

THE INDIAN STAMP ACT, 1899

(2 of 1899)

[27th January, 1899]

An Act to consolidate and amend the law relating to Stamps

Whereas it is expedient to consolidate and amend the law relating to Stamps; it is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called The Indian Stamp Act, 1899.

(2) It extends to the whole of India except the State of Jammu and Kashmir: Provided that it shall not apply to the territories which immediately before the 1st November, 1966, were comprised in Part B States (excluding the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to rates of stamp duty in respect of documents specified in Entry 91 of List 1 in the Seventh Schedule to the Constitution.

(3) It shall come into force on the first day of July, 1899.

2. Definition.— In this Act, unless there is something repugnant in the subject or context.—

Comments and case-law

[This section gives an exclusive definition of the expression as referring to any document by which any right or liability is purported to be created, transferred, limited, extended, extinguished or recorded, *Municipal Corporation, Delhi, v, Bamod Kr. Gupta*. AIR 1991 SC 401

Where provision for buy of additional stamp duty is no longer in force, the Revenue Authority will not be justified in impounding the sale deed presented for registration on the ground that it was not sufficiently stamped nor to demand that additional stamp duty be paid. *LIC Class I Officers Sahkari Grih Nirman Samiti Ltd. vs. State of Bihar*, 1993 (1) BLJ 412: 1993 (1) BLJR 621.

A proceeding taken against party under a temporary statute will *ipso facto* terminate as soon as the statute expires. *ibid*.

Stamp deficit case. Authority of Collector of district can only be delegated by State Govt. by a notification in official Gazette. Collector by his own authority cannot delegate the power to Deputy Collector, Stamp. *Urmila Devi vs. State*, 2007(3) PLJR 734.]

(1) **Banker.**— "Banker" includes a bank and any person acting as a banker.

(2) **Bill of exchange.**— "Bill of exchange" means a bill of exchange as defined by the Negotiable Instruments Act, 1881 (26 of 1881), and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money;

(3) **Bill of exchange payable on demand.**—"Bill of exchange payable on demand" includes—

- (a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be

available, or upon any condition or contingency which may or may not be performed or happen;

- (b) an order for the payment of any sum of money weekly, monthly or at any other stated period; and
- (c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn;

(4) **Bill of lading.**— "Bill of lading" includes a "through bill of lading" but does not include a mate's receipt;

(5) **Bond.** "Bond" includes—

- (a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;
- (b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and
- (c) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another.

(6) **Chargeable.**—"chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, as applied to any other instrument, chargeable under the law in force in India when such instrument was executed or, where several persons executed the instrument at different times, first executed:

(7) **Cheque.**—"Cheque" means a bill of exchange, drawn on a specified banker and not expressed to be payable otherwise than on demand;

(8) [Omitted by the A.O. 1937]

(9) **Collector.**—"Collector"—

- (a) means within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and without those limits, the Collector of a district, and
- (b) Includes a Deputy Commissioner and any officer whom the State Government may, by notification in the official Gazette, appoint in this behalf.

(10) **Conveyance.**—"Conveyance" includes a conveyance on sale and every instrument by which property, where movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I, ¹[or by Schedule I-A, as the case may be];

²["(11) **Duly Stamped.**—"Duly Stamped" as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount, and such stamp has been affixed or used in accordance with law for the time being in force in India or proper stamp duty has been paid through any other mode prescribed by the State Government".

(12) **Executed and execution.**—"Executed" and "execution", used with reference to instruments, mean "signed" and "signature".

1. Ins. by Bihar Act. 6 of 1937.

2. Subs. by Bihar Finance Act 11 of 2002.

(12-A) [Omitted by the A.O. 1950]

(13) **Impressed stamp.**—"Impressed stamp" includes-

- (a) labels affixed and impressed by the proper officer, and
- (b) stamps embossed or engraved on stamped paper:

(13-A) **India**—"India" means the territory of India excluding the State of Jammu and Kashmir;

(14) **Instrument.**—"Instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;

(15) **Instrument of partition.**—"Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severality, and includes also a final order for effecting a partition passed by Revenue authority or any Civil Court and an award by an arbitrator directing a partition;

(16) **Lease.**—"Lease" means a lease of immovable property, and includes also-

- (a) a *patta*;
- (b) a *quabuliyat* or other undertaking in writing, not being a counter part of a lease, to cultivate, occupy, or pay or deliver rent for, immovable property;
- (c) any instrument by which tolls of any description are let;
- (d) any writing on an application for lease intended to signify that the application is granted;

(16-A) **Marketable security.**—"Marketable security" means a security of such a description as to be capable of being sold in any stock market in India or in the United Kingdom;

(17) **Mortgage-deed.**—"Mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement one person transfers, or creates to, or in favour of another, a right over or in respect of specified property;

(18) **Paper.**—"Paper" includes vellum, parchment or any other material in which an instrument may be written;

(19) **Policy of insurance.**—"Policy of insurance" includes-

- (a) any instrument by which one person, in consideration of a premium engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;
- (b) a life-policy, and any policy insuring any person against accident or sickness, and any other Personal insurance;

(19-A) **Policy of group insurance.**—"Policy of group insurance" means any instrument covering not less than fifty or such smaller number as the Central Government may approve, either generally or with reference to any particular case, by which an insurer, in consideration of a premium paid by an employer or by an employer and his employees jointly, engaged to cover, with or without medical examination and for the sole benefit of persons other than the employer, the lives of all the employees or of any class of them determined by conditions pertaining to the employment, for amounts of insurance based upon a plan which precludes individual selection;

(20) **Policy of sea-insurance or sea-policy**—"Policy of sea-insurance" or "sea-policy"—

- (a) Means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of or any other interest which may be lawfully insured in, or relating to, any ship or vessel; and
- (b) Includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (a) but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance;

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance;

(21) **Power-of-attorney**.—"Power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it;

(22) **Promissory note**.—"Promissory note" means a promissory note as defined by the Negotiable Instrument Act, 1881 (26 of 1881);

It also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

Comments and Case-law.

[This section shows that for the purposes of the Stamp Act at least a note promising payment upon any condition or contingency certain or not will amount to promissory note an unconditional undertaking under section 4 of the Negotiable Instruments Act cannot be treated as a Promissory note. *Kochuthressi v. Devdas* AIR 1988 Ker 282.]

(23) **Receipt**.—"Receipt" includes any note, memorandum or writing—

- (a) Whereby any money, or any bill of exchange, cheque, or promissory note is acknowledged to have been received, or
- (b) Whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or
- (c) whereby any debt or demand or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or
- (d) which signifies or imports any such acknowledgment, and whether the same is not signed with the name of any person;

(24) **Settlement**.—"Settlement" means any non-testamentary disposition, writing, of movable or immovable property made—

- (a) in consideration of marriage,
 - (b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him; or
 - (c) for any religious or charitable purpose;
- and includes an agreement in writing to make such a disposition, and where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition;

(25) **Soldier.**—"Soldier" includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911 (8 of 1911)¹

(26) **Stamp.**—"Stamp" means any mark, seal or endorsement by any agency or person duly authorised by the State Government, and includes an adhesive or impressed stamp, for the purpose of duty chargeable under this Act.

Comments and Case-law

[If the purpose of a particular provision is easily discernible from the whole scheme of the Act; the intention should be found out from the language used by the Legislature and if strict literal construction leads to an absurd result and if another construction is possible then that construction should be preferred to the strict literal construction. *C.I.T. v. J.H. Golta*, (1985) 4 SCC 343.

Where the document is not of the nature of an instrument of partition by which partition is sought to be effected, the same cannot be chargeable to stamp duty. Order impounding document which was not required to be stamped is erroneous. *Mosst. Mango Devi v. Muneshwar Prasad*, 1983 PLJR 468; 1983 BBCJ 604. See also *Bhudeb Chatterjee v. A. Chatterjee*. AIR 1928 Cal. 705.

When there is no stipulation postponing the payment, the expression, "payable on demand" in the document means that the money becomes due forthwith at once on the execution of the document. In such a case the use of expression "payable on demand" cannot be taken to be a condition, but when the payment cannot be enforced within a stipulated period and it is stated that the debt becomes payable after that period on demand, such a document is not a promissory note within the meaning of section 2 (2). *Mosst. Radha Devi v. Dhanik Lal Isser*, 1970 PLJR 673; 1970 BLJR 1243.

The expression "includes" in the definition of "bond" by itself suggest that the definition is not exhaustive but merely illustrative. A deed containing promise to pay after certain period on demand, must be held to be a "bond" within the meaning of section 2(5) of the Stamp Act, and not a promissory note chargeable under Article 49 (b) of the Schedule to the Stamp Act. Such a document, being a bond, is therefore, chargeable under Article 15 of the Schedule to the Stamp Act, *ibid*

—Sections 2(15), 33, 40 & 45—Simple memorandum of partition recording properties allotted to each of the parties after partition—it is not an instrument of partition—not chargeable to stamp duty and need not be stamped—cannot be impounded for not being duly stamped. *Mosst. Mango Devi vs. Muneshwar Prasad*, 1983 PLJR 469.

1. See now the Army Act, 1950

2. "Clause 26" omitted by Act 43 of 1955 (w.i.f. 1.4.1956) and again Ins. by Act 23 of 2004 (w.i.f.10.9.2004)

CHAPTER II STAMP-DUTIES

A, Of the Liability of Instruments to Duty

3. Instruments chargeable with duty.—Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefor, respectively, that is to say:—

- (a) every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed in India on or after the first day of July, 1899;
- (b) every bill of exchange payable otherwise, than on demand or promissory note drawn or made out of India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in India; and
- (c) every instrument (other than a bill of exchange or promissory note) mentioned in that Schedule, which not having been previously executed by any person, is executed out of India on or after that day, relates to any property situate, or to matter or thing done or to be done, in India and is received in India;

¹[Provided that, except as otherwise expressly provided, in this Act, and notwithstanding anything contained in clauses (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule IA shall, subject to the exemptions contained in that Schedule, be the duty chargeable on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefore respectively:—

- (aa) every instruments, mentioned in Schedule IA as chargeable with duty under that Schedule, which, not having been previously executed by any person, is executed in Bihar on or after the first day of January, 1938; and
- (bb) every instrument, mentioned in Schedule IA as chargeable with duty under that Schedule, which, not having been previously executed by any person, is executed out of Bihar on or after the first day of January, 1938 and relates to any property situated, or to any master or thing done or to be done, in Bihar and is received in Bihar:]

Provided ¹[also] that no duty shall be chargeable in respect of—

(1) any instrument executed by, or on behalf of or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1897 (5) and 58 Vict, c (60) or under Act 19 of 1838 or the Indian Registration of Ships Act, 1841 (10 of 1841), as amended by subsequent Acts.

²["Provided further also that any entry in Schedule IA for the State of Bihar

1. Ins. by Bihar Act 6 of 1937.

2. Ins. by Bihar Finance Act 11 of 2002.

may be added, deleted, or amended by the State Government by issuing a notification."

¹[**3-A.** The amount of stamp duties chargeable under the Act on all instruments, except bills of exchange, cheques, promissory notes, bills of lading, letter of credit, policies of insurance, proxies and receipts, shall be increased in each case by an additional surcharge at the rate of ten per centum of the amount of the stamp duties]

Comments & Case-law

[Recovery of dues of the State Bank of India can be made under this Act. The State Bank is an instrumentality of the State. Authorisation by Central Statute to State is not necessary. Entry 43 of List I of the constitution of India pertains both to recoveries of Taxes and Public Demands within and without the respective States. Matters in the State List and Concurrent List some times overlap each other, but that does not go beyond the plenary power of the State Legislature. *Sawar Mal Chaudhary vs. State Bank*, 1986 PLJR 660: 1986 BBCJ 446.

Remedies provided in statute must first be exhausted before writ jurisdiction is invoked. *ibid.*

Where the instrument of release relates to five distinct items of property acquired at different points of time the matter comes under the purview of section 5 of the Indian Stamp Act and the instrument is chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under the Act, as amended by Bihar Acts of 1937 and 1948. *Suraj Narain choudhary vs. Collector of Darbhanga*, 1958 BLJR 674.]

4. Several instruments used in single transaction of sale, mortgage or settlement—(1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, ²[or in Schedule 1-A, as the case may be] for the conveyance, mortgage or settlement, and each of the other instrument shall be chargeable with a duty of ³[two rupees] ³[if the principal instrument be chargeable with the duty prescribed in Schedule 1, or with a duty of one rupee and fifty paise if the principal instrument be chargeable with the duty prescribed in Schedule 1-A, instead of the duty (if any) for such other document in Schedule 1 or Schedule 1-A, as the case may be]

(2) The parties may determine for themselves which of the instrument so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instrument employed.

5. Instruments relating to several distinct matters— Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Comments & Case-law

Impounding of Bond.— The fact that the Executant" had not produced in the

1. Ins. by Bihar Act 21 of 1977 (from 1.12.1977).

2. Ins. by Bihar Act 6 of 1937 (From 1.1.1938)

3. Subs. by *ibid.*

Court or any Authority and that the period of the Bond had expired or that it was not barred by limitation cannot save the document from being impounded. *Ashokam vs. Deputy Collector*, AIR 1996 Ker. 98.

A Public Officer is not barred from impounding a deed of transfer under section 33. The Stamp Act is a fiscal enactment with the primary object of raising revenue for the State, *Board of Revenue vs. Electronic Industries of India*, AIR 1996 SC 616.

Bond.—An "Instrument" creating fresh obligation to pay money to the State which becomes void upon payment being made, is a "Bond" under the Indian Stamp Act, and is liable to be assessed to stamp duty, *State of Kerala vs. Mcdowell and Co. Ltd.* AIR 1995 SC 1445.

Section 27 Provides that the consideration amount, if any, and all other facts and circumstances affecting the chargeability of Stamp Duty on any "instrument" and the amount of duty chargeable, shall be fully and truly set forth therein. *Board of Revenue vs. Electronic Industries of India*, AIR 1996 SC 616.

—Section 5(2)—Definition is not exhaustive—document containing promise to pay after a certain period on demand—it is 'bond' chargeable under Article 15. *Mosst. Radha Devi vs. Dhanik Lall Issar*, 1970 PLJR 673.

6. Instruments coming within several descriptions in Schedule 1.—Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule 1 shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

[6-A. Payment of Bihar stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.—(1) Notwithstanding anything contained in Section 4 or 6 or any other law, unless it is proved that the duty, chargeable under the Bihar Stamp (Amendment) Act, 1937, has been paid—

- (a) on the principal or original instruments, as the case may be, or
- (b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument, or on a counterpart, duplicate or copy of any instrument, shall, if the principal or original instrument would, when received in Bihar, have been chargeable, under the Bihar Stamp (Amendment) Act, 1937, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart or duplicate or copy, chargeable with duty under this section, shall be received in evidence as properly stamped unless the duty, chargeable under this section has been paid thereon:

Provided that a Court, before which any such instrument, counterpart duplicate or copy is produced, may, in its discretion, permit the duty, chargeable under this section, to be paid thereon and may then receive it in evidence.]

