

GUJARAT STAMP RULES, 1978

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GUJARAT STAMP RULES, 1978

In exercise of the powers conferred by sections 10, 18, 37, 49, 55 and 75 of the Indian Stamp Act, 1899 (II of 1899) and Sections 10, 18, 36, 47 and 70 of the Bombay Stamp Act, 1958 (Bombay LX of 1958) the Government of Gujarat hereby makes the following rules, namely:-

CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) These rules may be called the Gujarat Stamp Rules, 1978.

(2) They shall come into force on such date as the State Government may by Notification in the Official Gazette appoint.

2. Definitions :-

In these rules, unless the context otherwise requires.

(a) "Appendix" means an Appendix appended to the rules.

(b) "Schedule" means a Schedule of the Act;

(c) "Superintendent of Stamps" means Superintendent of Stamps, Ahmedabad and any other officer appointed by the State Government to perform the functions of the Superintendent of Stamps.

3. Description of Stamps :-

(1) Except as otherwise provided by the Stamps, Act, 1899 or the Bombay Stamp Act, 1958 or by these rules,

(i) all duties with which any instrument is chargeable shall be paid and such payment shall be indicated on such instrument by means of stamps issued by the State Government for the purposes of the Act, and

(ii) a stamp which by any other word or words on the face of it is appropriated to any particular kind of instrument, shall not be used for any instrument of any other kind.

(2) There shall be two kinds of stamps for indicating the payment of duty with which instruments are chargeable namely

(a) Impressed stamps, and

(b) Adhesive stamps

CHAPTER 2

Of Impressed Stamp

4. Hundis :-

(1) Hundis, other than hundis which may be stamped with an adhesive stamp under Section 11 of the Indian Stamp Act, 1899 or the Bombay Stamp Act, 1958 shall be written on paper as follows, namely:-

(a) A hundi payable otherwise than on demand but not at more than one year after date or sight and for an amount not exceeding rupees thirty thousand in value, shall be written on paper on which a stamp of the proper value being the word "Hundi" has been engraved or embossed.

(b) A hundi for an amount exceeding rupees thirty thousand in value, or payable at more than one year after date or sight shall be written on paper supplied for sale by the State Government to which a Label has been affixed by the Superintendent of Stamps and impressed by such officer in the manner prescribed by rule 11.

(2) Every sheet of paper on which hundi is written shall be not less than 22 cm. long and 13 cm. wide and no plain paper shall be joined thereto.

(3) The provisions of sub-rule (1) of rule 7 shall apply in the case of hundies.

5. Promissory notes and bills of exchange :-

A promissory note or bill of exchange, shall except as provided by s.11 of the Indian Stamp Act, 1899 or the Bombay Stamp Act, 1958, or by rule 13 and Rule 19 be written on paper on which a stamp of the proper value, with or without the word "Hundi" has been engraved or embossed.

6. Other Instruments :-

Every other instrument chargeable with duty shall, except as provided by Section 11 of the Indian Stamp Act, 1899 or the Bombay Stamp Act, 1958 or by rule 10, Rule 12 and Rule 13 be written on paper on which a stamp of the proper value, not bearing the word "Hundi" has been engraved or embossed.

7. Provision where single sheet of paper is insufficient :-

(1) Where two or more sheets of paper on which stamps are engraved or embossed are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument, shall be written on each sheet so used.

(2) Where a single sheet of paper, not being paper bearing an impressed hundi stamp, is insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp or much plain paper may be sub-joined there to as may be necessary for the complete writing of such instrument: Provided that in every such case a substantial part of the instrument shall be written on the sheet which bears the stamp before any part is written on the plain paper sub-joined.

8. Ten paise, fifteen paise and twenty paise impressed stamps :-

(1) The duty on any instrument which is chargeable with a duty of ten paise under the Bombay Stamp Act, 1958 or Stamp Act, 1899 or fifteen paise and twenty paise under Articles 37 , 47 , 49 and 52 of Stamp Act, 1899 or Articles 19 and 39 of Bombay Stamp Act, 1958 may be denoted by a coloured impression marked on a skeleton form of Superintendent of Stamps. (2) Notwithstanding anything contained in this rule, the duty on any instrument which is chargeable with a duty of twenty paise under Articles 19 and 39 of Bombay Stamp Act, 1958 may also be denoted by a coloured impression marked on a skeleton form of such instrument by the Superintendent of Stamps.

