Presentation on
Indian Stamp Act, 1899
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INDIAN STAMP ACT, 1899
• The Indian Stamp Act, 1899 is a Central enactment and States have powers to adopt the Indian Stamp Act, 1899 with amendments to the same to suit the transactions peculiar in each State.
• The law relating to stamp duty is Covered under Indian Stamp Act, 1899.

• The basic purpose of Indian Stamp Act, 1899 is to raise revenue to the Government
Power of Parliament in respect of Stamp Duty

- Parliament can make law in respect of stamp duty
- It can prescribe rates of stamp duty
- Rates prescribed by parliament in respect of bill of exchange, cheques, transfer of shares prevails all over India
- In case of states, stamp duty rates are prescribed by individual states
• The payment of proper stamp duty on instruments bestows legality on them.

• Such instruments get evidentiary value whenever produced in Courts of law

• The stamp papers impressed with the desired amount of stamp duty are used both for judicial and non-judicial purposes
• For the sake of ensuring uniformity of rates of duty with regard to certain instruments of a commercial nature such as bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, the power to prescribe the rates of duties on such commercial documents is vested with the Union Legislature and the power to reduce, remit or compound such duties on the commercial documents is also vested with the Central Government (Section 9 of the Indian Stamp Act).

• On the other hand the power to prescribe the rates of duties on non-commercial instruments is vested with the State Legislature and the power to reduce or remit such duties on non-commercial documents is with the State Government (Section 9 of the Indian Stamp Act).
Instruments chargeable to Stamp Duty

- Instrument include every document by which any right or liability is or purported to be created, transferred, limited, extended, extinguished or recorded.
- All documents like affidavit, lease, memorandum and articles of association, bills of exchange, bond, mortgage, receipt, debenture, share, insurance policy, partnership deed are required to be stamped.
Sections 4 to 6

• If several instruments are employed for completing one transaction, stamp duty is payable only on the principal instrument at the prescribed rates and on the other instruments nominal stamp duty is payable (Section 4).

• An instrument comprising of several distinct matters shall be chargeable with the aggregate amount of duty with which separate instruments, each comprising or relating to one such matter, would be chargeable (Section 5).

• When an instrument comprises of two or more descriptions and duties chargeable thereon are different, the instrument will be chargeable with the highest of such duties (Section 6).

• The scope of sections 4, 5 & 6 are not the same as Section 4 deals with a single transaction completed by several instruments, Section 6 with a single transaction which might be viewed as falling under more than one category, whereas Section 5 applies only when the instrument comprises more than one transaction and it is immaterial for this purpose whether those transactions are of the same category or of different categories.
Powers to reduce stamp duty – Section 9

• Government can reduce or remit whole or part of duties payable
• Reduction can be for whole or part of territories and for particular class of persons
• Government can compound or consolidate duties in case of issue of shares or debentures by companies
• Government means central government in case of bill of exchange, cheque, receipt etc and
• State government in case of stamp duties on other documents
Section 10 – Duties how to be paid

• This Section provides as to how and the manner with which the duties are to be paid and indicated on instruments by means of stamps. The Section enjoins that the State Government may make rules as regards to the description of stamps, number of stamps, etc., for being used for instruments.

• Ex : In the case of Bill of Exchange, Hundi stamps have to be used. In case of Letter of Allotment of Shares, Letter of credit, Promissory note and proxy, special adhesive stamps shall be used.
Section 16 – Denoting Duty

- This Section provide for denoting duty paid in respect of another instrument by way of an endorsement on the instrument, the chargeability of which or its exemption from duty depends in any manner upon the duty paid in respect of another instrument.

- The object of this section is to save the parties from the trouble of producing the second instrument by providing that the payment of duty on the second instrument may be denoted on the first instrument by endorsement under the hand of the Collector.

- In order to avail the benefit of this section, the party concerned must make an application in writing to the Collector, mentioning that the duty has already been paid on an earlier instrument, by virtue of which the second instrument is chargeable with a lesser duty.
Section 17 – Instruments executed in India

- This Section makes provision as regards the time of stamping of instruments executed in India.