7. Policies of sea-insurance.—²[xxx].

1. Ins. by Bihar Act 6 of 1937 (from 1.1.1938).

2. Sub-sections (1), (2) and (3), repealed by Act 11 of 1963, S.92.

(4) Where any sea-insurance is made for or upon a voyage and also for time or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

8. Bonds, debentures or other securities issued on loans under Act XI of 1879.—(1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loans Act, 1879 (11 of 1879) or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of one per centum on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not:

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the Central Government.

(3) In the case of wilful neglect to pay the duty required by this section the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month, after the first month during which the neglect continues.

[8A. Securities dealt in depository not liable to stamp duty.— Notwithstanding anything contained in this Act or any other law for the time being in force.—

- (a) an issuer, by the issue of securities to one or more depositories shall, in respect of such issue, be chargeable with duty on the total amount of security issued by it and such securities need not be stamped;
- (b) where an issuer issues certificate of security under sub-section (3) of section 14 of the Depositories Act, 1996 (22 of 1996), on such certificate duty shall be payable as is payable on the issue of duplicate certificate under this Act;
- (c) the transfer of—
 - (i) registered ownership of securities from a person to a depository or from a depository to a beneficial owner;
 - (ii) beneficial ownership of securities, dealt with by a depository;
 - (iii) beneficial ownership of units, such units being units of a Mutual Fund including units of the Unit Trust of India established under sub-section (1) of section 3 of the Unit Trust of India Act, 1963 (52 of 1963), dealt with by a depository,

shall not be liable to duty under this Act or any other law for the time being in force

1. Section 8A ins. by Act 22 of 1996, sec. 30 and Sch. (w.e.f. 20.9.1995) and subs. by Act 10 of 2000, sec. 118.

Explanation 1.— For the purposes of this section, the expressions "beneficial owner", "depository" and "issuer", shall have the meanings respectively assigned to them in clauses (a), (e) and (f) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996).

Explanation 2.— For the purposes of this section, the expression—"securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).]

[8B. Corporatisation and demutualisation schemes and related instruments not liable to duty.— Notwithstanding anything contained in this Act or any other law for the time being in force,—

- (a) a scheme for corporatisation or demutualisation, or both of a recognised stock exchange; or
- (b) any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the corporatisation or demutualisation, or both of a recognised stock exchange pursuant to a scheme,

as approved by the Securities and Exchange Board of India under sub-section (2) of section 4B of the Securities Contracts (Regulation) Act, 1956, shall not be liable to duty under this Act or any other law for the time being in force.

Explanation.—For the purposes of this section,—

- (a) the expressions "corporatisation", "demutualisation" and "scheme" shall have the meanings respectively assigned to them in clauses (aa), (ab) and (ga) of section 2 of the Securities Contracts (Regulation) Act, 1956;
- (b) "Securities and Exchange Board of India" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992.]

9. Power to reduce, remit or compound duties.—(1) The Government may by rule or order published in the Official Gazette,—

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the territories under its administration the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class are chargeable, and

(b) Provide for the composition or consolidation of duties of policies of insurance and in the case of issues by any incorporated company or other body corporate² [or of transfers where there is a single transferee, whether incorporated or not] of debentures, bonds or other marketable securities.

(2) In this section expression "the Government" means—

- (a) in relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, and in relation to any other stamp duty chargeable under this Act and falling within entry 96 in List I in the Seventh Schedule to the Constitution, the Central Government;

1. Ins. by Act 18 of 2005, sec. 114 (w.o.f. 13.5.2005).

2. Ins. by Act 32 of 1994.

(b) save as aforesaid, the State Government.

[9-A. Notwithstanding anything contained in any rule or orders under clause (a) of section 9 reducing or remitting the duty on an instrument or class of instruments in force immediately before the date of commencement of this section, any instrument, so far as it relates to premises of a Co-operative Society registered or deemed to be registered under any law relating to the Co-operative Society for the time being in force, executed by or on behalf of or in favour of such society or by an officer or member in favour of another and relating to business of such society shall be chargeable with duty under this section read with articles indicated in Schedule 1-A:

Provided that an instrument relating to mortgage of property by a Housing Co-operative or a member thereof to be registered in favour of the Bihar State Housing Co-operative Federation Limited or the Bihar State Rural Housing Co-operative Federation Ltd. or any financing institution for the loan to be taken from the said Federation or institution shall not be chargeable with duty:

Provided further that an instrument relating to transfer of premises by a Co-operative Society to be registered in favour of its members shall not be chargeable with duty:

Provided also that an instrument to be registered by the Bihar State Housing Co-operative Federation Ltd. or the Bihar State Rural Housing Co-operative Federation Ltd. for the loan to be taken by it from a financing institution including the Life Insurance Corporation of India and a Commercial Bank shall not be chargeable with duty:

Provided further also that an instrument to be registered in favour of a registered Co-operative Society by any of its members or by another registered Co-operative Society or any of its members for loan upto Rs. 50,000 (Rupees fifty thousand) to be taken for any purpose other than purchase of land shall not be chargeable with duty.

Explanation.—For the purpose of this section, the word 'premises' means any land or building or part of a building including any flat, apartment, tenement, shop or warehouse therein and includes,

- (i) gardens, grounds and out houses, if any, appertaining to such building or part of a building. and
- (ii) any fitting affixed to such building or part of a building for the more beneficial enjoyment thereof."]

Comments and Case law

[Sections 9(1)(a) and 74(b) read with Articles 19(1) (g) and 19(6) of Constitution of India. Notification of State Government prescribing that functions of 'deed writing' and 'trade of stamp vending' cannot be performed by the same person, challenged. State Government has full competence under the Act to make Rules to regulate supply and sale of stamp or stamp papers by prescribing mode and procedure, conducted by persons through whom sale is to be conducted. State Government having noticed large scale irregularities, fraud and malpractices in trade and business of stamp vending issued the notification imposing such restriction in public interest. Notification cannot be said to be arbitrary and unreasonable under Article 19(6) of the Constitution. *Dasarath Prasad Singh vs. State of Bihar*, 1997 (1) PLJR 128.]

[अधिसूचना संख्या-एस० ओ०-1/ आर० 3-201/97- 1714 दिनांक 15.12.98.- भारतीय स्टाम्प अधिनियम 1899 (अधिनियम सं० 2, 1899) की धारा 9 की उपधारा (1) के खण्ड (क) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए राज्यपाल, बिहार द्वारा प्राथमिकता क्षेत्र में विभिन्न राष्ट्रीयकृत बैंकों/भारतीय स्टेट बैंक/क्षेत्रीय ग्रामीण बैंकों/भूमि विकास बैंक के द्वारा विकासोन्मुख कार्यों के निमित्त ऋण मुहैया कराने के क्रम में भूमि/संपत्ति के बंधक रखने की स्थिति में मुद्रांक शुल्क से संबंधित निम्नलिखित मदों में उनके सामने अंकित राशि की सीमा तक मुद्रांक कर का परिहार स्वीकृत किया जाता है:-

क्र० सं०	प्रयोजन/कार्यक्रम	ऋण राशि की अधिकतम सीमा जिस पर मुद्रांक शुल्क की छूट होगी।
1	2	3
1.	समेकित ग्रामीण विकास कार्यक्रम (आई. आर.डी.पी. के अन्तर्गत विभिन्न विकास कार्यक्रम के लिये)	: 50,000/- (पचास हजार रुपये)
2.	लघु सिंचाई/बोरिंग/पम्पसेट/कूप निर्माण/स्प्रिंकलर सिंचाई।	: 1,50,000/- (एक लाख पचास हजार रुपये)
3.	भूमि विकास/बंजर भूमि विकास/भूमि संरक्षण	: 2,00,000/- (दो लाख रुपये)
4.	कृषि संयंत्रिकरण/ट्रैक्टर/पावर टीलर एवं अन्य कृषि संयंत्र।	: 3,00,000/- (तीन लाख रुपये)
5.	कृषि वानिकी/फल उद्यानिकी/पुष्प उद्यानिकी/वनस्पति सब्जी उद्यानिकी एवं कुकुरमुत्ता उत्पादन।	: 1,00,000/- (एक लाख रुपये)
6.	रेशम पालन	: 50,000/- (पचास हजार रुपये)
7.	मधुमक्खी पालन	: 40,000/- (चालीस हजार रुपये)
8.	जन्तु पालन :	
	1. सुअर पालन	: 3,00,000/- (तीन लाख रुपये)
	2. मुर्गी पालन/चूजा पालन	: 3,00,000/- (तीन लाख रुपये)
	3. भेड़ पालन	: 25,000/- (पचीस हजार रुपये)
	4. दुग्धपालन विकास (डेयरी)	: 3,00,000/- (तीन लाख रुपये)
9.	मत्स्य पालन	: 3,00,000/- (तीन लाख रुपये)
10.	बैल एवं बैलगाड़ी	: 25,000/- (पचीस हजार रुपये)
11.	बायोगैस संयंत्र	: 40,000/- (चालीस हजार रुपये)
12.	भण्डारण एवं बाजार केन्द्र	: 2,00,000/- (दो लाख रुपये)
13.	ग्रामीण लघु उद्योग/कुटीर उद्योग/बीज उत्पादन/हस्तशिल्प/हैण्डलूम	: 3,00,000/- (तीन लाख रुपये)
14.	गैर कृषि क्षेत्र, ग्रामीण क्षेत्र में नवार्ड द्वारा परिभाषित	: 3,00,000/- (तीन लाख रुपये)

इस संबंध में पूर्व में निर्गत विभागीय अधिसूचना सं०-698, दिनांक 17.6.95 को रद्द किया जाता है।

बिहार सरकार, निबंधन विभाग, अधिसूचना संख्या-1/आर-3-201/97-63, दिनांक: 8.1.2000—रजिस्ट्रीकरण अधिनियम की धारा 78 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्यपाल निबंधन विभाग की अधिसूचना संख्या एस० ओ० 900 दिनांक 18.12.90 के साथ प्रकाशित फॉस तालिका में निम्नलिखित संशोधन करते हैं।

- | | |
|---|----------------|
| 1. ग्रामीण क्षेत्र में गरीबी रेखा से नीचे जीवन बसर करने वाले लाल कार्ड धारक के हित में ग्रामीण क्षेत्र की 5 डिसमिल तक वासगीत-भू-खंड के विलेख के निबंधन पर | 50 रु० मात्र |
| 2. समाज के अन्य वर्गों के लिए विक्रय विलेख पर | 2 प्रतिशत |
| 3. विकासोन्मुख कार्यक्रम के सफल क्रियान्वयन हेतु भूमि विकास बैंक सहित अन्य बैंकों के पक्ष में किसी व्यक्ति द्वारा ऋण प्राप्ति हेतु तीन लाख रुपए तक के बंधक विलेख पर | पचास रु० मात्र |
| 4. अन्य सभी प्रकार के बंधक विलेख पर | 2 प्रतिशत |
| 5. बटवारा विलेख पर | 2 प्रतिशत |

इस संबंध में पूर्व में निर्गत अधिसूचना सं० 1713 दिनांक 14.12.98 विलोपित की जाती है।

बिहार सरकार, निबंधन विभाग, अधिसूचना संख्या-एस०ओ०-1-आर-3-201/97-62— भारतीय स्टाम्प अधिनियम, 1899 (अधिनियम 2, 1899) की धारा 9 एवं उप-धारा (i) के खण्ड के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए राज्यपाल बिहार द्वारा निम्नलिखित मदों में उनके सामने अंकित राशि की सीमा तक मुद्रांक की नई दर स्वीकृत की जाती है:-

- | | |
|---|---------------------------|
| 1. ग्रामीण क्षेत्र में गरीबी रेखा के नीचे जीवन बसर करने वाले लाल कार्ड धारक के हित में ग्रामीण क्षेत्र की पांच डिसमिल तक वासगीत भू-खंड के विलेख के निबंधन पर | पूर्ण परिहार |
| 2. समाज के अन्य वर्गों के लिए विक्रय विलेख पर | 8.4 प्रतिशत (अधिभार सहित) |
| 3. विकासोन्मुख कार्यक्रम के सफल क्रियान्वयन हेतु भूमि विकास बैंक सहित अन्य बैंकों के पक्ष में किसी व्यक्ति द्वारा ऋण प्राप्ति हेतु तीन लाख रुपए तक के बंधक विलेख के निबंधन पर | पूर्ण परिहार |
| 4. अन्य सभी प्रकार के बन्धन विलेख पर | 4.2 प्रतिशत (अधिभार सहित) |
| 5. बटवारा विलेख पर | 4.2 प्रतिशत (अधिभार सहित) |

इस संबंध में पूर्व में निर्गत अधिसूचना सं० 1714 दिनांक 14.12.98 विलोपित की जाती है।

No. 10/Mu. Discount-37/2016-2707, dated the 1st June, 2016.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899, the Governor of Bihar is pleased to give discount of 1% (one percent), maximum upto Rs. 2,000/- (Rupees Two Thousand) only in the amount of payable stamp duty on online payment of stamp duty under the online registration process.

2. It shall come into force with immediate effect.

S.O. No.-10/Mu-vividh-36/2016-3428 dated 21.7.2016.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 the Governor of Bihar is pleased to fix the stamp duty payable on agreement relating to hypothecation in favour of public financial institutional/banks for industrial loan under clause 6(2)(a) of Schedule-1A of Indian Stamp Act, 1899 as follows:—

So. No.	Loan Amount Payable	stamp duty
(a)	Up to 10 Crore	₹ 85/- for the first 30,000/- rupee and ₹ 29/- for every additional

1. Subs. by Bihar Finance Act No. 11 of 2002

		₹ 10,000/- or part thereof. But maximum payable stamp duty will be limited to ₹ 1 lakh.
(b)	More than 10 crore but less than 50 crore	₹ 85/- for the first 30,000/- rupee and ₹ 29/- for every additional ₹ 10,000/- or part thereof. But maximum payable stamp duty will be limited to ₹ 3 lakh.
(c)	50 crore or more than 50 crore	₹ 85/- for the first 30,000/- rupee and ₹ 29/- for every additional ₹ 10,000/- or part thereof. But maximum payable stamp duty will be limited to ₹ 5 lakh.

No. 10/Mu. Amendment 77/2016-2965 dated the 17th June, 2016—In exercise of the powers conferred under Clause (a) of Sub-Section (1) of Section 9 of the Indian Stamp Act, 1899, the Governor of Bihar is pleased to determine the stamp duty payable as under:—

Type of document	Payable Registration Fee
(a) All types of educational loan	0.5% of the loan amount
(b) All types of Health treatment loan	0.5% of the loan amount

02. This notification will come into force with immediate effect.

S.O. No.-10/Ra. Kami-43/2015-1416 dated 14.3.2016.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act 1899 the Governor of Bihar is pleased to determine Rs. 200/- (Rupees two hundred) only as the stamp duty payable on Agreement deeds to be executed for obtaining loans/financial services upto Rs. 50,000/- for non-agriculture purposes.

