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The Indian Stamp (Pondicherry Amendment) Act, 1970

Act 21 of 1970

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**THE INDIAN STAMP (PONDICHERRY
AMENDMENT) ACT, 1970**
(No. 21 of 1970)

ARRANGEMENT OF SECTIONS

SECTION

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THE INDIAN STAMP (PONDICHERRY AMENDMENT)**ACT, 1970**

(Act No. 21 of 1970)

9th July, 1970.

AN ACT

to amend the Indian Stamp Act, 1899, in its application to the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Indian Stamp (Pondicherry Amendment) Act, 1970.

(2) It extends to the whole of the Union territory of Pondicherry.

Substitution of new section for section 24.

2. For section 24 of the Indian Stamp Act, 1899 (Central Act 2 of 1899) (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

How transfer of property subject to mortgage to be charged.

“24. Where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.”

ILLUSTRATION

A mortgages a house to B for Rs. 5,000. A afterwards sells the house to B. The market value of the house at the time of sale is Rs. 10,000, Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.”

Amendment of section 25.

3. In section 25 of the principal Act,—
 - (a) in the opening paragraph, for the words "or where the consideration for a conveyance is an annuity or other sum payable periodically the amount secured by such instrument or the consideration for such conveyance, as the case may be" the words "the amount secured by such instrument" shall be substituted;
 - (b) in clause (b), the words "or conveyance" in the two places where they occur shall be omitted;
 - (c) in clause (c), the words "or conveyance" shall be omitted.

Amendment of section 27.

4. In section 27 of the principal Act, after the words and brackets "The consideration (if any)" the words "and the market value" shall be inserted.

Substitution of new section for section 28.

5. For section 28 of the principal Act, the following section shall be substituted, namely:—

Direction as to duty in case of certain conveyances.

"28. Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the market value of the property which is the subject matter of conveyance and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the market value of the property which is the subject matter of conveyance, or, where such duty would exceed five rupees, with a duty of five rupees."

**Amendment of section 33.**

6. In section 33 of the principal Act,—

(i) sub-section (1) shall be lettered as clause (a) of that sub-section and after clause (a) as so lettered, the following clause shall be inserted, namely:—

“(b) Notwithstanding anything contained in section 31, but without prejudice to the provisions of clause (a), the Collector before whom any instrument is brought under section 31 for determining the duty with which the instrument is chargeable, shall, if it appears to him that such instrument is not duly stamped, impound the same:

Provided that nothing contained in this clause shall be deemed to authorise the Collector to impound any instrument which has not been executed but is brought to him under section 31 for determining the duty with which the instrument is chargeable or any instrument which he is authorised to endorse under section 32”;

(ii) in sub-section (2)—

(a) for the words “every such person”, the words, “ every such person and the Collector ” shall be substituted;

(b) for the words “coming before him”, the words, “coming or brought before him ” shall be substituted.

Amendment of section 45.

7. In sub-section (2) of section 45 of the principal Act, for the words “within three months of the order charging the same”, the words “within six months from the date of payment” shall be substituted.

Insertion of new section 47-A.

8. After section 47 of the principal Act, the following section shall be inserted, namely:—

Instruments of conveyance, etc., under-valued how to be dealt with.

"47-A. (1) If the registering officer appointed under the Indian Registration Act, 1908 (Central Act 16 of 1908), while registering any instrument of conveyance, exchange or gift has reason to believe that the market value of the property which is the subject matter of conveyance, exchange or gift has not been truly set forth in the instrument, he may, after registering such instrument refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon.

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the market value of the property which is the subject matter of conveyance, exchange or gift and the duty as aforesaid. The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty.

(3) The Collector may, *suo motu*, within two years from the date of registration of any instrument of conveyance, exchange or gift not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject-matter of conveyance, exchange or gift and the duty payable thereon, and if, after such examination, he has reason to believe that the market value of such property has not been truly set forth in the instrument he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty:

Provided that nothing in this sub-section shall apply to any instrument registered before the date of the commencement of the Indian Stamp (Pondicherry Amendment) Act, 1970.

(4) (a) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may appeal to the appellate authority specified in sub-section (5).

(b) All such appeals shall be preferred within such time, and shall be heard and disposed of in such manner, as may be prescribed by rules made under this Act.

(5) The appellate authority shall be the Subordinate Judge, or if there are more than one Subordinate Judge, the Principal Subordinate Judge having jurisdiction over the area in which the property concerned is situated.

Explanation: For the purposes of this Act, market value of any property shall be estimated to be the price which in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched or fetch, if sold in the open market on the date of execution of the instrument of conveyance, exchange or gift.”.

Substitution of new section for section 78.

9. For section 78 of the principal Act (Central Act 2 of 1899), the following section shall be substituted, namely:—

Duty or allowance to be rounded off to the next higher multiple of five paise.

“ 78. If the total amount of duty payable, or of allowance to be made, under this Act is not a multiple of five paise, the total amount shall be rounded off to the next higher multiple of five paise.”.

Amendment of Schedule I.

10. In Schedule I to the principal Act (Central Act 2 of 1899),—

(a) in entry 18, in clause (c), in the entries in the second column, for the word “consideration”, the words “market value” shall be substituted;

(b) in entry 23, for the words, letters and figures “where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50”, the words, letters and figures “where the market value of the property which is the subject-matter of conveyance does not exceed Rs. 50” shall be substituted;

(c) in entry 31, for the entries in the second column, the following shall be substituted namely:—

“The same duty as a Conveyance (No. 23) for a market value equal to the market value of the property of greater value which is the subject-matter of exchange.”;

(d) in entry 32, in clause (a) and sub-clause (i) of clause (b), in the entries in the second column, for the word “consideration”, the words “market value” shall be substituted;

(e) in entry 33, for the entries in the second column, the following shall be substituted, namely:—

“The same duty as a Conveyance (No. 23) for a market value equal to the market value of the property which is the subject-matter of gift.”;

(f) in entry 35, in the entries in the second column, for the word “consideration” wherever it occurs, the words “market value” shall be substituted;

(g) in entry 40 in clause (a), in the entries in the second column, for the word “consideration”, the words “market value” shall be substituted;

(h) in entry 45, in the entries in the second column, for clause (b) of the proviso, the following clause shall be substituted, namely:—

“(b) where the land is held on Revenue Settlement and paying the full assessment, the value for the purpose of duty shall be calculated at twenty-five times the annual revenue.”;

(i) in entry 48, in clause (e), for the entries in the second column, the following shall be substituted, namely:—

“The same duty as a Conveyance (No. 23) for a market value equal to the amount of the consideration.”;

(j) in entry 54, in clause (a), for the entries in the second column, the following shall be substituted, namely :—

“The same duty as a Conveyance (No. 23) for a market value equal to the amount of such consideration as set forth in the reconveyance.”;

(k) in entry 59, in the entries in the second column, for the word “consideration”, the words “market value” shall be substituted;

(l) in entry 63, in the entries in the second column for the word, “consideration” in the first place it occurs, the words “market value” shall be substituted.