Chapter II

(History of Evaluation process and prevailing rules of Valuation in Assam)

2.1.1: Demand Creation of Land:

Demand & Supply are the basic tools for studying an economic market of a product. The Demand & Supply [21] can be demonstrated through a demand schedule and a supply schedule by relating quantity to price. Alternatively, they may be demonstrated pictorially against quantity to price.

A demand schedule of a land property is the utilization and its prospect in near future. Demand increases when utilization scope is increased. In comparison to demand, the Supply is constant i.e neither the new area of plot is created nor it can be destroyed from the surface of the earth. So, from economic point of view, the value of land property varies according to its demand and ultimately on the scope of utilization.

2.1.2: Land – a Real Property:

Real property signifies land, building, fixtures and associated with them and also the interest or rights associated with land and building. It can be divided in to two folds – corporeal hereditaments [22], which refers to Physical objects such as land and building itself, and incorporeal hereditaments [23], which refers to rights of possession including inherited in law. Under the international Valuation Standard, the real property has been defined as the rights and benefits associated with land and building. Whereas, land, buildings and other improvements on land have been categorized as real estate [24]
2.1.3 : Property rights in India :

The seed of Indian rights to property seem to had been sown in the ancient customs of the village communities that were based on agrarian economy in its earliest form. Sir Henry Summer Maine [25], one of the earliest researcher on the subject had given a detailed account of property rights in his Oxford University lectures delivered in 1871. According to Maine “The Indian forms of property are founded on the village group as the proprietary unit. The English forms are based partly on the Manorial Group and partly on a state of things produced by its disintegration system which are historically, so wide apart and can hardly be used even to illustrate on another.

However, Maine highlighted the role of custom that dominated the Indian village community, rather than a confined law. In his view – there was no community, except in India, where the custom is very stable.

On the early shape of Indian land law, Maine stated that - The village is in Indian itself the source of land law which, in bulk at all events, may not be unfairly compared with the real property law of England. This law defines the relation to one another of the various sections of the group, and of the group itself to the government. To other village communities, and to certain persons who claim rights over it. Maine analysed that the Primitive European tenures and the Primitive European village (those of the Teutonic and Scandinavian communities) constitute the actual working system of the Indian village communities and this community is a starting coincidence in the history of evaluation of property rights.

The British Government at the early stage of colonizing felt a strong necessity of conducting an authentic settlement survey [26] and official recording of rights and tenures to the land property. The unique features of customs and codified
legal literatures were explored by the settlers to build up a sound fiscal Cadastre for


collection of revenue. However in the administration of justice when a dispute arose

in the establishment of rights and finally when cases were heard by judicial

institutions in any form of property disputes the different strata of administrators of

justice and tended to follow a mixture of native and English legal system. Finally the

full set of landed property rights were confined under the Transfer of Property Act
1882 and the Indian Easement Act 1882.

2.1.4 : Land Acquisition Act, 1894 :

The Land Acquisition Act, 1894, which is one of the most essential and activity

related Acts with the valuation subject. It is the parent act of compulsory acquisition

of land in our country (India). This L. A. Act contains 55 sections and every state

has modified certain sections to suit their requirements. In the field of government

and public relationship, the important aspects of the Act are – (1) Public purpose,

(2) Proposal for acquisition, (3) Compensation, (4) Solarium, (5) Severance, (6)

Injurious affection, (7) Losses of earnings. The basic principles of the Act are - (1)

The sale by the owner is compulsory and in this respect no option is given to the

owner ; (2) 'The compensation is to be given to the owner in the form of market

value of the property deal with, in theory, in the most lucrative manner ; (3) In

addition to the compensation, the owner is to be paid for the loss occurring due to
taking his land as severance, injurious affection etc.; (4) The property is to be

acquired for the public purpose such as widening of road, housing for poor, land for

companies etc.; (5) The property is acquired under the Act free from all

encumbrances ; (6) The Act does not allow to acquire part of the house or building

without acquisition of land. ; (7) In addition to the market value of the property, the

owner is entitled to get solarium which is an additional compensation equal to 30%
of such value [27]. In summarizing the L. A. Act, as its advocates, we understand that the Valuer of a real estate is sometimes called upon by his client to prepare a report for the market value of the client’s property on the date of notification u/s 4(1) of the L. A. Act. The Act also assist the Valuer to prepare the valuation report in a convincing manner containing documentary evidence and references of appropriate Court judgment.