- Stamp duty should be paid before or at the time of execution. Affixing of stamp after execution is invalid. However, Section 10A allows payment of cash into Government Treasury when there is shortage of stamps in any district or stamps of required denominations are not available, within four months from the date of its execution or first execution.
Section 18 – Instruments executed out of India

- This Section applies to instruments other than Bills and Notes executed out of India which attract duty according to the law in India, that is, are chargeable under Section 3(c). A Power of Attorney executed outside India but to be acted upon in India requires to be stamped in India, and that within the time prescribed by this Section i.e., within three months after their arrival in India. If such document is presented after the expiry of the said three months but before one year from the date of its execution, the Collector, if satisfied that the omission to stamp it has been occasioned by accident, mistake or urgent necessity, take action under Section 41 & 42 to validate it. Such instruments presented after one year from the date of execution should be impounded under Section 33.
Sections 20 to 28

- Sections 20 to 28 contain provisions for calculating the value of the subject matter of an instrument for the purpose of determining the stamp duty payable. Thus, where the valuation of an instrument is expressed in foreign currency, Section 20 enables conversion of the value to be made into Indian Currency for calculating the duty leviable.
Section 29 – Duty by whom Payable

• This Section specifies the persons who should bear the Stamp Duty payable in respect of each class of Documents under the Stamp Act in the absence of any agreement to the contrary between the parties.
Sections 30 – Obligation to give Receipt in certain cases

• This section imposes obligation to give a stamped receipt when a person
  – Received money in cash exceeding Rs. 20/-; or
  – Receives a bill of exchange, cheque or promissory note for an amount exceeding Rs. 20/- in value; or
  – Receives movable property of value exceeding Rs. 20/- in part satisfaction of a debt.

• This obligation only arises when a demand for receipt is made by the person paying such money.
Sections 31 & 32 – Adjudication as to proper Stamp

• This section provides to give a person who is in doubt about the stamp duty attracted on an Instrument the facility of getting the duty determined authoritatively by the Collector. The Section empowers the Collector to determine the duty on an instrument brought to him, whether it is already stamped or not, and executed or not. The power vested in the Collector is to be exercised subject to the proviso to Section 32, that is, within the time limit prescribed therein.
Sections 31 & 32 – Adjudication as to proper Stamp

• Section 32 confers powers on the Collector to certify by endorsement on an instrument brought to him under Section 31 that the full duty with which it is chargeable has been paid. The instrument which must be the original instrument should be brought before the Collector for determination of duty according to the procedure laid down in Section 31. The Collector then endorses on the instrument that the duty as determined by him has been paid and the instrument is properly stamped. But there are three exceptions that the Collector cannot endorse an instrument – (1) if it is an instrument executed in India but brought to him after one month of the date when it was executed or first executed, (2) if it is an instrument executed or first executed out of India and brought to him more than three months after it had been received in India, and (3) if the instrument is a promissory note or a bill of exchange, or an instrument chargeable with duty not exceeding with duty not exceeding ten naya paise.
Sections 33 – Examination and Impounding of Instruments

• Section 33 provides for the impounding of instruments not duly stamped. It imposes an obligation on Courts and public officers to examine every document produced or coming before them to ascertain, in case such document attracts stamp duty, whether it has been duly stamped. The main object of this Section is to protect the revenue, and the Court or Public Officer authorised by this section must exercise the powers under this section suo moto.
Sections 35 – Instruments not duly stamped inadmissible in evidence

• 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.

• This Section provides as to how the instruments not duly stamped produced in evidence are to be dealt with for realisation of the Stamp Revenue. There is no provision to levy deficit duty and penalty on the basis of the Certified Copy. Deficit stamp duty and penalty cannot be collected when the party contends that the document was a forged one.
Sections 37 – Admission of improperly stamped instruments

• This is a remedial section which refers to admission of improperly stamped instruments where improper description of stamps are used by inadvertance. The 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 be deemed to have been duly stamped as from the date of its execution.
Sections 38 – Instruments impounded how dealt with

• This section lays down the procedure to be followed after a document has been impounded under Section 33. Where after such impounding the document has been admitted in evidence upon payment of duty and penalty as provided in Section 35 or of duty as provided in Section 37, the Court so admitting the document must furnish to the Collector (1) an authenticated copy of the document, (2) a certificate stating the amount of the duty and penalty, or duty only, as the case may be, that has been levied, and (3) the amount recovered. In other cases, that is, where the document has not been admitted in evidence, the Court has to send it in original to the Collector for levy of duty and penalty as provided in Section 40. The Court has no jurisdiction to take any further action in the matter thereafter.
Sections 41-A – Recovery of Stamp duty not levied or short levied

- If any instrument chargeable with duty has not been duly stamped and registered by any Registering Officer by mistake and remarked as such by the Collector or any audit party, the Collector may, within five years from the date of registration serve a notice on the person by whom the duty was payable requiring him to show cause why the proper duty or the amount required to make the same should not be collected from him.