9. The Proper Officer :-

The officers specified in Appendix-I and any officer appointed in this behalf by the State Government are empowered to affix and impress labels, and each of them shall be deemed to be "the Proper Officer" for the purpose of the Stamp Act, 1899 or the Bombay Stamp Act, 1958 and of these rules.

10. Affixing and impressing of labels by proper Officer permissible in certain cases :-

Except as provided in s.11 of the Indian Stamp Act, 1899 or the Bombay Stamp Act, 1958 and Rule 13, labels may be affixed and impressed by the proper Officer in the case of all instruments chargeable with stamp duty under the Act other than instruments on which the duty is less than 15 paise when (1) they are written in Gujarati, English or Hindi or (2) they are written in any other language and accompanied by the translation in Gujarati, English and Hindi.

11. Mode of affixing and impressing labels :-

The Proper Officer shall, upon any instrument in rule 10 being brought to him before it is executed and upon application being made to him, affix thereto, a label or write on the face of the labels the date of affixing or impressing such label or labels by means of a stamping machine and also stamps or write on the face of the label or labels the date of affixing or impressing the same as the case may be, where a label of the value below rupees five is affixed by hand, he shall put his initials on the face of label :

Provided that the clearance list described in Articles 21 , 22 , 23 , 24 or 25 of Bombay Stamp Act, 1958 may be stamped by the "Proper Officer" if such clearance lists are submitted for stamping by the clearance house of an association in accordance with its rules and byelaws with the requisite amount of stamp duty within two months from the date of its execution.

(2) On affixing any label or labels under this rule the Proper Officer shall, where the duty amounts to rupees five or upwards write on the face of the label or labels his initials, and where the duty amounts to rupees twenty or upwards, shall also attach his usual signature to the instrument immediately under the label or labels.

12. Certain instruments to be stamped with impressed labels :-

(1) Instruments executed out of the State of Gujarat and requiring to be stamped after their receipt in the State of Gujarat (Other than instruments which under s.11 of the Indian Stamp Act, 1899 or the Bombay Stamp Act, 1958 or Rule 13 may be stamped with adhesive stamps) shall be stamped with impressed labels.

(2) Where any such instrument as aforesaid is taken to the Collector under sub-section (2) of s.18 of the Indian Stamp Act, 1899 or the Bombay Stamp Act, 1958 the Collector unless he is

himself the Proper Officer, shall send the instruments to the Proper Officer, remitting the amount of duty paid in respect thereof, and the Proper Officer shall stamp the instruments in the manner prescribed by rule 11 and return it to the Collector for delivery to the person by whom it was produced.

CHAPTER 3

Of Adhesive Stamp

13. Use of Adhesive stamps on certain instrument :-

The following instruments may be stamped with adhesive stamps, namely:

(a) Bills of exchange payable otherwise than on demand and drawn in sets, when the amount of duty does not exceed ten paise for each part of the set.

(b) Transfer of debentures of public companies and associations.

(c) Copies of maps or plans, printed copies and copies of or extracts from registers given on printed forms when chargeable with duty under Article 28 of Bombay Stamp Act, 1958 .

(d) Instruments chargeable with stamp duty under entries (a), (b), (c), (d), (e), (f) and (g) of Article 5 or Article 48 of the Bombay Stamp Act, 1958 .

(e) Instruments chargeable with stamp duty under Article 430 of the Stamp Act, 1899 .

(f) Instruments chargeable with Stamp duty under Articles 14 , 37 , 49 and 52 of Stamp Act, 1899 and Rule 19 and 39 of Bombay Stamp Act, 1958 .

14. Use of adhesive stamps when necessary stamps not in circulation :-

Notwithstanding anything contained in these rules whenever stamp duty payable under the Stamp Act, 1899 or the Bombay Stamp Act, 1958 in respect of any instrument cannot be paid exactly by reason of the fact that the necessary stamps are not in circulation, the amount by which the payment of duty shall on that account to be in defect shall be made up by the affixing of adhesive stamps such as are described in the 18 provided that the State Government may direct that instead of such stamps adhesive court fee stamps shall be used for the purpose.