2.1.5 : Land Law in Assam :

In 1826 the British annexed Assam as a result of the Treaty of Yandaboo and a new type of administration was initiated in Assam. During Ahom rule before 1826, so far revenue administration was concerned, the khel and paik system [28] prevailed but the land belonged to the king. The actual tiller of the soil did not have the heritable, transferable, and permanent right over the land. There was no cadastral survey and no records of right. David Scott, the then commissioner of Assam (1823-31) laid the first foundation of present prevailing revenue system. He made signal contributions in modernizing land revenue administration. Mr. T. C. Robertson succeeded David Scott in 1831 as Commissioner and followed the principle of Scott. It was during his time that Purandar Singh was installed as Raja of Upper Assam in 1833 with head quarters at Jorhat. In 1834, there were four districts under the Commissioner of Assam, namely Goalpara, Kamrup, Darrang and Nagaon. With the removal of King Purandar Singh (1838), the districts of Lakhimpur and Sibsagar were brought under the district control of the Commissioner of Assam in 1839 by a separate proclamation. In 1842, Sadiya and Matak were included under the purview of Commissioner. The law which was in Bengal Regulation together with the Assam Code was enforced in Assam in 1837, supplemented by some additional rules in 1839 continued to remain in force till 1860/1861. In 1861, the whole six districts
were administered through Deputy Commissioner, Principal Assistants (6 nos.) under the Commissioner of Assam with Guwahati as Head Quarter. In 1870, new Settlement Rules were introduced which constituted till 1886 when the Assam Land revenue Regulation [29], were brought into force on 1st July, 1886. The regulation provided a real systematic procedure of Land and Land revenue encompassing practically all the basic issues, for the first time in Assam.

2.1.6 : Survey and assessment of Land:

In 1886, the Government enacted the Assam land and Revenue Regulation [30] under which a set of settlement Rules were also prepared in 1887, superseding all Settlement Rules introduced earlier. In 1883, the Government of India also sectioned a professional survey party for Assam for conducting cadastral survey of lands in the districts for the purpose of fixation of land revenue. In 1893, the party had completed the survey and prepared the maps and land records. Later, the Circle officers and their trained staff prepared the village maps from 1893 in the same way as the maps were prepared by the professional survey party. The Cadastral survey works are thereafter done by the circle officer and their staff in the non-cadastral villages, besides blue print corrections or resurvey in the old cadastral villages and towns. The re-settlement of land revenue on the settled lands was subsequently made on a new principle of soil unit system, introduced by Sir Bampfylde Fuller [31], then Chief Commissioner after reclassification of different plots of land. Accordingly the Re-assessment operations were conducted in the districts from 1902 to 1912 as shown below:
Table 2.1: Re settlement of districts (period 1902 – 1912)

<table>
<thead>
<tr>
<th>S.No</th>
<th>District</th>
<th>Period of operation</th>
<th>Terms of Settlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kamrup (Old)</td>
<td>1902 – 05</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Sibsagar (Old)</td>
<td>1902 - 06</td>
<td>20 Years</td>
</tr>
<tr>
<td>3</td>
<td>Darrang (Old)</td>
<td>1905 – 09</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Nagaon (Old)</td>
<td>1905 – 09</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Lakhimpur (Old)</td>
<td>1908 - 12</td>
<td></td>
</tr>
</tbody>
</table>

After the expiry of the 20 years period of re-settlement in 1922, operations were carried out again in the districts from 1923 to 1934 as shown below.

Table 2.2: Re settlement of districts (period 1923 – 1934)

<table>
<thead>
<tr>
<th>S No</th>
<th>District</th>
<th>Period of operation</th>
<th>Terms of settlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kamrup (Old)</td>
<td>1923-28</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Sibsagar (Old)</td>
<td>1923-28</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Darrang (Old)</td>
<td>1927-32</td>
<td>30 Years</td>
</tr>
<tr>
<td>4</td>
<td>Nagaon (Old)</td>
<td>1926-32</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Lakhimpur (Old)</td>
<td>1929-34</td>
<td></td>
</tr>
</tbody>
</table>

2.1.7: Land Revenue Re-Assessment Act, 1936.