- Provided that where the non-payment was by reason of fraud, collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of the Act or the rules made thereunder with intent to evade payment of duty, the Collector may within twenty years from the date of registration serve a notice on such person to show cause why the proper duty or the amount required to make up the same should not be collected from him.
Sections 47-A – Instrument of Conveyance

- This Section applies to Conveyance, Exchange, Gift, Partition, Settlements, Release deeds, Agreement relating to constructions, development or sale of any immovable property. The Stamp duty in respect of Sales is payable on the consideration or the market value of the property conveyed whichever is higher. In respect of Gifts, Exchanges, Partition, Release falling under Art.46A&B, it is payable on the Market value of the property. If it is not so paid, the Registering Officer shall make a reference to the Collector under Section 47-A before registering the document. The Collector determines the market value after following the procedure prescribed and collect the difference in duty if any. If the party is aggrieved, he can appeal to the civil court.
Sections 56 – Control of, and Statement of case to Chief Controlling Revenue Authority

• This Section provides for making reference by the Collectors acting under Section 31, 40 or 41 to the Chief Controlling Revenue Authority regarding chargeability of instruments.

• The Collector before whom a document is brought before him for Adjudication under Section 31 or received by him under Section 38 is in doubt about the duty chargeable, he may refer the case for the opinion of the CCRA.
Sections 73 – Books etc., to be kept open for Inspection

• This Section empowers the Collector or any person authorised by him in writing to conduct audit in public offices to detect fraud in payment of proper stamp duty.
### RATES OF STAMP DUTY IN RESPECT OF CERTAIN IMPORTANT ARTICLES IN SCHEDULE - IA TO THE INDIAN STAMP ACT, 1899

<table>
<thead>
<tr>
<th>NATURE OF DOCUMENT</th>
<th>RATE OF STAMP DUTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>SALE</td>
<td>5%</td>
</tr>
<tr>
<td>SALE AGREEMENT CUM GPA</td>
<td>5%</td>
</tr>
<tr>
<td>DEVELOPMENT AGREEMENT CUM GPA</td>
<td>1%</td>
</tr>
<tr>
<td>DEVELOPMENT/CONSTRUCTION AGREEMENT</td>
<td>0.5% of MV of Land and Construction</td>
</tr>
<tr>
<td>PARTITION AMONG FAMILY MEMBERS</td>
<td>1%</td>
</tr>
<tr>
<td>PARTITION AMONG CO OWNERS</td>
<td>1%</td>
</tr>
<tr>
<td>RELEASE</td>
<td>3%</td>
</tr>
<tr>
<td>SETTLEMENT AMONG FAMILY MEMBERS</td>
<td>2%</td>
</tr>
<tr>
<td>SETTLEMENT TO OUTSIDE FAMILY MEMBERS</td>
<td>3%</td>
</tr>
<tr>
<td>MORTGAGE</td>
<td>4% with possession 0.5% with out possession</td>
</tr>
<tr>
<td>DEPOSIT OF TITLE DEEDS</td>
<td>0.5% subjected to maximum of Rs50,000/-</td>
</tr>
<tr>
<td>GENERAL POWER OF ATTORNEY( Art 42)</td>
<td>to family member Rs 1000/-, other 1%</td>
</tr>
<tr>
<td>SPECIAL POWER OF ATTORNEY</td>
<td>Rs 20/-</td>
</tr>
<tr>
<td>WILL</td>
<td>No Stamp required</td>
</tr>
<tr>
<td>LEASE</td>
<td>1to 5 years - 0.4%, 6 to 10years- 1%, 11 to 20years – 6%, 21 to 30 years – 15%, more than 30 years -3% on the MV</td>
</tr>
</tbody>
</table>
What is meant by duly stamped

- Duly stamped means instrument bears an adhesive or impressed stamp
- Not less than proper amount
- And such stamp has been affixed or used in accordance with law in force in India
- In case of adhesive stamp it has to be effectively cancelled so cannot be used again
- Impressed stamp has to be written in such a way that it cannot be used for other instrument and stamp appears on face of instrument
- If stamp not so used treated as un-stamped
- When stamp duty not adequate document treated as not duly stamped
Revenue Stamp

• Revenue Stamp: Revenue stamps are used for
• acknowledging the receipt of money.
Foreign Bill Stamp

- Foreign bill stamp is a special adhesive stamp bearing the words Foreign Bill. Such kind of stamp is generally used in case of bills of exchange and promissory note drawn out of India.
Brokers Note Stamp

- Brokers note is a special adhesive stamp bearing the words Broker’s Note. Such kind of stamp is used in case of transactions through brokers or agent to his principal intimating the purchase or sale on account of such principal.
Insurance Policy Stamp

- Insurance Policy stamp is used by the insurance department to authenticate the insurance policies
Share Transfer Stamps

• Share transfer stamps are used by financial institutions in respect of transactions pertaining to Shares