and Doc. No.592/2013

35 Unit of measuring land 100 Ares=1 Hectare

per Section 45(B) (3) of KSA, 1959 for suspected undervaluation related to omission of proper classification in the fair value register. Since the parties did not respond to the notice issued, action would be taken to issue provisional orders for making good the short levy. Final report had not been received (January, 2016).

***[Notes received from the Government on the above audit paragraphs is included as Appendix II]***

**Excerpts from the discussion of Committee with officials concerned.**

58. While considering the Audit para 7.6, the Committee noted that the same subject was discussed while considering the Audit para 6.12 of the C&AG Report of 2013.

59. While considering the audit para 7.8, the Inspector General informed the Committee that the stay had been vacated and the amount was levied from the concerned people, but the amount levied was less as it was done through a one time settlement.

**Conclusion/Recommendation**

**60. No comments**

***[Paragraphs 5.5 to 5.8 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)].***

**5.5 Tax administration**

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Kerala and are administered at the Government level by the Additional Chief Secretary to Government, Taxes Department. The Inspector General of Registration (IGR) is the head of the Registration Department who is empowered with the superintendence and administration of registration work. He is assisted by the District Registrars (DR) and Sub Registrars (SR).

## 5.6 Internal audit

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) and team do the audit in the district. The sub-registry offices are audited annually. The total number of staff deputed for the internal audit work in this Department is sixty two. There is no separate manual for internal audit in the Department. The auditee offices are selected after giving special preference to those offices where the Registering Officer is due to retire shortly. During 2015-16, IAW audited 258 units out of 276 units planned for audit and pointed out 2,824 observations. During the year 2015-16, 4,434 audit observations could be cleared out of the 10,557 outstanding observations, which was only 42 per cent of the outstanding observations.

## 5.7 Results of audit

The records of 91 offices relating to Registration Department were test checked during 2015-16. Non/short levy of stamp duty and registration fee and other irregularities amounting to ₹3.59 crore were detected in 139 cases which fall under the following categories as given in Table-5.10.

**Table – 5.10**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Short collection of Stamp duty and Registration fee	83	1.11
2	Other lapses	56	2.48
	<b>Total</b>	<b>139</b>	<b>3.59</b>

During the course of the year, the Department accepted under-valuation and other deficiencies involving ₹ 51.88 lakh in 26 cases. An amount of ₹ 6.89 lakh was realised in 24 cases during the year of which three cases involving ₹ 0.36 lakh pertained to 2015-16.

Two illustrative cases involving ₹37.39 lakh are given in the following paragraphs.

### **5.8 Short collection of Stamp duty and Registration fee**

Government notified<sup>36</sup> the fair value of land in Kerala by classifying entire land into 15 categories based on usage of land. Government issued instructions<sup>37</sup> that when the instruments were brought for registration, if it was found that fair value has been omitted to be fixed in respect of the survey/resurvey/sub division numbers of the properties, the Sub Registrars should report the same to the District Collector for necessary action. Section 45B of Kerala Stamp Act, 1959 stipulates that if the registration officer while registering any instrument transferring any property has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument transferring any property brought before him for registration, he may after registering such instrument, refer the same to the Collector for determination of the value or consideration and the proper duty payable thereon. As per Section 45B (3) of the KSA, 1959, the District Collector may suo-motu within two years from the date of registration of any instruments not already referred to him under sub section (1) above, call for and examine the instrument and if he has reason to believe that the value or consideration has not been truly set forth in the instrument he may determine the value and the duty which shall be payable by the person liable to pay the duty. Government in October 1986<sup>38</sup> appointed District Registrars as Collectors for this purpose.

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36 GO (P)/515 dated 6-3-2010.

37 GO (Ord) No. 77/10/TD dated 27-3-2010.

38 SRO 1514/86.



- **Due to incorrect classification of landed properties**

**(21 Sub Registry Offices<sup>39</sup>)**

On a scrutiny (between February, 2015 and February, 2016) of documents registered in Book I<sup>40</sup>, Audit noticed that in 21 Sub Registry Offices (SROs) out of 83 SROs, the Sub Registrars while registering the documents between 2011-2015 applied incorrect fair value in 39 documents though the nature of land was narrated in the instruments. The value per Are<sup>41</sup> adopted for the land was less than the fair value per Are prescribed for the property with similar classification in the same/nearest block number/survey number. The undervaluation of the documents brought for registration amounted to ₹ 3.86 crore and consequent short levy of stamp duty and registration fee of ₹ 35.35 lakh as shown in the Appendix XXXVII.