In 1936, the Government of Assam enacted a new legislation known as The Assam Land Revenue Re Assessment Act, 1936 [32]. The subsequent Re-settlement operations in the districts were conducted as per provisions and guidelines given in the Act. The next series of Settlement operation conducted as per provisions of Re-assessment Act. The Re-assessment operation conducted during the period from 1949 to 1987 is shown in Table 2.3.
Table 2.3: Re settlement of districts (period 1949 – 1987)

<table>
<thead>
<tr>
<th>Districts</th>
<th>Period of Operation</th>
<th>Terms of Settlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Cachar (Old)</td>
<td>1949 - 55</td>
<td>30 Years</td>
</tr>
<tr>
<td>2 Kamrup (Old)</td>
<td>1956 – 66</td>
<td></td>
</tr>
<tr>
<td>3 Sibsagar (Old)</td>
<td>1956 – 64</td>
<td></td>
</tr>
<tr>
<td>4 Nagaon (Old)</td>
<td>1963 – 73</td>
<td></td>
</tr>
<tr>
<td>5 Darrang (Old)</td>
<td>1968 – 87</td>
<td></td>
</tr>
<tr>
<td>6 Lakhimpur (Old)</td>
<td>1964 – 81</td>
<td></td>
</tr>
<tr>
<td>7 Dibrugarh</td>
<td>1964 – 79</td>
<td></td>
</tr>
<tr>
<td>8 Guwahati (Old Guwahati Town)</td>
<td>1975 - 87</td>
<td>15 Years</td>
</tr>
</tbody>
</table>

The Assam Land Revenue Re-assessment Act 1936 has further been amended in April 1990 and the terms of settlement have been reduced from 30 years to 20 years again. As per the provision of the new assessment, the lease to be granted for lands of the village groups and tea groups of the districts for a terms of 20 years at the end of the current Re settlement Operations. The terms of settlement in respect of the towns were also fixed for shorter periods, separately for each town, within the provision of the amendment.

2.1.8: Present Status – Revenue Village:

There are at present 23,304 revenue villages [33], including tea village/grants and non – cadastral villages, in the existing 23 districts of the state of Assam. Besides, there are 122 towns [34] in the state of which, the 23,304 villages, 2040 villages are non-cadastral villages, spreading over mainly in the district of - (1) Karbi Anglong (401), (2) North Cachar hills (378), (3) Dhemaji (383), (4) Lakhimpur (152), Tinsukia (131) and (6) Kamrup (151). A brief account of the Revenue villages and other groups of Assam is given in Table 2(4).
Table 2.4: Revenue Villages and Group:

<table>
<thead>
<tr>
<th>S. N.</th>
<th>Villages</th>
<th>Nos.</th>
<th>Grand total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total Nos. of Cadastral village</td>
<td>21,264</td>
<td>23,304</td>
</tr>
<tr>
<td>2</td>
<td>Total Nos. of Non-cadastral village</td>
<td>2,040</td>
<td></td>
</tr>
</tbody>
</table>

Towns:

<table>
<thead>
<tr>
<th>S. N.</th>
<th>Villages</th>
<th>Nos.</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No. of town under Municipal Boards. (Including Guwahati Municipal Corporation)</td>
<td>25</td>
<td>122</td>
</tr>
<tr>
<td>2</td>
<td>Nos. of towns under town Committees</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Nos. of Revenue towns</td>
<td>52</td>
<td></td>
</tr>
</tbody>
</table>

2.1.9: Towns in Assam:

After the Independent of India in 1947, the Assam Municipal Act, 1956 have enacted for the administration of Assam, specially for the urban areas. As per provision of the newly introduced Municipal Act (1956), the towns are newly recognized as Municipal towns. A municipal town can be a very big one like the Municipal Corporation of Guwahati; a medium range town is called Municipal Board and a small town is called Town Committee. Accordingly to support the urban development, on the basis of Assam Municipal Act, 1956, The Assam Town and Country Planning Act 1959 [35] have passed to organize and control the corporation and towns of the state Assam.

2.2: Guwahati Municipal Corporation Act, 1971:

Under Section 3 of this Act. Assessment list [38] means the Municipal Assessment list prescribed by section 156 and includes any list subsidiary thereto.

2:2:1: The Assessment list as (u/s 156):

(1) Save as otherwise provided in this Act, The commissioner with the approval of the standing Committee shall cause an assessment list of all lands and buildings in the city to be prepared in such form and manner and containing such particulars with respect to each land and building as may be prescribed in the bye laws.

(2) When the assessment list has been prepared the commissioner shall give public notice thereof and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any land or building included in the list and any authorized agent of such person shall be a liberty to inspect the list and to take extracts there from free of charge.

In view of the above section & amendments of the Municipal Act (1971), the amendment of Valuation and the assessment are left as burden upon the authorities before they could amend the valuation and assessment.