2. It shall come into force with immediate effect.

B. Of Stamps and the Mode of Using them

1[10. Stamp Duties how to be paid.—(1) If otherwise not provided in this Act, all duties, with which instruments are chargeable, shall be paid and such payment shall be indicated on such instruments, by means of stamps, or though any other manner as may be prescribed by the State Government as follows:—

(a) according to the provisions herewith prescribed in this Act or

(b) when no such provision, as the State Government may, by rule, direct.

(2) The rules made under sub-section (1) may, among other matters, regulate.—

(a) in the case of each kind of instrument—the description of stamps which may be used;

(b) in the case of instruments stamped with impressed stamp- the number of stamps which may be used;

(c) in the case of bills-of-exchange or promissory notes-the size of the paper on which they are written.

2[10-A. Payment of duty in cash—(1) Notwithstanding anything contained in section 10, where the Collector is satisfied that there is temporary shortage of stamp in the district or that stamps of required denomination are not available, he may permit duty to be paid in cash and in evidence of payment of duty in the Government Treasury or Sub-Treasury to certify by endorsement on the instruments the amount of duty so paid in cash.

(2) An endorsement made on any instrument under sub-section (1) shall have the same effect as if the duty of an amount equal to the amount stated in the endorsement has been paid in respect thereof and such payment has been indicated on such instrument by means of Stamp in accordance with the requirement of section 10.]

1. Subs. by B. Finance Act No. 11 of 2002.

2. Ins. by Bihar Finance (Amdt.) Act. 1911.

11. Use of adhesive stamps.—The following instruments may be stamped with adhesive stamps, namely:—

- (a) instruments chargeable with a duty not exceeding ten naye paise except parts of bills-of-exchange, payable otherwise than on demand and drawn in sets;
- (b) bills-of-exchange and promissory notes drawn or made out of India;
- (c) entry as an advocate, vakil or attorney on the roll of a High Court;
- (d) notarial acts; and
- (e) transfers, by endorsement of shares in any incorporated company or other body corporate.

12. Cancellation of adhesive stamps.—(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) Whoever executes any instrument on any paper bearing an adhesive Stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall so far as such stamp is concerned, deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner

13. Instruments stamped with impressed stamps how to be written.— Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

14. Only one instrument to be on same stamp.—No second Instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or, of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Comments & Case-law

[Undervalued Instrument.— Where neither stamp duty nor registration fee had been paid on the value of the instrument in question, the Collector has jurisdiction to determine the market value on consideration and the amount of stamp duty to be imposed. Period of limitation prescribed for reference to Collector also will have no application in such cases, *State of Punjab vs. Mahajan Sabha*, (1996)1 SCC 538.

A lease for more than one year in respect of right to catch fish is an "instrument" under Article 35 (a) of Schedule IA of the Indian Stamp Act and is liable for payment of stamp duty at the time of the instrument being registered. *Santosh Jaiswal*, AIR 1996 SC 207.]

15. Instrument written contrary to section 13 or 14 deemed unstamped.— Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

16. Denoting duty.—Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty, actually paid in respect of another instrument, the payment of such last mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument by endorsement under the hand of the Collector or in such other manner (if any) as the State Government may, by rule prescribe.

C.—Of the Time of Stamping Instruments

17. Instruments executed in India.—All instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution.

18. Instruments other than bills and notes executed out of India.—(1) Every instrument chargeable with duty executed only out of India and not being a bill of exchange or promissory note, may be stamped within three months after it has been first received in India.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same in such manner as the State Government may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

19. Bills and notes drawn out of India.—The first holder in India of any bill of exchange payable otherwise than on demand, or promissory note drawn or made out of India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in India, affix thereto, the proper stamp and cancel the same:

Provided that—

(a) if, at the time any such bill of exchange or note comes into the hands of any holder thereof in India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall so far as relates to such holder, be deemed to have been duly affixed and cancelled;

(b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

Comments and Case-law

[Where a promissory note in question was executed out side India and had been properly stamped in accordance with law applicable thereto at the place of execution, in suit by the promissory himself file in India for recovery of the amount due, the rejection of the objection regarding inadmissibility of the said instruments in evidence was proper as the promissory himself had instituted the suit and there was no endorsement etc, and further there was no occasion of affixing the proper stamp and their cancellation does not arise. Thus this section is not attractive. *R. Kanju Swami vs. V. V. K. Swami*, AIR 1988 Mad 336.

Sections 18, 32 and 33—in a Case where an unstamped document (other than bill of exchange) is produced as evidence, within three months of execution, the stamp duty can be collected without impounding and without penalty—if the document is sought to be used as evidence beyond three months, the bar of three months shall not apply, and the document can be impounded u/s 33 and stamp duty and penalty are levied, even after expiry of three months. (*Malaysian Airlines System Bhd vs. M/s Stic Travels (P) Ltd.*) 2001 (1) PLJR (SC) 195.

1[19A. Payment of duty on certain instruments liable to be increased duty in Bihar under clause (bb) in Section 3—Where any instrument has become chargeable in any part of the territories, to which this Act applies, other than Bihar, with duty under this Act or under any other law for the time being in force, in any part of the said territories and thereafter becomes chargeable with a higher rate of duty in Bihar under clause (bb) of the first proviso to Section 3,—

(i) notwithstanding anything contained in the first proviso to Section 3, the amount of duty, chargeable on such instrument, shall be the amount chargeable on it under Schedule I-A, less the amount of duty, if any, already paid on it in the said territories;

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instruments were an instrument received in the said territories for the first time at the time when it became chargeable with the higher duty.]

D.—Of Valuation for duty

20. Conversion of amount expressed in foreign currencies.—(1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of India, such duty shall be calculated on the value of such money in the currency of India according to the current rate of exchange on the day of the date of the instrument.

1. Ins. by Bihar Act 6 of 1937 (from 1.1.1938) and amended by A.L.O. 1951 and Bihar Adaptation of Law Order, 1957.

(2) The Central Government may, from time to time, by notification in the Official Gazette, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of India for the purpose of calculating stamp duty, and such rate shall be deemed to be the current rate for the purposes of subsection (1).

21. Stock and marketable securities how to be valued—Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security, according to the average price or the value thereof on the day of the date of the instrument.

22. Effect of statement of rate of exchange or average price.—Where an instrument contains a statement of current rate of exchange, or average price, as the case require, and is stamped in accordance with such statement, it shall, so far as regards the subject matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

23. Instruments reserving interest.—Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

1[23-A. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.—(1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable, security.

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (c) of Schedule I,

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

2[24. How transfer in consideration of debt, or subject to future payment, etc., to be charged.—(1) Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration ²[and the transfer is chargeable *ad-valorem* with duty, in respect of the said consideration or the market value of the property transferred, whichever is higher]

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

1. In applying sections 23A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bihar Stamp (Amendment) Act, 1937 the references in those sections to the several articles in Schedule I (VI of 1937) shall be deemed to be references to the corresponding article in Schedule IA. (Vide Bihar Act 6 of 1937) (from 1.1.1938)

2. Subs. Bihar (Amdt.) Act 15 of 1988.

Explanation.—In the case of sale of property subject to a mortgage or other incumbrance, any unpaid mortgage money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, 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.

[x x x x x x]

Comments and Case-law

["G" company selling lands and buildings to "S" company subject to equitable mortgage executed by "G" company for obtaining deferred payment guarantee from Bank – the amount of such contingent liability under equitable mortgage would also be chargeable for stamp duty. *Samaiya Organics (India) Ltd. vs. Board of Revenue*, AIR 1986 SC 403.

Stamp duty would be payable on the sum total of amount of consideration for sale of lands and buildings plus the amount for which the equitable mortgage had been created. A security for any contingent future payments also falls within the meaning of section 24. *Samaiya Organics (India) Ltd. vs. Board of Revenue U.P.* (1986) 1 SCC 351.

Section 24—no stamp duty can be levied or demanded on the amount of interest payable on the price of a flat which is payable in instalments. *Bihar State Housing Board vs. Atma Ram Shah*, 1997 (1) PLJR (SC) 130.]

25. Valuation in case of annuity, etc.—Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, 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, shall, for the purposes of this Act, be deemed to be –

(a) Where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained – such total amount:

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance the total amount which according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance – the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

26. Stamp where value of subject-matter is indeterminate.—When the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty, —

(a) when the lease has been granted by or on behalf of the Government at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or,

(b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease;

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

27. Facts affecting duty to be set forth in instrument.—The consideration '[if any, the market value of the property] and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Comments & Case-law

[Section 27, 40, 47-A and 64—penalty imposed by the Collector for under—valuing the property under registration—assailed on the ground that already a penal provision u/s 64 is provided under the Act—Section 64 of the Act relates to criminal intention of a person who is producing document to the authority for its registration—even if the provisions of section 64 of the Act are made applicable, a person who undervalues a documents, cannot escape the provision of section 40(1)(b) and section 47-A of the Act—if a person wants to defraud the State Government by not giving proper valuation of the property then he may not be allowed to say that he is liable to pay a fine of Rs. 5000/- only and should be made scot free—sections 64 and 47-A of the Act are not mutually destructive but are supplemental to each other. (*M/s Nasco Steel Pvt. Ltd. vs. State of Bihar* 2004 (4) PLJR 470.)

28. Direction as to duty in case of certain conveyances.—Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit. '[Provided that a distinct consideration for or the market value of each separate part are set forth in the conveyance relating thereto and such conveyance shall be chargeable with *ad valorem* duty in respect of the distinct consideration for or the market value of each such part whichever is higher].

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct part of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of distinct part of the consideration therein specified. '[or the market value of such separate part, whichever is higher.]

(3) Where a person, having contracted for the purchase of any property but not

1. Subs. by Bihar (Amdt.) Act, 15 of 1988.

having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser. '[or the market value of the property, whichever is higher,']

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub purchaser, '[or the market value of such part whichever is higher] without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchaser, whichever is higher] '[or the market value of such residue:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) 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 consideration paid by him '[or the market value of the property which is the subject matter of the conveyance, whichever is higher] 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 consideration obtained by such original seller, '[or the market value of such property whichever is higher], or, where such duty would exceed five rupees, with a duty of five rupees,

E – Duty by whom payable

²[29, Duties by whom payable.—In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne –

(a) in the case of any instrument described in any of the following Articles of Schedule 1, namely :—

- No. 2 (Administration Bond),
- No. 6 (Agreement relating to Deposit of Title deeds, Pawn or Pledge),
- No. 13 (Bill of Exchange),
- No. 15 (Bond),
- No. 16 (Bottomry Bond)
- No. 26 (Customs Bond),
- No. 27 (Debenture),
- No. 32 (Further Charge),
- No. 34 (Indemnity Bond),
- No. 39 ((Promissory note),
- No. 40 (Mortgage-deed),
- No. 55 (Release),

1. Ins. by Bihar (Amdt.) Act, 15 of 1988.

2. See footnote at page 92.

No. 56 (Respondentia Bond),

No. 57 (Security Bond or Mortgage-deed),

No. 58 (Settlement),

No. 62 (a) (Transfer of shares in an incorporated company or other body corporate),

No. 62 (b) (Transfer of debentures, being marketable securities whether the debenture is liable to duty or not, except debenture provided for by section 8),

No. 62 (c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance) –

by the person drawing, making or executing such instrument;

(b) in the case of a policy of insurance other than fire-insurance – by the person effecting the insurance;

(bb) in the case of a policy of fire-insurance – by the person issuing the policy.

(c) in the case of a conveyance (including a reconveyance of mortgaged property) by the grantee; in the case of a lease or agreement to lease – by the lessee or intended lessee;

(d) in the case of a counterpart of a lease – by the lessor;

(e) in the case of an instrument of exchange – by the parties in equal shares;

(f) in the case of a certificate of sale – by the purchaser of the property to which such certificate relates; and

(g) in the case of an instrument of partition – by the parties thereto in proportion to their respective shares in the whole property partitioned, or when the partition is made in execution of an order passed by a Revenue authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs,

Comments & Case-law

[The contention that the stamp of the sale deed have been purchased on the different date, they bear different numbers, they have not been used within six months of their purchase and as such the sale deed is not duly stamped. Therefore the sale deed be impounded and requisite stamped duly and penalty be imposed cannot be entertained. *Bhanwar Lal vs. Tejmal* AIR 1990 Raj 1.]

30. Obligation to give receipt in certain cases. — Any person receiving any money exceeding ¹[twenty rupees in amount, or any bill of exchange cheque or promissory note or an amount exceeding ¹[twenty rupees, or receiving in satisfaction or part-satisfaction of a debt any movable property exceeding ¹[twenty rupees in value shall on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.

CHAPTER III

ADJUDICATION AS TO STAMPS

31. Adjudication as to proper stamp. — (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector,

1. Now Rs. 5000/- vide Finance Act No. 2 of 2004

and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than fifty naye paise) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose, the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that —

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished, shall, on payment of the full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Comments & Case-law

[Avoidance of tax is no offence. Evasion of tax is offence. Every man is entitled to arrange his affairs in such a manner as to reduce his tax liability to minimum. Question is of legality. Question of morality does not arise. *Urmila Devi vs. State*, 2007(3) PLJR 734.]

32. Certificate by Collector.— (1) When an instrument brought to the Collector under section 32 is, in his opinion, one of a description chargeable with duty, and—

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined has been paid,

the Collector shall certify by endorsement, on such instrument, that he full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be, and if chargeable, with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorise the Collector to endorse—

(a) any instrument [other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3] executed or first executed in India and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;

(b) any instrument executed or first executed out of and brought to him after the expiration of three months after it has been first received in India;

(c) any instrument chargeable with a duty not exceeding ten naye paise or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof; on paper not duly stamped; or

'[(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Bihar.]

Comments & Case-law

Agreement — An "Agreement" is document merely evidencing pre-existing liability. *State of Kerala vs. McDowell and Co. Ltd.*, AIR 1995 SC 1445.

The Supreme Court overruled the judgment of Patna High Court in the case of *Maksudan Prasad vs. Smt. Lakshmi Devi* (AIR 1983 Pat 105) and laid down that limitation does not begin to run from the date on which direction is given to pass final decree. Mere giving of direction to supply stamped paper for passing final decree does not amount to passing a final decree. Until the final decree is drawn up and engrossed on stamped paper (s) supplied by the Parties, there is no executable decree. *Shanker Balwant Lokhande vs. C.S. Lokhande*, AIR 1995 SC 1211.]

CHAPTER IV

INSTRUMENTS NOT DULY STAMPED

33. Examination and impounding of instruments.—(1) Every person having, by law or consent of parties, authority to receive evidence, and every person in charge of public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty is produced or comes in the performance of his functions, shall if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in India, when such instruments was executed or first executed:

Provided that —

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 (V of 1898)²;

(b) in the case of a Judge of a High Court, the duty of the examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt—

(a) the State Government may determine what offices shall be deemed to be public offices; and

(b) the State Government may determine who shall be deemed to be persons in charge of public offices.

Comments and Case-law

[An arbitration award is required to be made on stamped paper by Article 12. This defect in the arbitration award is curable under section 33 and it cannot be said that section 35 of the Stamp Act imposes a permanent bar on the powers of the court to make such an arbitration award a rule of the court, even if the defect

1. Ins.by Bihar Act 6 of 1937 (from 11.1938)

2. See now the Code of Criminal Procedure, 1973 (2 of 1974)

the stamp is cured by the procedure prescribed by the Stamp Act. *M/s Pradip Trading Co. vs. State of Bihar*. 1974 PLJR 225.