15. Supply of deficient duty on transfer of share :-

When any instrument of transfer of shares in a Company or Association is written on a sheet of paper on which a stamp of the proper value is engraved or embossed, and the value of the stamp so engraved or embossed is subsequently, in consequence of a rise in the value of the such shares, found to fall short of the amount of duty chargeable under Article 62(a) of Stamp Act, 1899 one or more adhesive stamps bearing the word "Share Transfer" may be used to make up the amount required.

16. Mode of cancelling "Share Transfer" stamps at the time of registration of the deed of transfer :-

"Share transfer" stamps affixed to deeds of transfer of shares, shall before effect is given to the transfer by the Joint Stock Company concerned, be cancelled by the Company by means of a punch which can perforate either the word "Cancelled" or an abbreviation thereof namely. "Cancled" or the initials of the company even though the Stamp were previously cancelled in accordance with Section 12 of the Indian Stamp Act, 1899 or of the Bombay Stamp Act, 1958 . In case a company fails so to cancel the share Transfer Stamps are provided by this rule the company shall be liable to the penalty prescribed by S.63 of the Indian Stamps Act, 1899 or Section 61 of the Bombay Stamp Act, 1958 : Provided that for purpose of cancelling "Share Transfer" stamps, the State Government may on being satisfied by a certificate from the Superintendent of Stamps permit any Joint Stock company to adopt any other method in lieu of perforation by means of a punch.

17. Enrolment of Advocates, Vakils or Attorneys :-

When adhesive stamps are used to indicate the duty chargeable on entry as an Advocate, Vakil or Attorneys on the roll of the High Court of Judicature at Ahmedabad such stamps shall be affixed under the Superintendent or a Gazetted Officer of the High Court, who shall obtain the Stamp from the Superintendent of Stamps, or other officer appointed in this behalf by the State Government and account to him for it. Such Gazetted Officer shall after affixing the stamp write on the face of it his usual signature with the date thereof.

18. Adhesive stamp or stamps denoting duty :-

Except as otherwise provided by these rules the adhesive stamps used to denote duty shall be the requisite number of stamps bearing the words "India Revenue" over-printed with the word "Gujarat" and the words "twenty five paise" or "fifteen paise" or

"ten paise".

19. Special Adhesive stamps to be used in certain cases :-

The following instruments when stamped with adhesive stamps shall be stamped with the following descriptions of stamps, namely :

(a) Bills of exchanges, cheques and promissor notes drawn or made out of the State of Gujarat chargeable with duty of more than ten paise with stamps bearing the words "Foreign Bill".

(b) Separate instruments of transfer of shares and transfer of debentures of Public Companies and Association with stamps bearing the word "Share transfer".

(c) "Entry as an Advocate, Vakil, or Attorney on the roll of the High Court of Judicature at Ahmedabad with stamps bearing the word "Advocate", "Vakil" .or "Attorney", as the case may be.

(d) Notarial Acts with stamps bearing the word "Notarial".

(e) Copies of maps or plans printed copies and copies of or extracts from registers given on printed forms certified to be true copies with Court fee stamps.

(f) Instruments chargeable with stamp duty under entry (a), (b), (c),(d),(e),(f) or (g) of Article 5 or Article 48 of the Bombay Stamp Act, 1958 (with stamps bearing either the words "Agreement" or "Brokers Note").

(g) Instruments chargeable with stamps duty under Article 47 of Schedule I of the Stamp Act, 1899 with stamps bearing the word "Insurance".

(h) Instrument chargeable with Stamp duty under Article 43 of Bombay Stamp Act, 1958 , with stamps bearing the word "Agreement".

CHAPTER 4

Miscellaneous

20. Provision for cases in which improper description of stamps is used :-

Where an instrument bears a stamp of proper amount, but of improper description, the Collector may, on payment of the duty with which the instrument is chargeable, certify by endorsement that it is duly stamped.

21. Evidence as to circumstances of claim to refund or renewal :-

The Collector may require any person claiming a refund or renewal under Stamp Act, 1899 or the Bombay Stamp Act, 1958 or his duly authorised agent, to make an oral deposition on oath or affirmation, or to file an affidavit setting forth the circumstances under which the claim has arisen, may also if he thinks fit, call for the evidence of witness in support of the statement set forth in any such deposition or affidavit.