Audit found that maximum cases of undervaluation were in SRO Areacode (five cases; ₹ 2.16 lakh). Audit found that the Sub Registrars did not report the matter to District Registrar as suspected cases of undervaluation. The Sub Registrars also failed to report<sup>42</sup> the non fixation of fairvalue of survey/resurvey /sub division numbers of the properties and to bring to the notice of District Registrars the difference between the types of classification of land made in the fairvalue notification and in the instruments brought for registration.

In SRO, Wadakkanchery, out of the differential stamp duty of ₹ 3.84 lakh an amount of ₹ 60,300 was collected in one case<sup>43</sup>.

When the matter was referred to Government in April, 2016, the Government stated (September, 2016) that directions had been given to IG of Registration to issue a common instruction to the registering officers that if there

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39 Amaravila, Areacode, Chengannur, Karukachal, Kilikolloor, Kochi, Kothamangalam, Kuthiyathode, Mallappally, Manjeri, Nenmara, Nooranadu, Pathanamthitta, Ponnani, SulthanBathery, Thiruvambadi, Thiruvananthapuram Fort, Vadakara, Wadakkancherry, Villiappally, Wandoor.

40 Register of documents relating to immovable property.

41 Are is a unit of measurement of land 1 Are = 100 square metre, 100 Are = One hectare, 1 Are = 2.471 cent, 247.1 cent = 1 hectare.

42 GO (Ord) No. 77/10/TD daedt: 27-3-2010.

43 Doc. No. 4065/12 dated 6-9-2012.

is clear classification in the document about the land conveyed and there is no fair value for that classification, the Sub Registrars should report such cases for undervaluation.

- **Due to misclassification of land by splitting up of property**

**(SROs, Edappal and Mulanthuruthy)**

Out of 83 Sub Registry Offices (SROs) test checked, in two Sub Registry Offices, scrutiny of documents (July and December, 2015) registered in Book I revealed that two sale deeds<sup>44</sup> were registered conveying 13.91 Are and 26.24 Are of land for ₹ 21.85 lakh and ₹ 2.16 lakh respectively. Though the properties had access to State Highway/private road in one of the boundaries, the Sub Registrars registered the documents showing the properties partly with road access and partly without road access. The Sub Registrars did not adopt the fair value/market value while registering the documents. The Sub Registrars did not report the non-fixation of fair value of land in the survey number as prescribed in the Statutes. On joint physical inspection (December, 2015) of the plot conducted by Audit, Sub Registrar and the Village Officer, Mulanthuruthy, it was found that 26.24 Are of land is a continuous stretch of single plot with road access in the eastern boundary. The splitting up of single property into two for the purpose of registration resulted in misclassification of the documents and undue advantage to the owners. This resulted in undervaluation of ₹ 25.44 lakh and consequent short levy of ₹ 2.04 lakh as shown in the Appendix XXXVIII. The Sub Registrar did not report the cases as suspected cases of undervaluation to the District Registrar.

The matter was pointed out to the Department in July, 2015 and December 2015 and referred to Government in April, 2016. The Government stated (September, 2016) that in order to make undervaluation procedures more effective an amendment has been brought to Section 45B(3) of the Kerala Stamp Act, 1959, whereby the period for taking *suo motu* action by the District Registrar has been extended to five years. It was also stated that necessary

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<sup>44</sup> SRO Edappal Doc. No. 513/13 dated 1-2-2013 and SRO, Mulanthuruthy Doc. No.3033/13 dated 27-11-2013.

directions were given to the District Registrar (General) concerned to initiate *suo moto* action in the above documents.

**Excerpts from the discussion of Committee with officials concerned.**

61. The Committee demanded explanation for the failure of the department in submitting RMT statement to the Committee till date. The Joint Secretary, Taxes Department explained that due to bifurcation of the section some files were lost and as a result reports were sought again and action is being taken.

