

The Indian Stamp (Orissa Second Amendment) Act, 1986

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Rule

THE-INDIAN-STAMP-ORISSA-SECOND-AMENDMENT-ACT-1986 of 1986

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The Indian Stamp (Orissa Second Amendment) Act, 1986Published vide Orissa Gazette, Extraordinary No. 600-Dated/20.4.1987-Notification No. 6499-Legislative-Dated 20.4.1987.(Assented to by the President on the 4th April, 1987)An Act to amend the Indian Stamp Act, 1899 in its application to the State of Orissa.Be it enacted by the Legislature of the State of Orissa in the Thirty seventh Year of the Republic of India, as follows:-

1. Short title.

- This Act may be called the Indian Stamp (Orissa Second Amendment) Act, 1986.

2. Amendment of Section 24.

- In Section 24 of the Indian Stamp Act, 2 of 1899 hereinafter referred to as the Principal Act), for the words "in respect whereof the transfer is chargeable with ad valorem" duty the words " and the transfer is chargeable with ad valorem duty in respect of the consideration or the market value of the property so transferred whichever is higher;" shall be substituted.

3. Amendment of Section 27.

- In Section 27 of the Principal Act for the words and brackets "the consideration (if any)", the words and commas "the consideration, if any, the market value of the property" shall be substituted.

4. Amendment of Section 28.

- In Section 28 of the Principal Act, - (i) for sub-section (1), the following sub-section shall be substituted, namely: - "(1) 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 each separate part is set forth in the conveyance relating thereto and such conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration: Provided further that the market value of the separate part shall be set forth along with the consideration for each part and the conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration or the market value whichever is higher". (ii) To sub-section (2) the following words and comma shall be added at the end, namely: - "or market value of each such separate part, whichever is higher."; (iii) to sub-section (3) the following words and comma shall be added at the end, namely: - "or the market value of the property, whichever is higher."; (iv) for sub-section (4), the following sub-section shall be substituted, namely: - "(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 of the consideration paid by such sub-purchaser or the market value of each 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-purchasers or the market value of the residue of such property whichever is higher: Provided that the duty on such list mentioned conveyance shall in no case be less than one rupee."; (v) for sub-section (5), the following sub-section shall be substituted, namely: - "(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 consideration paid by him or the market value of the property 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".

5. Amendment of Section 33.

- In Section 33 of the principal Act after sub-section (1), the following sub-sections shall be inserted, namely: - "(1-a) If it appears to such person from the copy of an instrument produced or coming in performance of his functions, within three years from the date of registration of the instrument, that such instrument is not duly stamped, he shall call for the original instrument and if he is satisfied on production of the instrument that it has not been duly stamped, impound the same and the deficient amount of duty shall be payable by the person liable to pay the duty. (1-b) Where the original instrument is not produced such person shall refer the copy of the instrument to the Collector for determination of the market value of the property and the duty payable thereon and the Collector

may determine the market value of the property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2) of Section 47-A."

6. Amendment of Section 47-A.

- In Section 47-A of the Principle Act, for sub-sections (1), (2) and (2-A), the following sub-sections shall be substituted, namely:-"(1) Where the registering officer under the Registration Act, 16 of 1908, while registering any instrument of conveyance, exchange, gift, partition or settlement has reason to believe that the market value of the property which is the subject matter of such instrument has not been truly set forth in the instrument, he may, after registering such instrument, refer the matter to the Collector for determination of the market value of such property and the proper duty payable thereon.(2)On receipt of a reference under sub-section (1), the Collector shall, after giving the parties an opportunity of making their representations and after holding an enquiry in such manner as may be prescribed by Rules made under this Act, determine the market value of the property which is the subject matter of such instrument, and the duty as aforesaid and the deficient amount, if any, shall be payable by the person liable to pay the duty.(2-a) 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 truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2) and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty".

7. Amendment of Section 48-A.

- For Section 48-A of the Principal Act the following Section shall be substituted, namely:-"48-A. Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of any instrument chargeable in the State of Orissa with a higher rate of duty under this Act, for the time being in force as amended from time to time by the Orissa Acts 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 changeability of such instrument with duty unless the duty chargeable under the Orissa Act, has been paid on such instrument".

8. Amendment of Section 64.

- In Section 64 of the Principal Act the words "and where the person is liable to pay the duty shall also be liable to pay the deficient amount of duty" shall be added at the end.

9. Validation of actions of Collector, Koraput.

- Notwithstanding anything contained in the Principal Act or any order or judgement of any Court,

all actions taken, things done or orders passed by the Collector, Koraput in dealing with the under valuation cases referred to him under Section 47-A of the Principal Act, prior to the date of commencement of the Indian Stamp (Orissa Second Amendment) Act, 7 of 1986 shall for all intent and purposes, be deemed to have been validly taken, done or passed in accordance with the provisions of the said Act as amended by this Act and no such actions, things or orders shall be questioned in any Court of law or otherwise open to challenge merely on the ground that he was not empowered under the Act to take such actions, do such things or pass such orders.

10. Amendment of Schedule-I-A.

- In Schedule I-A of the Principal Act, - (i) in article 12. under column (1) for clause (a), the following clause shall be substituted, namely: - "(a) where the amount or the market value of the property to which the award relates, as set forth in such award does not exceed Rs.1000-00"; (ii) in article 23 under column (1) for the words, letters and figures "where that amount or value of the consideration for such conveyance as set forth therein does not exceed Rs.50-00" the words, letters and figures "where the amount or the value of the consideration for such conveyance as set forth therein or the market value of the property does not exceed Rs.50-00", shall be substituted; (iii) for the existing entry appearing in column (2) against article 31 the following entry shall be substituted, namely: - "The same duty as CONVEYANCE (No.23) or a consideration as set forth in such instrument or the market value of the property, whichever is higher."; (iv) for the existing entry appearing in column (2) against article 33, the following entry shall be substituted, namely: - "The same duty as a CONVEYANCE (No.23) for a consideration as set forth in such instrument or the market value of the property, whichever is higher."; (v) in the existing entry appearing under column (2) against article 45, for the words "amount of the value" the words "amount of the market value" shall be substituted; (vi) for article 58 the following shall be substituted in their respective columns, namely: - "58(A) SETTLEMENT-(A) INSTRUMENT OF The same duty as a (including a deed of power) BOTTOMRY BOND No. (16) for a sum equal to the amount or the market value of the property settled whichever is higher as set forth in such settlement. Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed three rupees. (B) REVOCATION OF The same duty as a BOTTOMRY BOND (No.16) for a sum equal to the amount or the market value of the property concerned, as set forth in the instrument of Revocation, but not exceeding forty-two rupees"; (vii) in article 64, in the existing entries under column (2) appearing against article 64 for the words "value of the property concerned" wherever they occur the words "the market value of the property concerned" shall be substituted.