The rule of limitation does not come into effect if they delay it by an order of the court and if the delay has been duly explained. *Bindeshwar Dayal vs. Maheshwar Dayal*, AIR 1990 SC 485.

Once the case is over the decree is signed and sealed or when a documents is ordered to be returned it can no longer be considered to be part of the judicial orders & cannot therefore properly come before the court again in the performance of its function and the court is not competent to impound the same. *Varghese vs. State of Kerela*, AIR 1982 Ker. 248.

The Stamp Act contains a comprehensive scheme about the purchase, collection and realisation of stamp duty chargeable under the provisions of the Indian Stamp Act. It is a self-contained Code. *Board of Revenue vs. Electronic Industries of India*, AIR 1996 SC 616.

Section 33 read with Section 9-A inserted by (Bihar Amdt.) Ordinance, 1986/ (Bihar Amdt.) Act, 1988—sale deeds filed for registration during the currency of 1986 Ordinance—demand for additional sum raised u/s 9A—1986 Ordinance lapsed in the meanwhile and not renewed—proceeding for impounding documents initiated—in the meanwhile 1988 Act brought on the statute book but no enforced—1988 Act enforced in 1990 without retrospective effect or saving the actions taken under 1986 Ordinance—impending proceedings could not have continued after the lapse of 1986 Ordinance—authorities directed to register and then return documents. *Life Insurance Corporation Class I Officers' Sahkari Grih Nirman Samiti Ltd. vs. State of Bihar*, 1992 (2) PLJR 403.

Even though there is no prohibition u/s 49 of Registration Act to receive an unregistered document in evidence for collateral purpose. But the document so tendered should be duly stamped or should comply with requirements of Section 35. *Avinash Kumar Chauhan vs. Vijay Krishna Mishra*, 2009(1) Supreme 58.]

34. Sepcial provision as to unstamped receipts.—Where any receipt chargeable with a duty not exceeding ten naye paise is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

35. Instrument not duly stamped inadmissible in evidence, etc.—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence; or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Provided that –

(a) any such instrument not being an instrument chargeable with a duty not exceeding ten naye paise only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceed five rupees, or a sum equal to ten times such duty or portion;

(b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it.

(c) where a contract or agreement of any kind is effected by correspondence

consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 (5 of 1898)';

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

Comments and Case-law

[Unless a document is properly stamped as is provided under section 35, it cannot be permitted to be used even for collateral purpose. A collateral purpose is included in the expansion "any purpose" as contemplated under section 35. *Mahendra Narayan Choudhary vs. Sukhdev Choudhary*, 1970 PLJR (N.O.C.) iii.

A promissory note which is not duly stamped is inadmissible in evidence but the creditor who has advanced the loan is not precluded from pursuing his ordinary legal remedy of enforcing repayment by a suit based on a original cause of action. *P.C. Gopinathan Nair vs. P. P. A. Pillai*, AIR 1991 Ker 16.

This section operates as a bar to an unstamped document, instrument being admitted or being acted upon. *M/s Wilson & Co. (Pvt.) Ltd. vs. Kslokavinayagam*, AIR 1992 Madras 100.

In an arbitration case the defect in the award can be cured by impounding the document and after the defect is removed, it can be brought on record and made a rule of the Court as it is not a permanent bar of the power of the Court to make such an award rule of the court even if the defect regarding the stamp is cured by the procedure under the stamp Act. *ibid.*

Limitation Act, 1963-Article 136-Legislative mandate as sanctioned u/r 136 can not be kept in abeyance unless the self same legislation makes a provision therefor by the passing of a final decree (Order XX, Rule 18, CPC), the right stand crystalized and it is only thereafter its enforceability can be had though not otherwise-undoubtedly section 2(15) includes a decree of partition and section 35 lays down a bar in the matter of unstamped or insufficient stamp being admitted in evidence or being acted upon but that does not mean that the prescribed period of limitation shall remain suspended until the stamp paper is furnished and the partition decree is drawn thereon and subsequently signed by the judge enforceability of the decree can not be the subject matter of section 35 neither the limitation can be said to be under suspension-time (limitation) does not stop running at the instance of any individual unless it has some statutory sanction. *Hameed Joharan vs. Abdul Salam*, 2002(1) PLJR (SC) 5.

Document required to be stamped but not stamped cannot be used even for collateral purpose. *Mahendra Narayan Choudhary vs. Sukhdev Choudhary*, 1970 PLJR (NOC) iii.

Court not debarred from making an award a rule of the court after defect in the award, as regards stamps, is removed. *Pradip Trading Co. vs. State of Bihar*, 1974 PLJR 235.

Even though there is no prohibition u/s 49 of Registration Act to receive an unregistered document in evidence for collateral purpose. But the document so tendered should be duly stamped or should comply with requirements of Section 35. *Avinash Kumar Chauhan vs. Vijay Krishna Mishra*, 2009(1) Supreme 58.]

36. Admission of instruments, where not to be questioned.—Where an instrument has been admitted in evidence, such admission shall not, except as

provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Comments and Case-law

[Instruments not duly stamped admitted in evidence subject to objection—it is the duty of the court to judicially determine objection, before the suit is finally disposed of. *Ram Ratan vs. Bajrang Lal*, AIR 1978 SC 1993

Hundi cannot be said to have been admitted in an evidence within the words admitted in evidence as mentioned in section when the *Hundi* is challenged on its originality and particularly when a writing expert was not the attestant or the scribe of the *Hundi*. *Sukhwant Rai vs. M/s Kalu Khiali Ram*, AIR 1992 P & H 80.

When the document was admitted as evidence with consent and that will preclude the defendant from contending that since one of the stamps is not cancelled, the document is not admissible. Once the document is admitted the case of the plaintiff stands proved and he is entitled to a decree as prayed for *T. Chanari vs. Kambrath Kanara Kutty*, AIR 1990 Ker. 122.

Expression "at any stage" explained—an instrument once admitted in evidence cannot be challenged as not being duly stamped. *Rajendra Prasad vs. Most. Siba Devi*, 1982 PLJR 119.]

37. Admission of improperly stamped instruments.—The State Government may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

38. Instruments impounded how dealt with.—(1) When the person impounding an instrument under section 33 has, by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

39. Collector's power to refund penalty paid under section 38, sub-section (1)—(1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

40. Collector's power to stamp instrument impounded.—(1) When the Collector impounds, any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an Instrument chargeable with a duty not exceeding ten naye paise only or a bill of exchange or promissory note, he shall adopt the following procedure—

(a) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable as the case may be;

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit, an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (b) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under section 38, sub-section (2) the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Comments & case-law

[Sections 27, 40, 47A and 64—penalty imposed by the Collector for under-valuing the property under registration—assailed on the ground that already a penal provision u/s 64 is provided under the Act—Section 64 of the Act relates to criminal intention of a person who is producing document to the authority for its registration—even if the provisions of Section 64 of the Act are made applicable, a person who under values a document, can not escape the provision of Section 40(1)(b) and Section 47A of the Act—if a person wants to defraud the State Government by not giving proper valuation of the property then he may not be allowed to say that he is liable to pay a fine of Rs. 5000/- only and should be made scot free—Sections 64 and 47A of the Act are not mutually destructive but are supplemental to each other. *M/s Nasco Steel Pvt. Ltd. vs. State of Bihar*, 2004(4) PLJR 470.]

41. Instruments unduly stamped by accident.—If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty not exceeding ten naye paise only or a bill of exchange or promissory note, is produced by any person on his own motion before the Collector within one year from the date of its execution or first execution and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

42. Endorsement of instruments on which duty has been paid under sections 35, 40 or 41.—(1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate;

1. See now the Code of Civil Procedure, 1908 (Act 5 of 1908). Sch. I, O. XIII, R. 9.

The High Court has a power to impound a document which is not duly stamped. *M/s Wilson & Co. Pvt. Ltd. vs. Kalokavoayagam*, AIR 1992 Mad. 100.

Avoidance of tax is no offence. Evasion of tax is offence. Every man is entitled to arrange his affairs in such a manner as to reduce his tax liability to minimum. Question is of legality. Question of morality does not arise. *Urmila Devi vs. State*, 2007(3) PLJR 734.]

43. Prosecution for offence against Stamp-law.—The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

44. Persons paying duty or penalty may recover same in certain cases.—

(1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was found to bear the expenses of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery, any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

45. Power of Revenue-authority to refund penalty or excess duty in certain cases.—(1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-Authority may, upon application in writing made within one year from the date of the payment; refund such penalty wholly or in part.

(2) Where, in the opinion of the Chief Controlling Revenue-Authority Stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

46. Non-liability for loss of instruments sent under section 38.—(1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

47. Power of payer to stamp bills and promissory notes received by him unstamped.—When any bill of exchange or promissory note chargeable with a duty not exceeding ten naya paise is presented for payment unstamped, the person to whom it is so presented, may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill or note and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill or note shall so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill or note.

1["47-A Instrument of conveyance.—²“(1) Where the registering officers appointed under the Registration Act, 1908 while registering any instrument of conveyance, exchange, gift, partition or settlement is satisfied that the classification of the property and/or the measurement of the structure contained in the property which is subject matter of such instrument has been set forth wrongly or the market value of the property, which is subject matter of such instrument has been set forth at a lower rate than the Guideline Register of Estimated Minimum Value prepared under the rules framed under the provision of this Act, he shall refer such instrument before registering it to the Collector for determination of the proper market value of such property and the proper duty payable thereon.”

Provided that where the market value of the property of the instruments described above has been fixed at an amount which is not less than the value prescribed in the Guide Line Register of estimated minimum value prepared under the rules framed under the provisions of this Act, but the registering officer has reasons to believe that the market value of the property which is the subject matter of such instrument has not been rightly set forth or it is higher than the estimated minimum value, he, after registering such instrument, shall refer it by assigning proper reasons to the Collector for determination of proper market value of the property and the proper duty payable thereon.”]

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving one month's time to the parties for making their representation and after holding an enquiry determine the market value of the property which is the subject matter of such instrument 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:

Provided that no such person shall be required to pay any amount to make up the difference if the difference between the consideration or the market value as set forth in the instrument ¹[or is less than even the minimum value determined in accordance with any rules made under this Act] and the market value determined by the Collector does not exceed 10 per cent of the market value so determined.

(3) The Collector may *suo motu* within two years from the date of registration of such instrument 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 such instrument 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 rightly set forth in the instrument, ¹[or is less than even the minimum value determined in accordance with any rules made under this Act] 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 commencement of the Indian Stamp (Bihar Amendment Ordinance, 1986).

(4) Any person aggrieved by an order of the Collector under sub-section (3) may appeal to the Commissioner concerned of the administrative division. Such appeal shall be preferred within sixty days of the order and shall be heard and disposed of by the Commissioner.

(5) For the purpose 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

1. Ins. by Bihar Finance Act, 2008 dt. 2.4.2008.

2. Subs. by Act 5 of 2013.

case may be, such property would have fetched or would fetch, if sold, in the open market on the date of execution of the instrument of conveyance, exchange, gift, partition or settlement.

(6) Before filing an appeal under sub-section (4), the aggrieved party shall deposit 50% (fifty percent) amount of the payable deficient Stamp duty chargeable on the market value of the property as determined by the Collector.

(7) If after determination of the proper market value, it is established that the parties have deliberately concealed the actual description of property or the market value of the property or any other facts and circumstances affecting the chargeability of the duty as required under section-27 of the Indian Stamp Act, 1899 [as amended by Indian Stamp (Bihar Amendment) Act, 1988], the collector, or in cases where appeal has been filed, the appellate authority, may impose a fine equal to 10% (ten percent) amount of the deficient stamp duty.

(8) If an appeal is not filed under sub-section-(4) of Section-47A, an interest at the rate of 5% (five percent) per month shall be leviable on the deficient amount of stamp duty if it is not deposited within sixty days from the date of order passed by Collector.

(9) If an appeal is filed as prescribed in sub-section (4) of section-47A, interest at the rate of 5% (five percent) per month shall be payable from the date of the order of the appellate authority for deposit of deficient stamp duty if it is not paid within sixty days of such order.

(10) If the amount of deficient stamp duty is not paid within sixty days from the date of the order of the Collector in case an appeal is not filed against the said order, or within sixty days from the date of the order of the appellate authority as the case may be, the amount of deficient stamp duty along with the amount of interest shall be recovered by the collector as prescribed under Section-48 of the Act."

Comments and Case law

[This section is applicable in Punjab, every executive action if it is to operate to the prejudice of any person must be supported by some legislative authority. No guideline can possibly be issued or laid down for controlling the Quasi Judicial decision of a particular functionary. *Chamkaur Singh vs. State of Punjab*, AIR 1991 P & H 26.

The correctness of the valuation can be examined by the Collector also as he is authorised to do the same. *Tineshwar Dayal vs. Maheshwar Dayal*, AIR 1990 SC 485.

The Vendee alone is liable to pay the deficit stamp duty in respect of sale deed, where after reference to Collector under section 47 A(1) it appears that the value of the property had not been truly set forth in the instrument at the time of registration. Collector's action in issuing notice to the vendee alone is proper and there is no infraction of law, *Hadibandhi Sahu vs. A.D.M.*, AIR 1991 Orissa 284.

The value of property varies from place to place or even from locality to locality in the same place. No absolute higher or minimum value can be pre-determined. It will only be on objective satisfaction that the Authority has to reach a reasonable belief that the instrument relating to the transfer of property has truly set forth the value or the consideration mentioned there in is not inadequate. The Registering Authority should make reference of all doubtful cases to the Collector whose decision is final. *State of Punjab vs. Mahabir Singh*, (1996) 1 SCC 609,

Section 47A does not confer power on State to determine the market value of an entire area, region or block. The power under section 47A is exercisable with reference to a particular immovable property covered by the instrument brought for registration. *Jawajee Nagnatham vs. Revenue Divisional Officer*, (1994) 4 SCC 595.

Rule 5 of Bihar Instrument Valuation Rules, 1991 if given effect to will render sub-section (1) of section 47A of Indian Stamp Act otiose. The power vested on the Collector to determine market value of the property being transferred is also violative of principles of natural justice. High Court therefore struck down Rule 5 as ultravires. *Umesh Thakur vs. State of Bihar*, 1994 (1) PLJR 727.

Section 47A is constitutionally valid and the insertion of section 47A by the Bihar (Amendment) Act, 1988 and its amendment by Bihar (Amendment) Act, 1991 is within the legislative competence of the State Legislature, *Umesh Thakur vs. State of Bihar*, 1994 (1) PLJR 727.