62. The Committee expressed its dissatisfaction and asked the Secretary in charge of the Taxes Department to seek explanation from the officials who were responsible for the delay and also asked the department to submit the RMT statement at the earliest. The officials agreed to do so.

***[Notes received from the Government on the above audit paragraphs are included as Appendix II]***

**Excerpts from the discussion of Committee with officials concerned on 16-6-2022**

63. While considering the audit paras, the Committee enquired the details of action taken on the cases pending in the courts.

64. The Inspector General, Registration Department submitted that amount had been paid in few cases. Cases in which no amount had been paid were included in revenue recovery category. All the details of cases pending in the Court, were available with the department. When asked about the steps taken in the cases of pending court cases, he replied that there had been a significant reduction in the number of cases as instructions had been issued to deposit 25% of the amount while filing a case. Long pending cases were brought to compounding scheme. In answer to a question from the Committee, Inspector General, Registration, replied that in most of the cases over the last 10 years the court remand the cases to the Department that involve physical verification.

65. The Senior Audit Officer added to the discussion that disputes can be reduced only if systemic fair value fixation is done after the formation of VLC, TLC and DLC. To a query of the Committee, the Inspector General,

Registration Department informed the Committee that Government Pleaders are in the District Courts. They are less interested in such cases. Cases upto March 2017 were being referred for settlement under the compounding scheme.

66. While considering the audit observation about the DOC No. 167/2012 of SRO Ponnani, the Committee enquired why the concerned department did not give proper reply to the matters pointed out in the audit. Inspector General, Registration Department informed the Committee that the file regarding this matter has been sent to the concerned Sub-Registrar, but no reply has been received so far.

### **Conclusion/Recommendation**

**67. The Committee directs the department to submit a final reply about all the pending cases in audit para 5.8 to the Committee at the earliest.**

***[paragraphs 5.5 to 5.10 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2017 (Revenue Sector)].***

### **5.5 Tax administration**

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act) and the Rules framed there-under as applicable in Kerala and are administered at the Government level by the Secretary to Government, Taxes Department. The Inspector General of Registration (IGR) is the head of the Registration Department who is empowered with the superintendence and administration of registration work. He was assisted by the District Registrars (DR) and Sub-Registrars (SR).

### **5.6 Internal audit**

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The sub-registry offices are audited annually. The total number of staff deputed for the internal audit work in the Department is 66. There is no separate manual for internal audit in the Department. The auditee offices are selected after giving

special preference to those offices where the Registering Officer is due to retire shortly, which itself is a risk analysis aimed at avoiding revenue loss. During 2016-17, IAW audited 267 units out of 296 units planned for audit and pointed out 2,234 observations. During the year 2016-17, 4,386 audit observations could be cleared out of the 8,357 outstanding observations, which was 52.48 per cent of the outstanding observations.

### 5.7 Results of audit

The records of 69 offices relating to Registration Department were test checked during 2016-17. Non/short-levy of stamp duty and registration fee and other irregularities amounting to ₹ 1.70 crore were detected in 143 cases which fall under the following categories as given in Table - 5.3.

**Table - 5.3**

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Undervaluation of documents	102	1.63
2	Other lapses	41	0.07
<b>Total</b>		<b>143</b>	<b>1.70</b>

During the course of the year, the Department accepted under-valuation and other deficiencies involving ₹ 0.57 crore in 39 cases. An amount of ₹ 0.10 crore was realised in 35 cases during the year, of which, eight cases involving ₹ 0.02 crore pertained to 2016-17.

A few illustrative cases involving ₹ 0.39 crore are given in the following paragraphs.

### 5.8 Short collection of stamp duty and registration fee due to incorrect classification of landed properties

Government notified<sup>45</sup> the fair value of land in Kerala by classifying entire land into 15 categories based on usage of land. Government issued instructions<sup>46</sup>

45 GO (P)/515 dated 6 March 2010.

46 GO (Ord) No. 77/10/TD dated 27 March 2010.

that when the instruments were brought for registration, if it was found that fair value has been omitted to be fixed in respect of the survey/resurvey/sub division numbers of the properties, the Sub Registrars should report the same to the District Collector as appeal for necessary action. Section 45A of the Kerala Stamp Act (KSA), 1959, stipulates that, the registering officer shall, while registering an instrument transferring any land, chargeable with duty, verify whether the value of land or the consideration set forth in the instrument is the fair value of that land. As per the Circular<sup>47</sup> of Registration Department, if fair value was not fixed for a subsequent sub-division of a survey number, fair value of the mother sub- division matching with the classification by use whose fair value is already fixed can be taken for the subsequent sub-division.