2:2:2: Preparation of new Assessment list:

As per the provision of sec 159, it is at the discretion of the Commissioner to prepare for the whole or any part of the city a new assessment list every year or to adopt the ratable Value and assessment contained in the list for any year.
2:2:3 : Employment of valuers (u/s 166):

As per provision of Act, the corporation may, if it thinks fit, employ one or more persons to assist the Commissioner in connection with the valuation of any land or building. Any person employed for the purpose of authorization on behalf of the Commissioner, to enter on, Survey and Assessment of land value is a very significant step of the Act.

The Guwahati Municipal Corporation Act – 1971, and its amendment thereof, is found that completely silence in the land value assessment within the purview of the Act. Only a provision, (u/s 166 of this Act), of appointing a valuer to proper execution survey and assessment for the land value on behalf of the Commissioner thereof [39]. Hence, the Act-Guwahati Municipal Corporation Act – 1971, is not such effective in determination of present market value of land plot within Guwahati Municipal Corporation (GMC) area. The Guwahati Municipal Corporation Act – 1971 is still enforceable in GMC area without any amendment in respect of assessment of land value.

2.2.4 : Guwahati Metropolitan Development Authority Act 1985:

An Act to provide for the establishment of an authority for the planned development of the Guwahati metropolitan Area, and for matters connected therewith or incidental thereto. The Guwahati Metropolitan Development Authority” [40] means the authority (GMDA) was constituted under Section 4 of this Act in the year 1985.

In 1985, the state Government, by notification in the official gazette, declared the area covered by the Guwahati Municipal Corporation Area and any other area continuous to the Guwahati Municipal Corporation Area, to be the Guwahati Metropolitan Area for the purposes of this Act. However, the state Government may, if it thinks fit, by notification in the official Gazette, enlarge, curtail, or modify the
Guwahati Metropolitan Area or any part thereof. The Guwahati Metropolitan Development Authority may also undertake any works or schemes in the Guwahati Metropolitan area or as may be directed by the State Government and may incur such expenditure as may be necessary for the execution of such work or scheme [u/s 15 (2)].

2:2:5 : (a) Master Plan : (u/s 16):

A Master Plan [41] for the development of Guwahati Metropolitan area or for any area within the Guwahati Metropolitan area which the state Government may consider necessary is drawn up by the authority in consultation with the Director of Town & Country Planning or such other experts of consultancy as the Guwahati Metropolitan Development Authority consider it necessary.

Provided further, the authority may adopt the existing Master Plan for Greater Guwahati prepared by the Director of Town and Country Planning Department, with such alterations, modification, changes and adjustments as it deems necessary.

(b) Survey and Master Plan : (u/s 17)

(1) The authority shall, as soon as may be, carryout necessary surveys of, and prepare a Master Plan for Guwahati Metropolitan area or for any area within the Guwahati Metropolitan area, as it may deem necessary in the manner prescribed in Section 16.

(2) The Master Plan shall –

(a) Define the various Zones into which Guwahati Metropolitan area may be divided for the purposes of development and indicate the manner in which the land in each
zone is proposed to be used (whether by the carrying out thereon of development or otherwise) and the stages by which such development shall be carried out; and

(b) Serve as a basic pattern of framework within which detailed development schemes of the various zones may be prepared;

(c) **Contents of Master Plan** (u/s 18):

(1) The Master Plan is prepared as defined in section 16, it includes:

(i) A general land use plan for residential, commercial, industrial, recreational and public and semi-public purposes;

(ii) Zoning plan and Zoning Regulations;

(iii) Transportation plan including roads, railways, canals etc.;

(iv) Public utility plan;

(2) The Zoning Plan and Zoning regulations [42] may be:

(i) Contain a site-plan and use-plan for the development of the zone.

(ii) Specify the standard of population density and building density

(iii) Show every area in the Zone which may, in the opinion of the authority, be required or declared for development or re-development and so on.

**2:2:6 : Compensation and payment of interest (u/s-47) :**

As per in principles of GMDA Act, the following provisions are made; (1) Subject to the provisions of Sub-Sec (2), wherever possession of land is taken by the authority under section 45 or 46, there shall be paid compensation, the amount of which shall be determined by the Collector. In determining the amount of compensation, the Collector shall take into consideration the market value of the
land for a period of five years preceding the date of issue of the notice under sub-
section (3) of section 45, and the amount of compensation payable shall be on the 
basis of the average market value so arrived at.