Constitutional validity — Section 47A was inserted by Bihar (Amendment) Act 15 of 1988 and was further amended by Indian Stamp (Bihar Amendment) Act, 1991. In terms of the 1991 Amendment Act, in sub-section (1) of section 47A, after the words "that the market value of the property which is the subject matter of such instrument has not been rightly set forth in the instrument the following words were inserted "of which is less than the value calculated in terms of the Rules framed under the Act." The legislative power conferred on State under Entry 44 of List II of Seventh Schedule of the Constitution is a wide one. State Legislature must be held to have power to enact legislation covering the entire field of Stamp duty. Provisions of section 47A having been enacted in order to neutralise the effect of under-valuation of instruments, must be held to be valid and within the legislative competence of Bihar Legislature. *Umesh Thakur vs. State of Bihar*, 1994 (1) PLJR 727.

The correctness and the correct market valuation of the instrument can be looked into by the Collector can be exercised into within two years of the date of registration of the instrument. The limitation will not apply if the proceeding has been initiated by the Sub Registrar for determining the market value of the instrument and not by the Collector *suo motu*. *Chandra C. Adesara & others vs. State of Bihar & others* 1997 (2) PLJR 16.

Section 47A (inserted by Bihar Amendment Act, 1988)—provision for fixing rates for valuation of landed properties for the purpose of registration—section 47A—shall not be applicable to documents presented for registration in pursuance of a decree for specific performance of the contract executed prior to coming into force of section 47A of the Act. *Md. Bashiruddin vs. State of Bihar* 2004 (3) PLJR 629.

Section 47A (as amended by Bihar Amendment Act 15 of 1988)—not applicable to document presented for registration pursuant to a decree for specific performance of an agreement executed prior to coming into force of the inserted provision of the Act—agreement to sale entered between the petitioner and his vendor here is prior to introduction of section 47A—order for additional stamp duty on revaluation, quashed—document to be registered on valuation as mentioned in agreement to sell. *Baiju Singh vs. State of Bihar* 2004 (2) PLJR 743.

Sections 27, 40, 47A and 64—penalty imposed by the Collector for under—valuing the property under registration—assailed on the ground that already a penal provision u/s 64 is provided under the Act—Section 64 of the Act relates to criminal intention of a person who is producing document to the authority for its registration—even if the provisions of Section 64 of the Act are made applicable, a person who under values a document, can not escape the provision of Section 40(1)(b) and Section 47A of the Act—if a person wants to defraud the State Government by not giving proper valuation of the property then he may not be allowed to say that he is liable to pay a fine of Rs. 5000/- only and should be made scot free—Sections 64 and 47A of the Act are not mutually destructive but are supplemental to each other. *M/s Nasco Steel Pvt. Ltd. vs. State of Bihar*, 2004(4) PLJR 470.

Section 47A—the provision is not retrospective—not correct to strain the person liable to pay stamp duty by requiring him to pay the same on the basis of current market value for circumstances beyond his control—value on the date of agreement alone is relevant for stamp duty and not the value on the date by the court merge lapse of time between the date of agreement and the execution of the document will not be the determining factor that the document is under—valued and this by itself is not sufficient to invoke power u/s 47A. *Brij Nandan Singh vs. State of Bihar*, 2006(3) PLJR 538.

For the purpose of valuation of stamp duty on pre-empted land, value as on the date of transaction as ordered by court would be taken into account. *Baidya Nath Prasad Singh vs. State of Bihar*, 2007(3) PLJR 393.

Instrument presented for registration found to be undervalued. Order for payment of balance value passed without statutory compliance of Rules 5 and 10 of Bihar Instrument Valuation Rules. Impugned order not sustainable. Direction given to register the gift deed with valuation presented by petitioner. *Radhika Devi vs. State of Bihar*, 2007(4) PLJR 375.]

48. Recovery of duties and penalties.—All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force, for the recovery of arrears of land revenue.

Comments and Case-law

[Section 48 provides the mode of recovery of stamp duty and amount of penalty levied. *Board of Revenue vs. Electronic Industries of India*, AIR 1996 SC 616.]

[48A. Validity of certificate or endorsement in respect of instruments for which higher rate of duty is payable in Bihar]—Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in Bihar with a higher rate of duty under the Bihar Stamp (Amendment) Act, 1937, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty, unless the duty chargeable under the Bihar Stamp (Amendment) Act, 1937, has been paid on such instrument.

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES

49. Allowance for spoiled stamps.—Subject to such rules as may be made by the State Government as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit or the purpose intended before any instrument written thereon is executed by any person:

(b) the stamp on any document which is written out wholly or in part but which is not signed or executed by any party thereto;

(c) in the case of bills of exchange payable otherwise than on demand or promissory notes —

(1) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance:

Provided that the papers on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon:

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands;

(3) the stamp used or intended to be used for any such bill of exchange or promissory notes signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee:

Provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill or note;

(d) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning;

1. Ins. by Bihar (Amndt.) Act, 1991.

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected, being effected by some other instrument between the same parties and bearing a stamp of not less value;

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped;

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence & that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

50. Application for relief under section 49 when to be made.—“(1) No claim for relief under Section 49(d)(5) of the Act shall be admissible unless the application for the relief is made within two months of the date of execution.

(2) No instrument shall be executed on any stamp paper which has remained unutilized for a period exceeding one year from the date of its purchase.

(3) No refund shall be admissible after the expiry of a period of one year from the date of purchase of a stamped paper.

(4) All refunds under this section shall be made by the order of the Collector:

Provided that if the stamp paper has been purchased before the provisions of this section come into force, no refund can be allowed or no instrument on such stamp paper can be executed after the expiry of one year from the date of its purchase as provided in sub section (2) and sub section (3) or after six months from the date of this section coming into force, whichever is later.”]

51. Allowance in case of printed forms no longer required by Corporations.—The Chief Controlling Revenue-authority or the Collector if empowered by the Chief Controlling Revenue-authority in this behalf may, without limit of time, make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or body corporate provided that such authority is satisfied that the duty in respect of such stamped paper has been duly paid,

52. Allowance for misused stamps.—(a) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13;

the Collector may, on application made within six months after the date of the instrument, or if it is not dated within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

53. Allowance for spoiled or misused stamps how to be made.—In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

- (a) other stamps of the same description and value; or
- (b) if required and he thinks fit, stamps of any other description to the same amount in value; or
- (c) at his discretion, the same value in money, deducting ten naye paise for each rupee or fraction of a rupee.

54. Allowance for stamps not required for use.—When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting ten naye paise for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled and proving to the Collector's satisfaction—

- (a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and
- (b) that he has paid the full price thereof; and
- (c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

Comments and Case-law

[Value of the property not correctly mentioned and was under valued-fine was imposed as double the amount of the stamp duty-statute limits fine only upto the extent of Rs. 5000/- — fine imposed beyond the limit is illegal and without jurisdiction-fine reduced to its limit. *Ahilya Devi vs. State of Bihar*, 2002 (1) PLJR 222.]

54.A. Allowance for stamps in denominations of annas.—Notwithstanding anything contained in section 54, when any person is possessed of a stamp or stamps in any denominations other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906 (III of 1905), upon such person delivering up, within six months from the commencement of the Indian Stamp (Amending) Act, 1958 (19 of 1958), such stamp or stamps to the Collector.

[54-B. Allowance for Refugee Relief Stamp.—Notwithstanding anything contained in section 54, when any person is possessed of stamps bearing the inscription "Refugee Relief" (being stamps issued in pursuance of section 3A before its omission) and such stamps have not been spoiled, the Collector shall, upon such person delivering up, within six months from the commencement of the Refugee Relief Taxes (Abolition) Act, 1973 (13 of 1973), such stamps to the Collector, refund to such person the value of such stamps in money or give in lieu thereof other stamps of the same value:

Provided that the State Government may, with a view to facilitating expeditious disposal of the claims for such refunds, specify, in such manner as it deems fit, any other procedure which may also be followed for claiming such refunds.]

55. Allowance on renewal of certain debentures.—When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less:

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the State Government may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:

(a) the issue of two or more debentures in place of one original debentures, the total amount secured being the same:

(b) the issue of one debenture in place of two or more original debenture, the total amount secured being the same:

(c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and

(d) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI

REFERENCE AND REVISION

56. Control of, and statement of case to, Chief Controlling Revenue Authority.—(1) The powers exercisable by a Collector under Chapter IV and Chapter V & under clause (a) of the first proviso to section 26 shall in all cases be subject to the control of the Chief Controlling Revenue authority.

(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Comments and Case-law

[The Chief Controller revenue authority has full power to interfere with the Collector's order provided it was found to be erroneous. *Tindeshwar Dayal vs. Maheshwar Dayal*, AIR 1990 SC 485.]

57. Statement of case by Chief Controlling Revenue-Authority to High Court.—(1) The Chief Controlling Revenue-Authority may state any case referred to it under section 56 sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon.—

(a) if it arises in a State, to High Court for that State;

(b) if it arises in the Union territory of Delhi, to the High Court of Delhi;

¹(c) if it arises in the Union territory of Arunachal Pradesh or Mizoram, to the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur or Tripura);

(d) if it arises in the Union territory of the Andaman and Nicobar Islands, to the High Court at Calcutta;

(e) if it arises in the Union territory of ²[the Lakshadweep] to the High Court of Kerala.

1. Subs. by CSR 7 (E) Pt. II, S. 3 (j), dated 2-1-1974.

2. Now renamed as "Lakshadweep" by Act 35 of 1973 (w.o.f. 1.11.1973)

(ee) if it arises in the Union territory of Chandigarh, to the High Court of Punjab and Haryana.

(f) if it arises in the Union territory of Dadra and Nagar Haveli, to the High Court of Bombay.]

(2) Every such case shall be decided by not less than three Judges of the High Court to which it is referred, and in case of difference, the opinion of the majority shall prevail.

Comments and Case-law

[This section shows that for the purposes of the Stamp Act at least a note promising payment upon any condition or contingency certain or not will amount to promissory note an unconditional undertaking under section 4 of the Negotiable Instruments Act cannot be treated as a promissory note. *Kochuthressi vs. Devi Das* AIR 1988 Ker 282.]

58. Power of High Court to call for further particulars as to case stated.—If the High Court, is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

59. Procedure in disposing of case stated.—(1) The High Court upon the hearing of any such case, shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court shall send to the Revenue-authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-Authority shall, on receiving such copy dispose of the case conformably to such judgment.

60. Statement of cases by other Courts to High Court.—(1) If any Court other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court to which, if he were the Chief Controlling Revenue-Authority, he would, under section 57, refer the same.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue-Authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under-sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

61. Revision of certain decisions of Courts regarding the sufficiency of stamps.—(1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the [Code of Criminal Procedure, 1898 (5 of 1898), makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty

1. See now the relevant Chapters of the Code of Criminal Procedure, 1973 (Act 2 of 1974)

which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law, which the Collector considers him to have committed in respect of such instrument:

Provided that—

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court was payable in respect of the instrument under section 35 is paid to the Collector,

unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(b) except for the purposes of such prosecution no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

CHAPTER VII

CRIMINAL OFFENCES AND PROCEDURE

62. Penalty for executing, etc, instrument not duly stamped,—(1) Any person—(a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of or in any manner negotiating any bill of exchange, payable otherwise than on demand or promissory note without the same being duly stamped; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped; shall for every such offence be punishable with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

63. Penalty for failure to cancel adhesive stamp.—Any person required by section 12 to cancel an adhesive stamp and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

64. Penalty for omission to comply with provisions of section 27.—Any person, who, with intent to defraud the Government—

- (a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or
- (b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or
- (c) does any other act calculated to deprive the Government of any duty or penalty under this Act; shall be punishable with fine which may extend to five thousand rupees.

Comments & Case-law

[Sections 27, 40, 47A and 64—penalty imposed by the Collector for under- valuing the property under registration—assailed on the ground that already a penal provision u/s 64 is provided under the Act—Section 64 of the Act relates to criminal intention of a person who is producing document to the authority for its registration— even if the provisions of Section 64 of the Act are made applicable, a person who under values a document, can not escape the provision of Section 40(1)(b) and Section 47A of the Act—if a person wants to defraud the State Government by not giving proper valuation of the property then he may not be allowed to say that he is liable to pay a fine of Rs. 5000/- only and should be made scot free—Sections 64 and 47A of the Act are not mutually destructive but are supplemental to each other. *M/s Nasco Steel Pvt. Ltd. vs. State of Bihar*, 2004(4) PLJR 470.]

65. Penalty for refusal to give receipt, and for devices to evade duty on receipts.— Any person who—

(a) being required under section 30 to give a receipt, refuses or neglects to give the same; or

(b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

66. Penalty for not making out policy, or making one not duly stamped.—

Any person who—

(a) receive or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to two hundred rupees.

67. Penalty for not drawing full number of bills or marine policies purporting to be in sets.—Any person drawing or executing a bill of exchange payable otherwise than on demand or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped in whole number of bills or policies of which such bills or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

68. Penalty for post-dating bills and for other devices to defraud the revenue.—Any person who—

(a) with intent to defraud the Government of duty draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of such bill or note, or in any manner negotiates the same; or

(c) with the like intent, practices or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

69. Penalty for breach of rule relating to sale of stamps and for

unauthorised sale.— (a) Any person appointed to sell stamps who disobeys any rule made under section 74, and

(b) any person not so appointed who sells or offers for sale any stamp other than a ten naye paise or five naye paise adhesive stamp,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

70. Institution and conduct of prosecutions.—(1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed, shall be instituted without the sanction of the Collector or such other officer as the State Government generally, or the Collector specially, authorizes in that behalf.

(2) The Chief Controlling Revenue-authority, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

71. Jurisdiction of Magistrates.— No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

72. Place of trial—Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found as well as in any district or presidency town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

CHAPTER VIII

SUPPLEMENTAL PROVISIONS

73. Books, etc. to be open to inspection.— Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as they may deem necessary, without fee or charge.

74. Power to make rules relating to sale of stamps.—The State Government may make rules for regulating—

- (a) the supply and sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted, and
- (c) the duties and remuneration of such persons:

Provided that such rules shall not restrict the sale of ten naye paise or five naye paise adhesive stamps.

[S.O. 1367 dated the 11th October, 1982— In exercise of the powers conferred by clause (a) of sub-section (1) of Section 9 and Section 74 of the Indian Stamp Act, 1899 (Act no. 2 of 1899), the Governor of Bihar is pleased to make rules that the duties of Stamp vendors and duties of Katibs (Deed writers) must not be performed by the same individual.

2. In view of the cleanliness of the Administration and for checking forgery and defalcations it is highly desirable that the duties of a stamp vendor and that of deed writer should not be performed by the same person or individual.

3. This notification will come in force at once. [There is another notification also

which contains exactly these wordings except "section 74" in para 1. The No. is S.O. 1450 dated 19.10.1982]

Comments & case-law

[Board of Revenue Circular dated 11.5.93—appointment of stamp vendors-while appointing new stamp vendors and issuing new licences the authority has to take into consideration the joint effect of the two conditions provided by the Board of Revenue (average monthly income of the stamp vendor and number of persons who can be appointed each year-there are no specific instructions by Board of Revenue that for a particular district, only three appointments are to be made-circular dated 11.5.93 would mean to say that not more than three appointments shall be made in one Sub-Registrar jurisdiction every year- when the Board of Revenue did not say that appointments would be restricted to the district as a whole then any interpretation by the departmental authorities that the inhibition/restriction shall be applicable to the whole of district, would not be proper. *Ali Akbar v. State of Bihar* 2002(2) PLJR 731.