- **Sub Registry Office, Kuttanellur**

In Sub Registry Office, Kuttanellur, scrutiny of documents (June, 2016) revealed that a sale deed<sup>48</sup> was registered conveying 178.88 Ares<sup>49</sup> of land and one building for ₹4.82 crore<sup>50</sup>. As per the document, the property had access to Panchayat road. Audit conducted a joint physical inspection along with the Sub-Registrar and Village Officer and observed that the plot had access to the PWD Road. Fair value for plot with PWD road access in the said survey number was not fixed nor applied rate of similar survey number for the classification of land with PWD road access. Sub-Registrar did not report this to the District Collector for necessary action. The incorrect classification of land by Sub Registrar, Kuttanellur resulted in undervaluation of documents amounting to ₹ 3.13 crore and consequent short collection of stamp duty and registration fee of ₹ 25.02 lakh.

On this being pointed out (March, 2017), Government stated (September, 2017) that suo motu action on document under section 45B(3) of Kerala Stamp Act, 1959, for suspected undervaluation was initiated.

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47 RR 9/20442/2014 dated 1 January, 2015.

48 Doc. No. 1067/1/15 dated 13 April, 2015.

49 Are is a unit of measurement of land 1 Are = 100 square metre, 100 Are = One hectare, 1Are = 2.471 cent, 247.1 cent = 1 hectare.

50 ₹4.6 crore for land and ₹0.22 crore for building.

- **Sub Registry Office, Kottapady**

In Sub-Registry Office, Kottapady, scrutiny of document (June, 2016) revealed that a sale deed<sup>51</sup> was registered conveying 21.045 Ares<sup>52</sup> of land for ₹ 87.50 lakh. According to the fair value register, the property was classified as a wet land. While scrutinising the documents, it was observed that there was a theatre in that plot. Audit conducted a joint physical inspection along with the Sub Registrar and Village Officer and observed that the plot was a commercially important one having access to PWD road. But fair value was not fixed for commercially important plot. Thus, the plot was misclassified by Sub Registrar, Kottapady as wet land instead of commercially important plot. Sub Registrar did not report this to the District Collector for necessary action. The incorrect classification of land resulted in undervaluation of document amounting to ₹27.23 lakh and consequent short collection of stamp duty and registration fee of ₹ 2.72 lakh.

On this being pointed out (March, 2017), Government stated (September, 2017) that suo motu action on document under section 45B(3) of Kerala Stamp Act, 1959, for suspected undervaluation was initiated.

### **5.9 Short collection of stamp duty and registration fee due to incorrect adoption of value of land**

- **SRO, Chalakkudy**

Government notified<sup>53</sup> the fair value of land in Kerala by classifying entire land into 15 categories based on usage of land. Government issued instructions<sup>54</sup> that when the instruments were brought for registration, if it was found that fair value has been omitted to be fixed in respect of the survey/resurvey/sub division numbers of the properties, the Sub-Registrars should report the same to the District Collector for necessary action. Section 45B (1) of KSA, 1959, stipulates that if the registering authority has reason to believe that the value of the

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51 Doc. No. 815/12 dated 12 April, 2012.

52 Are is a unit of measurement of land 1 Are = 100 square metre, 100 Are = One hectare, 1 Are = 2.471 cent, 247.1 cent = 1 hectare.

53 GO (P)/515 dated 6 March, 2010.

54 GO (Ord) No. 77/10/TD dated 27 March, 2010.

property or the consideration was not truly set forth in the instrument brought before him for registration, he may after registering the document, refer the same to the District Collector for determination of the value or consideration and proper duty payable thereon. As per Section 45B (3) of the KSA, 1959, the District Collector may suo motu within two years from the date of registration of any instruments not already referred to him under sub section (1) above, call for and examine the instrument and if he has reason to believe that the value or consideration has not been truly set forth in the instrument he may determine the value and the duty which shall be payable by the person liable to pay the duty.