22. Payment of allowances in respect of spoiled or misused stamps or on the renewal of debentures :-

When an application is made for the payment under Stamp Act, 1899 or the Bombay Stamp Act, 1958 of an allowance in respect of stamp which has been spoiled or misused or for which the applicant has had no immediate use, or on the renewal of the debenture, and an order is passed by the Collector sanctioning the allowance or calling for further evidence in support of the application then, if the amount of the allowance of the stamp given in lieu thereof is not taken, or if the further evidence required is not furnished, as the case may, by the applicant within one year of the date of such order, the application shall be struck off and the spoiled or misused stamps (if any) sent to the Superintendent of Stamps, or other officer appointed in this behalf by the State Government for destruction.

23. Mode of cancelling original debenture on refund under Section 55 of the Indian Stamp Act, 1899 :-

When the Collector makes a refund under s.55 of the Indian Stamp Act, 1899, he shall cancel the original debenture by writing on or across it the word "cancelled" and his usual signature with the date thereof.

24. Rewards :-

On the conviction of any offender under the Stamp Act, 1899 or the Bombay Stamp Act, 1958 the Collector may grant to any person who appears to him to have contributed thereto a reward not exceeding such sum as the State Government may fix in this behalf.

25. Documents recording transaction for the purchase or sale of certain securities etc. not to be destroyed for two years :-

Every person entering into any transaction for the purchase or sale

of shares, scrips, stocks, bonds, debentures, debenture stocks or any other marketable security of a like nature in or of any incorporate company or other body corporate or for the purchase or sale of cotton, bullion species, oil seeds, artificial silk, yarn, edible oils or spices of any kind shall preserve any document, Kachha souda book, contract book or any other book, paper, memorandum or slip recording such transaction for a period of two years from the date of such transaction. Any person committing a breach of this rule shall be punishable with fine not exceeding five hundred rupees.

26. Manner of returning instruments received for stamping

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If any instrument received for stamping by proper officer is required to be returned by post, it shall be sent to the party concerned by value payable post unless the postal charges inclusive of registration have been deposited in advance alongwith the value of the stamps to be affixed to the instrument.

27. Documents specified in entry 91 of the list I in seventh Schedule to the Constitution of India not to be destroyed for two years :-

Every person entering into transaction of bill of exchange, cheque, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts shall preserve any such document or his counterfoil or carbon copy recording such transaction for a period of two years from the date of such transaction. Any person committing a breach of this rule shall be punishable with fine not exceeding five hundred rupees.

28. Power to make inquiry or take evidence in certain cases

:-

In the case of an instrument relating immovable property chargeable with an ad valorem duty on the value of the property and not on the value as set forth the Collector and every other person having by law or consent for the parties, authority to receive evidence may, if he considers that the valuation of the immovable property cannot be arrived at without having recourse to inquiry or extraneous evidence, make such an inquiry and take such evidence, as may be necessary after giving due notice to the party concerned to be heard and to produce any evidence on its behalf.

29. Procedure of the verification :-

If as a result of inquiry made or evidence taken under rule 28 of value expressed in the instrument appears to be fully set forth, the instrument shall be treated as property valued. If on the other hand the instrument appears to be undervalued and not duly stamped necessary action shall be taken in respect thereof according to the relevant provisions of the Indian Stamp Act, 1899, or as the case may be the Bombay Stamp Act, 1958 .

30. Amount of fine to be consider while imposing penalty :-

When an instrument impounded by a Magistrate is received by the Collector for action under section 39 of the Bombay Stamp Act, 1958 he may take into consideration, while assessing penalty thereon, the fine if any, imposed by the Magistrate as a result of prosecution launched against him.

31. Repeal and savings :-

(1) The Bombay Stamp Rules, 1939 , Saurashtra Stamps Rules, 1949 and Stamp Rules, 1925 an in force in Kutch area are hereby repealed:

Provided that the repeal shall not effect:

(i) any right, title, obligation, or liability already acquired, accrued or incurred or anything done or suffered,

(ii) any legal proceeding or remedy in respect of any such right, title, obligation or liability, under the provisions of the rules so repealed and any such proceeding may be instituted, continued and disposed of and any such remedy may be enforced as if these rules had not been made.

(2) Anything done or any action taken under the rules so repealed shall, in so far as it is not inconsistent with the provisions of these rules, shall be deemed to have been done or taken under the corresponding provisions of these rules.