Section 74 and Appendix V of Rules—general direction issued to D.Ms. not to issue stamp vending licence by the Secretary—cum I.G. (Registration)—Rules Bihar Boards Misc. Rules, 1958 does not authorise higher authority to issue a blanket stay injunction order against the statutory authority from exercising their powers. *Alli Akbar vs. Sanjay Kumar Rakesh*, 2005(1) PLJR 419.]

75. Power to make rules generally to carry out Act.—The State Government may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall ¹[be minimum five hundred rupees or equivalent to the amount of duty evaded whichever is more] to be incurred on breach thereof.

76. Publication of rules.—(1) All rules made under this Act shall be published in the Official Gazette.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

³[(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

76A. Delegation of certain powers.—The State Government may, by notification in the Official Gazette, delegate—

(a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue Authority; and

(b) all or any of the powers conferred on the Chief Controlling Revenue Authority by sections 45(1), (2), 56 (1) and 70(2) to such subordinate Revenue-authority as may be specified in the notification.

77. Saving as to court-fees.—²[Except for the provisions as to copies contained in Section 6-A] nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

77A. Saving as to certain stamps.—All stamps in denominations of annas four or multiples thereof shall be deemed to be stamps of the value of twenty five naye paise or, as the case may be, multiples thereof and shall accordingly, be valid for all the purposes of this Act.

78. Act to be translated, and sold cheaply.—Every State Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding twenty-five naye paise per copy.

1. Subs. by Bihar (Amdt.) Act 8 of 1991.

2. Subs. by Bihar Act 6 of 1937.

3. Ins. by Act 4 of 2005

79. Repeal.—[*Rep. by the Repealing and Amending Act, 1914 (10 of 1914).* S.3 and Schedule II.]

SCHEDULE I

[*Stamp duty on Instruments under the Indian-Stamp Act, 1899*]

(See Sec.3)

[**Comments.**—This Schedule contains Articles 13, 14, 16, 19, 28, 36, 37, 47, 53 and for the remaining Articles Schedule IA is to be seen.]

Description of Instrument	Proper Stamp-duty
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* * * *

13. Bill of Exchange (as defined by Sec. 2(2)
not being a Bond, bank note or currency note—

Description of Instrument	Proper Stamp-duty
---------------------------	-------------------

(a) '[* * *]

(b) Where payable otherwise than on demand

(i) where payable not more than three months after date or sight—

if the amount of the bill or note does not exceed Rs. 500;

²[thirty paise.

if it exceeds Rs. 500 but does not exceed Rs. 1,000;

²[sixty paise.

and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000;

²[sixty paise.

(ii) where payable more than three months but not more than six months after date or sight—

if the amount of the bill or note does not exceed Rs. 500;

²[sixty paise.

if it exceeds Rs. 500 but does not exceed Rs. 1,000;

²[one rupee twenty paise.

and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000;

²[one rupee twenty paise.

(iii) where payable more than six months but not more than nine months after date or sight—

if the amount of the bill or note does not exceed Rs. 500;

²[Ninety paise.

if it exceeds Rs. 500 but does not exceed Rs. 1,000;

²[One rupee and eighty paise.

and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000;

²[One rupee and eighty paise.

(iv) where payable more than nine months but not more than one year after date or sight—

1. Omitted by Act 5 of 1927.

2. Subs. by S.O. 130 (E) dated 28.1.2004 (w.e.f. 1.3.2004)

Description of Instrument	Proper Stamp-duty
if the amount of the bill or note does not exceed Rs. 500;	[One rupee and twenty five paise.
if it exceeds Rs. 500 but does not exceed Rs. 1,000;	[Two rupees and fifty paise.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000;	[Two rupees fifty paise.
(c) where payable at more than one year after date or sight—	
if the amount of the bill or note does not exceed Rs. 500;	[Two rupees and fifty paise.
if it exceeds Rs. 500 but does not exceed Rs. 1,000;	[Five rupees
and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000;	[Five rupees
14. Bill-of-Lading (including a through bill of lading).	[One rupee] N.B. —If a bill of lading is drawn in parts, the proper stamp there of must be borne by each one of the set.

Exemptions

(a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act 1889 (10 of 1889)² and are to be delivered at another place within the limits of the same port.

(b) Bill of lading when executed out of India and relating to property to be delivered in India.

* * * *

16. Bottomary Bond, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.

* * * *

19. Certificate of other document, evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.

The same duty as a Bond (No. 15) for the same amount.

Two annas.

1. Subs. by S.O. 130 (E) dated 28.1.2004 (w.e.f. 1.3.2004)

2. Now see Indian Ports Act, 1908

Description of Instrument		Proper Stamp-duty
1[27. Debenture (whether a mortgage debenture or not), being a marketable security transferable—		
(a) by endorsement or by a separate instrument of transfer-		
where the amount or value does not exceed Rs.10;		Ten paise.
where it exceeds Rs. 10 and does not exceed Rs.50;		Twenty paise.
Ditto	50	Ditto 100;
		Thirty-five paise.
Ditto	100	Ditto 200;
		Seventy-five paise.
Ditto	200	Ditto 300;
		One rupee ten paise.
Ditto	300	Ditto 400;
		One rupee fifty paise.
Ditto	400	Ditto 500;
		One rupee eighty-five paise.
Ditto	500	Ditto 600;
		Two rupee twenty-five paise.
Ditto	600	Ditto 700;
		Two rupees sixty paise.
Ditto	700	Ditto 800;
		Three rupees.
Ditto	800	Ditto 900;
		Three rupee forty paise.
Ditto	900	Ditto 1000;
		Three rupee seventy-five paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000;		One rupee eighty-five paise.
(b) by delivery—		
where the amount or value of the consideration for such debenture as set forth therein does not exceed Rs. 50;		Thirty-five paise.
where it exceeds Rs. 50 but does not exceed Rs.100		Seventy-five paise
Ditto	100	Ditto 200;
		One rupee fifty paise.
Ditto	200	Ditto 300;
		Two rupees twenty-five paise.
Ditto	300	Ditto 400;
		Three rupees.
Ditto	400	Ditto 500;
		Three rupees seventy-five paise
Ditto	500	Ditto 600;
		Four rupees fifty paise.
Ditto	600	Ditto 700;
		Five rupees twenty-five paise.
Ditto	700	Ditto 800;
		Six rupees.
Ditto	800	Ditto 900;
		Six rupees seventy-five paise.
Ditto	900	Ditto 1000;
		Seven rupees fifty paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000:		Three rupees seventy-five paise.]

Description of Instrument	Proper Stamp-duty
<p><i>Explanation.</i>—The term "Debenture" includes any interest coupons attached thereto but the amount of such coupons shall not be included in estimating the duty.</p> <p style="text-align: center;"><i>Exemption</i></p> <p>A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture holders:</p> <p>Provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.</p>	
<p>See also Letter of Allotment of Shares (No.36)</p>	<p>One anna.</p>
<p>28. Delivery-order in respect of goods, that is to say, any instrument entitling any person there in named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.</p>	
<p>Deposit of Title-Deeds. See Agreement relating to Deposit of Title-deeds, Pawan or Pledge (No.6).</p>	
<p>Dissolution of Partnership, See Partnership (No. 46)</p>	
<p>* * * *</p>	
<p>36. Letter of allotment of Shares, in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.</p>	<p>Two annas.</p>
<p>See also Certificate or other Document (No.19)</p>	
<p>37. Letter of Credit, that is to say instrument by which one person authorises another to give credit to the person in whose favour it is drawn.</p>	
<p>Letter of Guarantee See Agreement (No. 5).</p>	<p>[One rupee]</p>
<p>* * * *</p>	
<p>[47. Policy of Insurance—</p>	

1. Subs. by S.O 130 (E) dated 28.1.2004 (w.e.f. 1.3.2004) for "two".
 2. Subs. for the original divisions A and B by Act V of 1936.

Description of Instrument	Proper Stamp-duty	
	If drawn singly	If drawn in duplicate for each part
A Sea Insurance (See Sec. 7-(1) for or upon any voyage-		
(i) where the premium or consideration does not exceed the rate of one-eighth percentum of the amount insured by the policy;	'[Five paise]	'[Five paise]
(ii) in any other case, in respect of every full sum of one thousand five hundred rupees and also any fractional part of one thousand five hundred rupees insured by the policy;	'[Five paise]	'[Five paise]
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy-		
where the insurance shall be made for any time not exceeding six months;	'[Ten paise]	'[Five paise]
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	'[Ten paise]	'[Five paise]
² [B. Fire Insurance and other classes of insurance, not elsewhere included in this article, covering goods, merchandise, personal effects, crops and other property against loss or damage.		
(1) in respect of an original policy-		
(i) when the sum insured does not exceed Rs. 5000;		'[Twenty five paise]
(ii) in any other case; and		'[Fifty paise]
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.		One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.
C. Accident and Sickness Insurance—		
(a) against railway accident, valid for a single journey only.		[Five paise]'

Exemption

When issued to a passenger travelling by the

1. Subs. by S.O. 130(E) dated 28.1.2004 (w.e.f. 1.3.2004)
2. Subs. for the original divisions A and B by Act V of 1936.

Description of Instrument	Proper Stamp-duty	
intermediate or the third class in any railway.		
(b) in any other case- for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000 and also where such amount exceed Rs. 1,000, for every Rs. 1,000 or part thereof.	<p>¹[Ten paise:</p> <p>²[Provided that in case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs. 2.50 per Rs. 1,000. the duty on such instrument shall be ¹[Five paise] for every Rs. 1,000 or part thereof of the maximum amount which may become payable under it]</p>	
² [CC. Insurance by way of indemnity against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen's Compensation Act, 1923, (8 of 1923), for every Rs. 100 or part thereof payable as premium]	¹ [Five paise]	
³ [D. Life Insurance or Group Insurance or other insurance not specifically provided for-except such Re-insurance as is described in Division E of this Article-	If drawn, singly	If drawn in duplicate for each part.
(i) for every sum insured not exceeding Rs. 250	¹ [Ten paise]	¹ [Five paise]
(ii) for every sum insured exceeding Rs. 250 but not exceeding Rs. 500.	¹ [Ten paise]	¹ [Five paise]
(iii) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000.	¹ [Twenty paise]	¹ [Ten paise]
<i>Exemption</i>		
Policies of Life-insurance granted by the Director General of Post Offices in accordance with	N.B.- If a policy of group insurance is	

1. Subs. by S.O. 130 (E) dated 28.1.2004 (w.e.f. 1.3.2004)

2. Ins. by Act XV of 1925.

3. Subs. for original Division D by Act XVIII of 1928.

Description of Instrument	Proper Stamp-duty
rules for Postal Life-Insurance issued under the authority of the Central Government.]	renewed or otherwise modified whereby the sum insured exceeds the sum previously insured on which stamp duty has been paid, the proper stamp must be borne on the excess sum so insured.
<p>E.-Re-Insurance by an Insurance Company which has granted a policy '[of the nature specified in Division A or Division C of this Article] with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.</p>	<p>One quarter of the duty payable in respect of the original insurance, but not less than] '[Five paise] or more than '[Fifty paise:</p> <p>Provided that if the total amount of duty payable is not a multiple of five paise, the total amount shall be rounded off to the next higher multiple of five naye paise.</p>
<i>General Exemption</i>	
Letter of cover or engagement to issue a policy of insurance:	
Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.	
* * * * *	
'[49. Promissory Note , as defined by Sec. 2 (22)]	
(a) when payable on demand-	
(i) when the amount or value does not exceed Rs. 250;	'[Five paise]
(ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000;	'[Ten paise]
(iii) in any other case;	'[Fifteen paise]
(b) when payable otherwise than on demand.	The same duty as a Bill of Exchange (No. 13) for the same amount

Description of Instrument	Proper Stamp-duty
	payable otherwise than on demand.]
<p>52. Proxy empowering any person to vote at any one election of the members of a district or local board, or of a body of municipal commissioners. or at any one meeting of (a) members of an incorporated company or other body corporate whose stocks or funds is or are divided into shares and transferable, (b) a local authority, or (c) proprietors, members or contributors to the Funds of any institution.</p>	¹[Fifteen paise.]
<p>53. Receipt, as defined by Sec. 2(23) for any money or other property the amount or value of which exceeds ³[five thousand rupees]</p>	²[One rupee]
<i>Exemption</i>	
Receipt—	
(a) endorsed on or contained in any instrument duly stamped or any instrument exempted under the proviso to Sec. 3, (instruments executed on behalf of the Government or any cheque or bill of exchange payable on demand acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest or annuity, or other periodical payment thereby secured;	
(b) for any payment of money without consideration;	
(c) for any payment of rent by a cultivator on account of land assessed to Government revenue or (in the States of Madras, Bombay and Andhra as they existed immediately before the 1st November, 1956) of Inam lands.	
(d) for pay or allowances by non-commissioned or petty officers, soldiers, sailors or airmen of the Indian military, naval or air forces when serving in such capacity, or by mounted police constables;	
(e) given by holders of family-certificate in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned or petty officer, soldier, sailors or airmen of any of the said forces and serving in such capacity;	
(f) for pensions or allowances by persons receiving such pensions or allowances in respect	

1. Subs. by S.O. 130 (E) dated 28.1.2004 (w.e.f. 1.3.2004)

2. Subs. for "twenty paise" by Act 32 of 1994.

3. "Rs. 5000" subs. for "Rs. 500" by Act 2 of 2004.