Scrutiny of documents (October, 2016) in Sub Registry Office, Chalakkudy, revealed that four sale deeds<sup>55</sup> were registered in survey No.1827/2 on the same day (1 January, 2013) conveying 148.89 Ares<sup>56</sup> of land for ₹ 26.19 lakh to the same purchaser. Scrutiny of previous documents revealed that the present executants of the entire area of 148.89 Ares got possession and titles of the land from a single Document No. 6874/2005. Hence Audit conducted a joint physical inspection along with the Sub Registrar and Village Officer and observed that the entire area of 148.89 Ares lay in a single stretch of land having PWD road access. The registering authority collected stamp duty and registration fee at the rate applicable to land with PWD road access only for 4.05 Ares of land (Document No.41/2013) instead of for entire stretch of land. The fair value for residential plot with PWD road access in survey No.1827/2 was not fixed. The incorrect adoption of value of land resulted in undervaluation of the property to the tune of ₹1.23 crore. The Sub Registrar, Chalakkudy did not report the undervaluation to the District Collector as stipulated in the Act. This resulted in short collection of stamp duty and registration fee of ₹11.04 lakh.

On this being pointed out (March, 2017), Government stated (September, 2017) that suo motu action on document under section 45B(3) of Kerala Stamp Act, 1959, for suspected undervaluation was initiated.

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<sup>55</sup> Doc. No. 39/2013, 40/2013, 41/2013 and 42/2013 dated 1 January, 2013.

<sup>56</sup> Are is a unit of measurement of land 1 Are = 100 square metre, 100 Are = One hectare, 1 Are = 2.471 cent, 247.1 cent = 1 hectare.



### **5.10 Purchase of land in excess of the ceiling prescribed under Kerala Land Reforms Act, 1963**

- **Sub Registry Office, Vellanad**

Section 82 (1) (d) of the Kerala Land Reforms Act (KLR Act), 1963, stipulates that, in the case of any person, other than a joint family, the ceiling area shall not be more than 15 acres in extent. Section 2(43) of KLR Act, 1963 defines that “ person” shall include a company, family, joint family, association or other body of individuals, whether incorporated or not, and any institution capable of holding property. Section 83 of KLR Act, 1963, provides that no person shall be entitled to own or hold or to possess under a mortgage lands in the aggregate in excess of the above ceiling area. A person holding or owning land in excess of the ceiling area shall surrender such excess land to the Government as per Section 85(1) of KLR Act, 1963, and file a statement (ceiling statement) under Section 85(2) before the Land Board showing the total area owned or held including the area proposed for surrender. Section 82 (5) of the KLR Act, provides that the lands owned or held by a private trust or a private institution shall be deemed to be lands owned or held by the person creating the trust or establishing the institution. Section 120 of KLR Act, provides that no document relating to any transfer of land shall be received for registration unless the transferor and transferee make separate declarations in writing as to the total extent of land held by him. Section 71 of the Registration Act, 1908, enables the Sub Registrar to refuse registration of a document after making an order of refusal and recording the reasons for such Order.

On behalf of a company, M/s Poabs Granites Private Ltd, Sri Joseph Jacob, the Director of the Company purchased a total land of 17.69 Acres (716.10 Ares) in Aruvikkara and Vellanad Villages in 25 separate sale deeds for a total consideration of ₹ 1.51 crore from various persons. Apart from that on behalf of the company, wife (Managing Partner of the company) of the individual also purchased total land of 2.17 Acres (88 Ares) in Aruvikkara Village in four separate sale deeds for a total consideration of ₹ 43 lakh from various persons. The company owns 19.86 Acres, which was in excess of the ceiling prescribed by Section 82 (1) (d) of KLR Act, 1963 to the extent of 4.86 Acres than the

allowable limit of 15 Acres. Though the company registered various purchases, it did not disclose the extent of landed property owned at the time of such transactions. Registration Department did not comply with the provisions of the Act resulting in irregular purchase of excess land.

On this being pointed out (April, 2017), Government replied (November, 2017) that suo motu action was initiated against the company. Government also stated that strict instructions were issued to Registration Department to insist for the declaration regarding the extent of land holding at the time of registration.

**Excerpts from the discussion of Committee with officials concerned.**

68. The Committee pointed out that for the above audit paragraphs Taxes Department had not submitted the RMT and that the department should submit the RMT in two weeks. The Committee decided to convene a meeting to consider the audit paragraphs again as the Committee did not receive the RMT on the audit para, moreover, it was the Revenue Department who had to furnish the RMT on fair value fixation.

*[Notes received from the Government on the above audit paragraphs are included as Appendix II]*

**Excerpts from the discussion of Committee with officials concerned on 16-6-2022.**

69. While considering the above audit paras, the Committee enquired whether any action had been taken to fix the fair value of plots with PWD road access in Kuttanellur SRO.

70. The Inspector General, Registration Department informed the Committee that although the District Registrar (General) had suo-moto registered a case, the complainants approached the Hon'ble High court. The matter is under consideration of Hon'ble High Court.

71. When the Committee asked about the audit para 5.9, the Inspector General, Registration Department informed the Committee that although the District Registrar (General) had suo moto registered a case, the Complainants had approached Hon'ble District Court, Thrissur. The matter is now in court.

72. The Committee evaluated the status of actions taken by the department and reminded the department witnesses participating in the Committee meetings that they should be well aware of the current status of cases relating to the audit para, pending in courts.

73. To a query of the Committee, regarding audit para 5.10 the Inspector General, Registration Department informed the Committee that concerned parties should submit declaration Form (form No.58) while coming to register the documents. The declaration form should be sent to the sub-Registrar to the Tahsildar concerned and the Tahsildar took the responsibility to verify the documents and take action on the ceiling of land if any. The said proceedings are being not done properly these days.

74. The Committee came to know that the documents are being sent by the Registration Department to the Tahsildars, they inturn forward the same to the District Land Board(DLB). The Committee observed that there were many issues related to the matter that needed to be settled.

75. The Inspector General, Registration Department submitted that all the processes were need to be streamlined. All these process could be done accurately if all the said declarations were submitted online. All this could be carried out very easily when everyone gets unique Thandapper.

76. The Senior Accountant General added to the discussion that the topic had been discussed many times. There is no co-ordination between the departments of Revenue, Registration and Survey and the Committee's recommendation for the co-ordination of these three departments is essential for proper land management.

77. The Additional Chief Secretary, Finance & Taxes Department informed the Committee that among the Revenue, Registration and Survey departments related to land management, the Survey department is part of Revenue department. The Revenue department is going to implement a single window portal for individuals to pay tax on their holdings and land maps. A system is being prepared to make single window portal by integrating three softwares namely PEARL-SUITE, ReLIS, Bhoorekha. Through this system, an individual can perform all matters related to his land.

78. The Committee accepted the explanation regarding the delay in submission of the Remedial measures taken statement on audit paragraphs relating to Registration Department contained in the Reports of the C&AG of India on Revenue Sector for the years ended March, 2016 and 2017 with a remark that utmost care should be taken not to repeat such lapses in future.

### **Conclusions/Recommendations**

79. While evaluating the status of action taken by the department the Committee is convinced that the department officials participating in the Committee meetings are not sufficiently informed about the current status of cases pending before the courts in relation to the audit paragraphs. So the Committee directs the department to look into the matter and desires to be informed with the details of the action initiated by the department for the speedy disposal of such cases that are pending in the court.

80. The Committee recommends that there should be co-ordination between the departments of Revenue, Registration and Survey for proper land management.

81. The Committee directs the department to submit a report regarding the action taken based on the observations pointed out by the Accountant General in OPEN PEARL.

Thiruvananthapuram,  
26<sup>th</sup> June, 2024.

**SUNNY JOSEPH,**  
*Chairman,*  
*Committee on Public Accounts.*

**APPENDIX I**  
**SUMMARY OF MAIN CONCLUSIONS**  
**/RECOMMENDATIONS**

Sl. No.	Para No.	Department Concerned	Conclusion/Recommendations
(1)	(2)	(3)	(4)
1.	11	Registration	The Committee notes that the Internal Audit Manual is inevitable for the effective functioning of the Internal Audit Wing, and directs that the Internal Audit Manual shall be prepared in a time bound manner and submitted to the Committee at the earliest.
2.	12	Registration	The Committee observes that eventhough the valuation of buildings is done according to CPWD guidelines, undervaluation cases are found, which result in loss of revenue. Therefore, the Committee urges the department to develop a software, the use of which shall check undervaluation, where by loss of revenue is minimised.
3.	13	Registration	The Committee recommends that urgent steps should be taken to ensure inclusion of the relevant details and the criteria of valuation in the certificates issued by valutors as they are found to be missing currently.
4.	22	Registration	The Committee observes that, there is no system to enforce the stipulation requiring the agreements between the buyer and seller of immovable property prior to the execution of sale deed, to be registered. Therefore, the Committee recommends that the department should take necessary steps to enforce the registration of such agreements as per the relevant provisions.