Description of Instrument	Proper Stamp-duty
<p>of their service as such non-commissioned or petty officers, soldiers, sailors or airmen and not serving the Government in any other capacity;</p> <p>(g) given by a headman or lambardar for land revenue or taxes collected by him;</p> <p>(h) given for money or securities for money deposited in the hands of any banker, to be accounted for;]</p> <p>Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:</p> <p>Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.</p> <p>See also Policy of Insurance No. 47-B (2).</p> <p style="text-align: center;">* * * * *</p>	
<p>60. Shipping order, for or relating to the conveyance of goods on board of any vessel.</p>	Six paise
<p>¹[62. Transfer (whether with or without consideration)-</p>	
<p>(a) of shares in an incorporated company or other body corporate;</p>	<p>¹[Twenty-five paise for every hundred rupees or part thereof of the value of the share:</p>
<p>Provided that rates of stamp duty specified in column (2) on Bills of Exchange for items (b) and (c) in Article 13 and on promissory note for item (b) of Article 49 shall not apply to usance bills of exchange or promissory notes drawn or made for securing finance from Reserve Bank of India, Industrial Finance Corporation of India, [Industrial Development Bank of India,² [Small Industries Development Bank of India.] State Financial Corporations, Commercial Banks and Co-operative Banks for (a) bona fide commercial or trade transactions, (b) seasonal agricultural operations or the marketing of crops, or (c) production or marketing activities of cottage and small scale industries and such instruments shall bear the rate of stamp duty at one-fifth of the rate mentioned against items (b) and (c) in Article 13 and item (b) in Article 49 of Schedule I of the Indian Stamp Act, 1899 (2 of 1899).</p>	
<p><i>Explanation 1.</i>—For the purposes of the proviso—</p>	
<p>(a) the expression "agricultural operations" includes animal husbandry and allied activities jointly undertaken with agricultural operations;</p>	
<p>(b) "crops" include products of agricultural operations:</p>	
<p>(c) the expression "marketing of crops" includes the processing of crops prior to marketing by agricultural producers or any organization of such producers</p>	
<p><i>Explanation 2.</i>—The duty chargeable shall, wherever necessary, be rounded off to the next five paise.</p>	

1. Subs. by S.O. 130 (E) dated 28.1.2004 (w.o.f. 1.3.2004)

2. Ins. by S.O. 1145 (E) dated 18.10.2004 (w.o.f. 1.3.2004)

SCHEDULE- 1A]¹Stamp Duty on Instruments
(See section 3, First proviso)

No.	Description of Instrument	Proper Stamp-Duty
1	2	3
1.	Acknowledgement , of a debt exceeding Rs. 100/- in amount or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession; provided that such acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest, or to deliver any other goods or other property.	
	(a) When it does not exceed Rs.100-	(a) Nil
	(b) When it exceeds Rs. 100/- but does not exceed Rs. 1000/-	(b) Re. 1/- (One Rupee)
	(c) When it exceeds Rs. 1000/- but does not exceed Rs. 1,00,000/-	(c) Rs. 25/- (Twenty five)
	(d) When it exceeds Rs. 1,00,000/-	(d) Rs. 100/- (One hundred)
2.	Administration Bond , including a Bond given under Sections 29, 375 and 376 of the Indian Succession Act, 1925 (xxxix of 1925) or Section 6 of the Government Saving Banks Act, 1873 (v of 1873)	
	(a) Where the amount does not exceed Rs. 1000.	(a) Rs. 100 (One hundred)
	(b) In other case	(b) The duty payable under cl. (a) for the first Rs. 1000, and in addition, the same duty as a Bond (No. 15) for the portion in excess of Rs. 1000.
3.	Adoption deed , that is to say any instrument (other than will) recording	Rs. 2000/- (Two thousand)

1. Subs. by Bihar Act 11 of 2002.

1	2	3
	an adoption or conferring or purporting to confer an authority to adopt.	
4.	Affidavit , including an affirmation or declaration in the case of person by law allowed to affirm or declare instead of swearing.	³ [Rs. 100/- (One hundred)]
	<i>Exemptions:-</i>	
	Affidavit or declaration in writing when made-	
	(a) As a condition for enrolment under the Indian Army Act, 1911 or the Indian Air Force Act, 1932.	
	(b) Omitted by Act 2 of 1958	
	(c) For the sole purpose of enabling any person to receive any pension or charitable allowance.	
5.	Agreement or memorandum of an Agreement	
	(a) If relating to the sale of a bill of exchange.	(a) Rs. 10/- for every 10,000 or part thereof
	(b) If relating to construction of a house or building including a multiunit house or building or unit of apartment/flat/portion of a multistoried building or for development/sale of any other immovable property.	(b) Two Rupees for every one hundred rupees or part thereof ¹ [on the market value of the land/land with building as the case may be], provided that the duty paid at the time of such agreement or Memorandum of an Agreement may be set off against the duty to be paid at the time of the sale of such immovable property to the said party.
		² ["Explanation—For subsequent agreements, relating to construction of a house or building including a multiunit house or building or unit of apartment/flat/portion of a multistoried building or for development/sale of any other immovable property, the stamp duty, if not paid earlier, on such agreements relating to construction of a house or building including a multistoried building or for development/sale of any other immovable property shall be chargeable at the rate as prescribed above in clause (b) subject to a maximum of Rs. 10,000/- (Rupees Ten Thousand)."]
	(c) If not otherwise provided for	³ [Rs. 1000/- (One thousand)]
	<i>Exemptions:-</i>	
	(a) Agreement or Memorandum of agreement, which is, omitted by Act 2 of 1958.	
	(b) Made in the form of tenders to the Central Government for, or relating to any loan;	
	(c) Made under the European	

1. Words "on the market value of the estimated cost of the proposed construction/development of such property" subs. by Notifn. S.O. 1/E1-480/2002-2022 dated 17.9.2004

2. Ins by So 1.M.1-255/2006, 364 dated 8.2.2007

3. Subs by So 1.M.-169/2012-1026 dated 15.2.2013 (Subs for Rs. 20/- and Rs. 100/-)

1	2	3												
	Vagrancy Act, 1874 (ix of 1874), Section 17.													
6.	Agreement relating to deposit of title deeds, pawn, or pledge or hypothecation, that is to say, any instrument evidencing an agreement relating to	Description of Proper Stamp Duty instrument												
	(1) The deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security) or													
	(2) The '[Pawn or pledge or hypothecation] of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan of an existing or future debt.													
	(a) If such loan or debt is repayable on demand or after a period of three months from the date of the instrument evidencing the agreement.													
		<table border="0"> <thead> <tr> <th></th> <th>If drawn singly (in Rs.)</th> <th>If drawn in set of two for each part of the set (in Rs.)</th> <th>If drawn in set of three for each part of the set (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>(i) When the amount of the loan of debt does not exceed Rs. 200</td> <td>1.00</td> <td>1.00</td> <td>1.00</td> </tr> <tr> <td>(ii) When it exceeds Rs. 200/- but does not</td> <td>2.00</td> <td>1.00</td> <td>1.00</td> </tr> </tbody> </table>		If drawn singly (in Rs.)	If drawn in set of two for each part of the set (in Rs.)	If drawn in set of three for each part of the set (in Rs.)	(i) When the amount of the loan of debt does not exceed Rs. 200	1.00	1.00	1.00	(ii) When it exceeds Rs. 200/- but does not	2.00	1.00	1.00
	If drawn singly (in Rs.)	If drawn in set of two for each part of the set (in Rs.)	If drawn in set of three for each part of the set (in Rs.)											
(i) When the amount of the loan of debt does not exceed Rs. 200	1.00	1.00	1.00											
(ii) When it exceeds Rs. 200/- but does not	2.00	1.00	1.00											

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	exceed Rs. 600/-			
	(iii) when it exceeds Rs. 600/- but does not exceed Rs. 1000/-	3.00	2.00	1.00
	(iv) When it exceed Rs. 1000/- but does not exceed Rs. 1200/-	4.00	2.00	2.00
	(v) When it exceeds Rs. 1200/- but does not exceed Rs. 1600/-	5.00	3.00	2.00
	(vi) When it exceeds Rs. 1600/- but does not exceed Rs. 2500/-	8.00	4.00	3.00
	(vii) When it exceeds Rs. 2500/- but does not exceed Rs. 5000/-	15.00	8.00	5.00
	(viii) When it exceeds Rs. 5000/- but does not exceed Rs. 7500/-	21.00	11.00	8.00
	(ix) When it exceeds Rs. 7500/- but does not exceed Rs. 10,000/-	29.00	15.00	10.00
	(x) When it exceeds Rs.	43.00	22.00	15.00

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	10,000/- but does not exceed Rs. 15,000/-	
	(xi) When it exceeds Rs. 15,000/- but does not exceed Rs. 20,000/-	57.00 29.00 19.00
	(xii) When it exceeds Rs. 20,000/- but does not exceed Rs. 25,000/-	71.00 36.00 24.00
	(xiii) When it exceeds Rs. 25,000/- but does not exceed Rs. 30,000/- and	85.00 43.00 29.00
	(xiv) for every additional Rs. 10,000/- or part thereof, in excess of Rs. 30,000/-	29.00 15.00 10.00

- (b) If such loan or debt is re-payable within three months from state of such instrument.

Half the duty payable on a loan or debt under clause (a), for the amount secured.

Explanation: For the purpose of clause (a) of this article, notwithstanding anything contained in any judgment, decree or order of any court or order of any authority, any letter, note, memorandum or writing relating to the deposit of title deeds, whether written or made either before or at any time when or after the deposit of the title deed is effected, of any, whether it is in respect of the security for the first loan or any additional loan or loans taken subsequently, such letter,

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	<p>note, memorandum or writing shall in the absence of any separate agreement or memorandum of agreement relating to deposit to such title deeds, be deemed to be, an instrument, evidencing an agreement relating to the deposit of title deeds.</p> <p><i>Exemptions:</i> (i) Letter of hypothecation accompanying will or exchange.</p> <p>(ii) Instrument of Pawn or pledge or goods if unattested.</p>	
	<p>7. Appointment for the purpose of execution of any power</p> <p>(a) Whether of trustees or</p> <p>(b) Whether of property movable or immovable, where made by any writing not being a will.</p>	<p>(a) Rs. 250/- (Two hundred fifty)</p> <p>(b) Rs. 500/- (Five hundred)</p>
	<p>8. Appraisal or valuation:-</p> <p>Otherwise than under an order of the court in the course of a suit</p> <p>(a) When the amount does not exceed Rs. 1000/-</p> <p>(b) In any other case</p> <p><i>Exemption:</i></p> <p>(a) Appraisal or valuation made, for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.</p> <p>(b) Appraisal of crops for the purpose of ascertaining the amount to be given to landlord as rent.</p>	<p>(a) The same duty as Bond (No. 15) for such amount.</p> <p>(b) Rs. 200/- (Two hundred)</p>
	<p>9. Apprenticeship deed, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment.</p> <p><i>Exemption:</i></p> <p>Instrument of apprenticeship executed by a Magistrate under the Apprentices Act, 1850 (XIX of 1850) or by which a person is apprenticed</p>	<p>Rs. 100/- (One hundred)</p>

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	by or at the, charge of any public charity.	
10.	Article of Association of a Company—	
	(a) Where the Company has no share capital.	(a) Rs. 1500/- (One thousand five hundred)
	(b) When the company has nominal share capital or increase the share capital.	(b) 0.15% of such share capital, subject to a minimum of Rs. 1000/- and a maximum of Rs. 5,00,000/- (Five lakh)
	<i>Exemption:</i>	
	Articles of any Association not formed for profit and registered under section 26 of Companies Act, 1956 (No. 1 of 1956)	
12.	Award , that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit-	
	(a) Where the award is quantified in monetary terms.	Re. 1/- for every Rs. 1000/- or part thereof, of the amount of the awarded value of property to which the award relates.
	(b) Where the award does not lend itself to quantification in monetary terms.	Rs. 500/- (Five hundred)
15.	Bond [as defined by section 2(5)] not being a debenture (no. 27) and not being otherwise provided for by this Act, or by the Court Fees Act, 1870.	Rs. 3/- (Three) for every Rs. 100/- (Hundred) of the value of the bond.
	<i>Exemption:</i> Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscription to charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.	
17.	Cancellation , Instrument (including any instrument by which any instrument previously executed is	[Rs. 1000/- (One thousand)

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	cancelled) if attested and not otherwise provided for.	
18.	Certificate of sale: (in respect of each property put as a separate lot for auction and sold) granted to the purchaser of any property sold by public auction by a civil or revenue court or collector or other revenue officer.	² ["The same duty as a conveyance on purchase price or value based on Minimum Valuation Register of the property whichever is higher"
20.	Charter party, that is to say instrument (except an agreement for any hire of a tug-steamer) where by vessel or some specified principal part thereof is let for the specified purpose of the charterer, whether it includes a penalty clause or not.	Rs. 100/-(One hundred)
22.	Composition deed: that is to say any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence for the benefit of his creditors.	Rs. 250/-(Two hundred fifty)
23.	³ [Conveyance (Sale deed only).	(a) in case of transfer from male to female 5.7%, (b) in case of transfer from female to male 6.3%, (c) in any other case 6%.
24.	Copy or extract, certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court fees:	² [Rs. 100/-(One hundred)

1. "Article 23" subs by No. 1/M'—131—2005—920—dated 8.5.2006.

2. Subs by S.O. 1/M-169/2012-1026 dated 15.2.2013.

3. Subs by Notifn. No. 10/Ra.M.S. Neeti-27/2015-3482 dt. 29.7.2015.

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Exemption:

(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

25. **Counterpart** or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

¹[Rs. 100/- (One hundred)]

(a) ²[xxx]

(b) ²[xxx]

Exemption:

Counterpart of any lease granted to a cultivator when such lease is exempted from duty.

26. **Customs bond:**

(a) When the amount does not exceed Rs. 5,000/-

(a) Rs. 100/- (One hundred)

(b) When the amount exceeds Rs. 5,000/- but does not exceed Rs. 10,000/-

(b) Rs. 200/- (Two hundred)

(c) When the amount exceeds Rs. 10,000/-

(c) Rs. 300/- (Three hundred)

27. **Debenture:** (whether a mortgage debenture or not) being a marketable security transferable

(a) By endorsement or by a separate instrument of transfer

(a) The same duty as Bond (No. 15) for the same amount.

(b) By delivery

(b) The same duty as conveyance (No. 23) for consideration equal to the face amount of the debenture.

1. Ins. by S.O. 1/M-169/2012-1026 dated 15.2.2013.

2. Deleted by *ibid*.

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Explanation:

The term "Debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.

Exemption

A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage deed, duly stamped in respect of the full amount of debentures to be issued thereunder whereby, the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture holders provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

29. **Divorce:** Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.

Rs. 250/- (Two hundred fifty)

30. **Entry as an advocate,** or attorney on the roll of any High Court, under the Indian Bar Councils Act, 1926, or in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884.

Rs. 1000/- (One thousand)

31. **Exchange of property:** Instrument of-

(a) For exchange of agricultural land, where the area of the exchange property those not vary by more than 25%

(a) Fully exempted.

(b) In other cases

(b) Same duty as conveyance (No.-23) for consideration or market value, based on the market value of the property of greater value under exchange.

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32.	<p>Instrument of further charge that is to say, any instrument imposing a further charge on mortgaged property</p>	<p>(a) The same duty as ¹[mortgage [No. 40(a)]] for a consideration equal to the amount of the further charge secured by such instrument.</p>
	<p>(b) When such mortgage is of the description referred to in clause (b) of Article No. 40 (that is, without possession)</p>	<p>(b) The same duty as mortgage [No. 40 (b)] for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.</p>
33.	<p>²[Gift Deed</p>	<p>(a) in case of transfer from male to female 5.7%, (b) in case of transfer from female to male 6.3%, (c) in any other case 6%. "</p>
	<p><i>Exemption:</i></p>	
	<p>School, College, Cremation or Burial ground, Orphanage, Public Road, Panchayat Bhawan, Public Library, Community Hall, Institution for Women and Children, or physically or mentally handicapped persons and Charitable Dispensaries and hostels,</p>	

1. Words "Conveyance (No. 23)" subs. by S.O. 12/-480/2002-2965 dt. 18.12.2003.

2. Subs by Notifn. No. 10/Ra.M.S. Neeti-27/2015-3482 dt. 29.7.2015.

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	if executed in favour of Governor of the State.	
34.	Indemnity Bond:	²["The same duty as Security Bond (No. 57) for the same amount, subject to a maximum of Rs. 1000/- (Rupees One thousand)".
35.	² [(i) Where the lease purports to be for a term of less than one year	(i) The same duty as conveyance (No. 23) on 2 percentum of the market value of the property based on MVR.
	(ii) Where the lease purports to be for a term of 1 year & above but not exceeding ten years.	(ii) The same duty as conveyance (No. 23) on 5 percentum of the market value of the property based on MVR.
	(iii) Where the lease purports to be for a term exceeding 10 years but less than 30 years.	(iii) The same duty as conveyance (No. 23) on 15 percentum of the market value of the property based on MVR.
	(iv) Where the lease purports to be for a term of 30 years and exceeding 30 years or in the perpetuity or where the lease does not purport to be for any definite term.	(iv) The same duty as conveyance (No. 23) on 50 percentum of the market value of the property based on MVR.