1	2	3	4
5.	23	Registration	The Committee directs the Registration Department to furnish a detailed reply regarding 820 cases of undervaluation of sale deeds as pointed out by the Accountant General.
6.	24	Registration	The Committee requires the Registration Department to submit a detailed report about the present status of 21 cases of development agreements that were not properly stamped as per article 5(c) of KSA as pointed out by the Accountant General and to clarify whether any remedial action was taken to prevent recurrence of such instances in future.
7.	49	Registration	The Committee directs the department to submit the final report regarding the course of action taken by the department to plug in the revenue loss occurred due to the undervaluation of sale deeds in Document No. 1467/2010 and Document No. 1450/2010 of SRO, Thalassery.
8.	50	Registration Revenue	The Committee expresses concern over the absence of comprehensive guidelines and criteria specifying clearly the procedure and methodology for fixing the fair value of land and recommends that an effective and proper mechanism should be formulated on the matter jointly by Registration Department and Revenue Department in consultation with Finance Department so as to prevent revenue loss to the Government in future.

1	2	3	4
9.	51 &52	Registration Revenue	<p>The Committee observes that the Government order of 2018 for fixing the fair value of land has not been implemented and due to erroneous method of fair value fixation, only few land registration is done in the hilly areas of Northern regions and excessive rate in the fair value could lead to stalemate in the registration of land deeds in the State. The Committee expresses its deep concern over the increased fair value of agriculture land as well as the recent flood affected and other natural calamity hit areas.</p> <p>The Committee directs the department to rectify the anomalies in the fixation of fair value of similar comparable plots and urges to follow a realistic approach for the fixation of fair value of land.</p>
10	53	Revenue	<p>The Committee realizes that as the common categorization adopted for fixing the fair value of different types of land is unsuitable and impractical, the need for sub classification arises and the department has issued orders on 14.08.2018 in this direction. Therefore, the Committee wants to know how far the implementation process of refixing the fair value has been accomplished on the basis of the above orders.</p>

1	2	3	4
11.	54	Registration Revenue	Non fixation of fair value for escaped survey/ resurvey numbers is putting hardship for the title holders at the time of Registration of deeds. So, the Committee directs the department to complete the process with utmost care in a time bound manner.
12	55	Revenue	The Committee notices certain cases in the fixation of fair value without considering the actual use/stage of the land which has led to the determination of fair value by the authority in a presumptive manner. The Committee wants to rectify the anomalies in such cases in compliance with the directions given by the government.
13	56	Registration Revenue	The Committee wants to get a detailed reply regarding the present status of the objections raised by the Accountant General in the audit paras 7.4.2 to 7.4.8
14	57	Revenue	The Committee directs the Revenue Department to submit within six months the district wise details of land in respect of which fixation of fare value is still pending.
15	67	Registration	The Committee directs the department to submit a final reply about all the pending cases in audit para 5.8 to the Committee at the earliest.



1	2	3	4
16.	79	Registration	While evaluating the status of action taken by the department the Committee is convinced that the department officials participating in the Committee meetings are not sufficiently informed about the current status of cases pending before the courts in relation to the audit paragraphs. So the Committee directs the department to look into the matter and desires to be informed with the details of the action initiated by the department for the speedy disposal of such cases that are pending in the court.
17.	80	Registration Revenue	The Committee recommends that there should be co-ordination between the departments of Revenue, Registration and Survey for proper land management.
18	81	Registration	The Committee directs the department to submit a report regarding the action taken based on the observations pointed out by the Accountant General in OPEN PEARL.

APPENDIX II  
NOTES FURNISHED BY THE GOVERNMENT

APPENDIX III  
APPENDICES FROM AG's REPORT

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