1. Words "Market value" Subs. by S.O. 1E/480/2002-2965 dt. 18.12.2003.

2. Subs. by S.O. 1/M-169/2012-1026 dated 15.2.2013.

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	<p>(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved.</p> <p>(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.</p>	<p>The same duty as a Conveyance (No.23) for a consideration or ¹[xxx] value equal to the amount or the value of such fine or premium or advance as set forth in the lease.</p> <p>The same duty as a Conveyance (No.23) for a consideration or ¹[xxx] value equal to the amount or value of such fine or premium advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered provided that in any case when an agreement to lease is stamped with the <i>advalorem</i> stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed Rs. 2.10/- (Rs. Two paise ten).</p>
	<p>²(d) Where the lessee undertakes to effect improvement in the leased property and agreed to make over the same to the lessor at the time of termination of lease</p>	<p>(d) The same duty as conveyance (No. 23) for value of the improvement "contemplated to be made by the lessee as set forth in the deed in addition to the duty chargeable under sub-clause (a)/(b)/(c) as the case may be.</p>
	<p>(e) Toll agreements of any description</p> <p><i>Exemption:</i></p> <p>Lease, executed in the case of cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite terms is expressed and such terms does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.</p> <p><i>Exemption</i></p> <p>When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of Cesses, or the owners share</p>	<p>(e) The same duty as a conveyance (No. 23) on the total amount of contract agreed between the parties to the toll agreement.</p>

1. Words "Market value" Subs. by S.O. 1E/480/2002-2965 dt. 18.12.2003.

2. Ins. by S.O. 1/M-169/2012-1026 dated 15.2.2013.

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	of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent,	
	[35-A Letting on Rent —That is to say any such instrument by which any House/ Flat or Building is being lent on rent: In case of letting of Houses/flats and Buildings on rent:— Explanation.—along with the house/ flat or building any portion of land, beyond the minimum required area of set back is also let on rent then in that case stamp duty for the rent shall be chargeable according to Article-35.	1/2% (half per cent) of the amount of rent payable for the total period for which such House/flat or Building has lent on rent."
38.	Letter of License , that is to say any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Rs. 300/- (Three hundred)
39.	Memorandum of Association of a Company:	
	(a) If accompanied by Articles of Association under section 17 of the Indian Companies Act, 1913 (VII of 1913)	Rs. 500/- (Five hundred)
	(b) If not accompanied as above	Rs. 1000/- (One thousand)
	<i>Exemption:</i> Memorandum of any association not formed for profit and registered under section 26 of The Indian Companies Act, 1913 (VI of 1913)	
40.	Mortgage Deed , not being an Agreement relating to deposit of Title deeds, Pawn or Pledge (No.56) Bond (No.15), Mortgage of a Crop (No.41), Respondentia Bond (No.56), or Security Bond (No.57)	
	(a) When possession of the property or any part of the property comprised in such deed is given by the mortgagor or agree to be given	(a) Rs. 2/- (Two) for every one hundred rupees, ¹ [on the amount secured] by such deed.
	(b) When possession is not given or agreed to be given as aforesaid.	² [(b) Rs. 1.00 (Rs. one rupee) for every 100/- (one hundred) rupees, based on the amount secured by such deed.]
	<i>Explanation:</i> A mortgagor who gives to the mortgagee a power of attorney to collect rents or a lease of the	

1. Words "based on the consideration or market value equal to the amount secured" by subs. S.O. 1E/-480/2002-2965 dt. 18.12.2003.
2. Subs. by *ibid*.
3. Ins by So. 1/M1-131-2005-1700 at 30.6.2008

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property mortgaged or part thereof, if deemed to give possession within the meaning of this article.

(c) When a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above mentioned purpose where the principal or primary security is duly stamped.

(c) 0.16% of the amount secured by such deed.

Exemption:

Instrument executed by persons taking advances under the Land Improvement Loans Act 1883; or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.

41. **Mortgage of a crop**, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, where the crop is or is not in existence at the time of the mortgage-

(a) When the loan is repayable not more than three months from the date of the instrument

(a) Re. 1/-(One) for every Rs. 200 or part thereof, based on the amount of loan.

(b) When the loan is repayable after more than three months, from the date of the instrument

(b) Re. 1/-(One) for every Rs. 100 or part thereof, based on the amount of loan.

42. **Notarial Act**, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a protest (No.50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary public.

Rs. 10/-(Ten)

43. **Note or Memorandum**, sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal.

(a) Of any goods exceeding value Rs. 20/-

Rs. 15/-(Fifteen)

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	(b) Of any stock of marketable security exceeding in value Rs. 20/-	Rs. 15/-(Fifteen) per 1000(thousand) or part thereof, subject to a maximum of Rs. 200 (Two hundred).
44.	Note of protest by the Master of Ship	Rs. 15/- (Fifteen)
45.	Partition: Instrument of [as defined by section 2(15)]	<p>The same duty as a Bond (No. 15) for the amount of the market value of the separated share or shares of the property.</p> <p>N.B.—The largest shares remaining after the property is partitioned (or if there are two or more shares of equal market value and not smaller than any of the other shares then one of such equal shares) shall be deemed to be that from which the other shares are separated;</p> <p>Provided always that-</p> <p>(a) When an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement the duty chargeable upon the instrument effecting such a partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than Rs. 2.10;</p> <p>(b) Where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment amount for the purpose of duty shall be calculated at not more than five times the annual revenue;</p> <p>(c) Where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition is</p>

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		<p>stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed Rs. 2.10.</p> <p>⁴[Rs. 50 (Rupees fifty) only as the stamp duty payable on the partition deed of the inherited/family property.</p>
46. Partnership: (A) Instrument of-		
(a) If the capital of partnership is disclosed in an instrument		² [Rs. 2.5% of the capital of partnership deed subject to a minimum of Rs. 1000/- (Rupees One thousand) and the maximum of Rs. 10,000/- (Rupees ten thousand)].
(b) in any other cases		(b) Rs. 10,000/- (Ten thousand)
²[B. Reconstitution of partnership.—		
(a) When immovable property contributed as share by a partner or partner remains with the firm at the time of outgoing in whatever manner by such partner or partners on reconstitution of such partnership firm.		(a) The same duty as a Conveyance duty (No. 23) on the value as fixed in MVR of the immovable property remaining with the firm,
(b) In any other case		(b) Rs. 5000/- (Rupees Five thousand)
³[C. Dissolution of partnership.—		
(a) Where the immovable property which belonged to one partner or partners when the partnership commenced is distributed or allotted or given to another partner or partners.		(a) The same duty as Conveyance (No. 23) for value equal to the value as fixed in MVR of the property distributed or allotted or given to the partner or partners under the instrument of dissolution, in addition to the duty which would have been chargeable on such dissolution if such property had not been distributed or allotted or given.
(b) In any other case		(b) Rs. 5000/- (Rupees Five thousand)
48. Power of attorney: As defined by section 2(21) not being a proxy:		
(a) When given to person other than the father, mother, wife, husband, sons, daugh-		(a) Same as Conveyance (No. 23) a consideration or value as fixed in MVR of the property formally

1. Clause (h) substituted and made clause(g) and clause (g) made clause (h) by S.O. 1E1/-480/2002-2965 dated 18.12.2003.
2. Subs. by S.O. 1/M-169/2012-1026 dated 15.2.2013.
3. Ins by ibid.
4. Vide Notification No. M1-1-11/2017-4008 dated 7.12.2018/

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	<p>ters, brothers, sisters (children of executants parents), wife of son, grandson, granddaughter (children of executants son/daughter) in relation to the executants authorizing such person to sell or transfer immovable property situated in the State of Bihar.</p> <p>(b) When given to blood relations as mentioned in column (a) authorizing to sell or transfer immovable property, or When required in suits or proceedings in a court, or Given for purposes other than authorizing to sell or transfer or convey immovable property situated in the State of Bihar.</p>	<p>subject matter of such authority, whichever is more.</p> <p>(b) Rs. 1000/- (Rupees One thousand)</p>
50.	Protest of Bill or Note , that is to say any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note	Rs. 50/-(Fifty)
51.	Protest by the Master of a Ship , that is to say, any declaration the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charter of the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary public or other person lawfully acting as such	Rs. 50/-(Fifty)
54.	Re-conveyance of mortgage property	³ ["Same as Mortgage [No. 40(b)] subject to maximum limit of Rs. 1000/- (Rupees One thousand)"]
55.	Release , that is to say,	

1. Clause (h) substituted and made clause(g) and clause (g) made clause (h) by S.O. 1E1/-480/2002-2965 dated 18.12.2003.
2. Ins by So. 1.M.1-255/2006, 364 dated 8.2.2007
3. Subs. by S.O. 1/M-169/2012-1026 dated 15.2.2013.

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¹[A. Any instrument (not being such a release as is provided for by section-23A) whereby a co-owner, co-shares or coparcener renounces his interest share, part or claim in favour of another co-owner, co-sharer or co-parcener.-

- (a) If the release deed of an ancestral property or part thereof is executed by or in favour of brother or sister (Children of renouncer's parents) or son or daughter or son of predeceased son or daughter of predeceased son or father or mother, or spouse of the renouncer or the legal heirs of the above relatives.
- (b) In any other case

(a) Same duty as a Bond (No. 15) the amount equal to the value of the share, interest, part or claim renounced based on Minimum Value Register.

(b) Same duty as on Conveyance (No. 23) for the amount equal to the value of the share, interest, part or claim renounced based on Minimum Value Register.

B. Release of Benami right:

The same duty as a Conveyance (No.23) for a consideration equal to value of the property as set forth in the release.

C. Release of right of redemption of a mortgage with possession or the right to obtain re-conveyance of the property already conveyed.

The same duty as a Conveyance (No.23) for the amount of such consideration as set forth in the release.

56. **Respondentia Bond**, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.

The same duty as Bond (No. 15) for the amount of the loan secured.

57. **Security bond** or mortgage deed, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secured the due performance of a contract.

¹["The same duty as Bond (No. 15) for the amount secured subject to the maximum limit of Rs. 1000/- (Rupees One thousand)".

Exemptions:

Bond or other instrument, when executed-

(a) by any person for the purpose of guaranteeing that the local income

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or any other object of public utility shall not be less than a specified sum per mensem;

(b) executed by persons taking advances under the Land Improvement Loans Act, 1883 (XIX of 1883), or the Agriculturist Loans Act, 1884 (XII of 1884), or by their Sureties as security for the repayment of such advances.

(c) executed by officers of the Government or their sureties to secure the due execution of any office, or the due accounting for money or other property received by virtue thereof.

58. Settlement:

A-Instrument of settlement (including a deed of dower)

(a) Settlement in favour of (a) member or members of a family.

(a) same duty as a bond (No. 15) for a sum equal to the amount as set forth in such settlement or market value of the property, which is the subject matter of such settlement;

Provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument is settlement in pursuance of such agreement is subsequently executed the duty on such instrument shall be the duty as mentioned in article 5.

Explanation:

Under this article 'Family' means Father, Mother, Husband, Wife, Brother, Sister, Son, Daughter and includes Grand Father, Grand Mother, Grand Child, Adoptive Father or Mother, Adopted Son or Daughter.

(b) in any other case

(b) Rs. 6/- (Six) rupees for every 100 Rupees or part thereof of the market value of the property which is the subject matter of settlement.

Exemption:

Deed of dower executed on the occasion of a marriage between Mohammedans.

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	B—Revocation of	1["The same duty as Bond (No. 15) for the amount secured subject to the maximum limit of Rs. 1000/- (Rupees One thousand)".
59.	Share Warrants to bearer issued under the Indian Companies Act.1913 (VII of 1913)	One and a half time the duty payable on the Conveyance (No.23) for a consideration or a market value equal to the nominal amount of the shares specified in the warrant.
	<i>Exemptions:</i>	
	Share warrant when issued by a Company in pursuance of the Indian Companies Act, 1913 (VII of 1913) section 43, to have effect only upon payment as composition for that duty, to the Collector of Stamp Revenue of-	
	(a) One and a half percentum of the whole subscribed capital of the company, or	
	(b) if any company which has paid the said duty or composition in full, subsequently issues, in addition to its subscribed capital, one and a half percentum of the additional capital so issued.	
61.	Surrender of lease: (a) when the duty with which the lease is chargeable does not exceed 1[Rs. 1000/- (b) in any other case	(a) The duty with which such lease is chargeable. (b) 1[Rs. 1000/-(One thousand)
	<i>Exemption:</i>	
	Surrender of lease, when such lease is exempted from duty.	
62.	Transfer whether with or without consideration (a) of shares in an incorporated company or other body corporate (b) of debentures, being marketable securities, whether the debenture is liable to duty or not except debenture provided for by section 8	(a) One half of the duty payable on a Conveyance (No.23) for a consideration or market value equal to the value of the share. (b) One half of the duty payable on a conveyance (No. 23) for a consideration equal to the face amount of the debenture.

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	(c) of any interest secured by a bond, mortgage-deed or policy of insurance	'[(c) "As in Bond (No. 15) subject to a maximum limit of Rs. 1000/- (Rupees One thousand)".
	(d) of any property under the Administrator General's Act, 1913 (III of 1913) section 31	(d) Rs. 1000/-(One thousand)
	(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	(e) Same as Conveyance (No.23) for market value of the property.
	<i>Exemptions</i>	
	Transfers by endorsement:	
	(a) of a bill of exchange, cheque or promissory note	
	(b) of a bill of lading, delivery order, warrant for goods, or other merchantile document of title to goods.	
	(c) of a policy of insurance	
	(d) of securities of the Central Government, (see also section 8).	
63.	Transfer of Lease by way of assignment, and not by way of under lease	The same duty as a Conveyance (No.23) for a consideration or market value equal to the amount of consideration for the transfer.
	<i>Exemption:</i>	
	Transfer of any lease exempt from duty	
64.	Trust:	
	(a) Declaration of, or concerning, any property when made by any instrument not being a Will.	Rs.5000/-(Five thousand)
	(b) Revocation of, or concerning any property when made by any instrument other than a Will.	Rs. 1000/-(One thousand)
	<i>Exemption:</i>	
	Charitable and religious trusts including waqf allal-aulad.	
65.	Warrants for goods , that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Rs. 15/- (Fifteen)