

ASSAM MUNICIPAL (DUTY ON TRANSFERS OF PROPERTY) RULES, 1962

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In exercise of the powers conferred by sub-S. (1) of S 301 of the Assam Municipal Act. 1956 (Assam Act XV of 1957) read with S. 91 thereof, the Governor of Assam is pleased to make the following rules, the same having been previously published as required under sub-S. (4) of S. 301 of the said Act, namely :-

1. These rules may be called the Assam Municipal (Duty on Transfer of Property) Rules, 1962 :-

2. In these rules :-

- (i) "Government" means the Government of Assam ;
- (ii) "Instrument" means an instrument of sale, gift or mortgage with possession of immovable property on which transfer duty is leviable under S, 89 of the Assam Municipal Act, 1956 ;
- (iii) "Stamp Act" means the Indian Stamp Act, 1899 (Act No. II of 1899) as in force in the State of Assam ;
- (iv) "Transfer duty" means the duty on transfers of property leviable under S. 89 of the Assam Municipal Act, 1956 ; and
- (v) all words and expressions not defined in these rules shall have meanings respectively assigned to them by the Stamp Act and the rules thereunder.

3. Provisions of the Stamp Act to apply to transfer duty :-

All the provisions of the Stamp Act and the rules made thereunder shall, so far as may be, apply in relation to the transfer duty as they apply in relation to the duty chargeable under that Act.

4. . :-

(1) Duties of registering officers in regard to the particulars to be set forth in instruments (1) Whenever any instrument is presented for registration to any registering officer, he shall see whether the particulars referred to in S. 27 of the Stamp Act are set forth in the instrument separately as required by the said S. 27 read with S 90 (a) of the Assam Municipal Act, 1956 and shall also ensure that the Municipal Board or Town Committee, as the case may be, within whose jurisdiction the property concerned is situated, is set forth clearly in the instrument.

(2) If the said particulars be not so separately set forth in the instrument, the registering officer shall impound it and forward it to the Collector, drawing his attention to S. 64 of the Stamp Act, read with S 90 (b) of the Assam Municipal Act, 1956.

5. . :-

Maintenance and consolidation of accounts in respect of transfer duty.

(2) In the case of instruments which do not come into the hands of the registering officers owing to the fact that they are compulsorily registerable under S. 17 of the Indian Registration Act, 1908, the Collector before whom any such instrument is produced under S. 31 or 41 of the Stamp Act or who impounds any such instrument under S. 33 of the said Act, or receives a certificate of the duty and penalty paid in respect of any such instrument or the original of any such instrument under S. 38 of that Act, shall keep an account of the duty paid in respect of each such instrument showing separately the duty imposed by the Stamp Act and the transfer duty and forward to the District Registrar concerned within one month after the close of each quarter, a quarterly consolidated account with particulars in the case of each such instrument regarding the names of the executant and claimant, the date of execution, the nature of the transaction, the amount of consideration, the value of the property or the amount secured by the mortgage, as the case may be, and the description of the property situated within the limit of the Municipal Board or Town

Committee, as the case may be, or outside such limits or jurisdiction.

(3) If in any case it is impossible to recover the full duty payable on any instrument then only such portion of the duty realised on such instrument as in excess of the duty imposed by the Stamp Act shall be treated in the accounts referred to in this rule as transfer duty.

6. . :-

Collector to forward to the District Registrar concerned quarterly statement of refund of transfer duty,

(a) Where, in the opinion of the Collector, transfer duty in excess of that which is legally chargeable has been charged and paid, he may, upon application in writing made within three months of the date of payment of the same, refund the excess to the party concerned.

(b) Every Collector who sanctions a refund of the transfer duty paid on any instrument shall forward to the District Registrar concerned within one month after the close of each quarter a statement of instruments in respect of which such refunds were sanctioned during the quarter noting therein the amount of transfer duty refunded and the particulars referred to in R. 5 (2) in respect of each such instrument,

7. . :-

Inspector General of Registration, Assam to issue sanction to the Accountant General, Assam and Nagaland, in respect of the amount payable to Municipal Board or Town Committee, as the case may be. The Inspector General of Registration shall issue sanction in respect of the amount to be paid to the Municipal Board or Town Committee quarterly as the case may be. He will also intimate the Accountant General, Assam and Nagaland, the amount of deduction on account of collection of the transfer duty to be credited to the Consolidated Fund of the State in respect of the instruments referred to in sub Rr. (1) and (2) of R. 5, within two months after the close of each quarter. The amount payable to the Municipal Board or Town Committee concerned shall represent the transfer duty paid less a deduction of three per cent on account of collection of the transfer duty and the amounts refunded referred to in R. 6 (b), if any. In calculating the net amount payable to each Municipal Board or Town Committee, as the case may be, amounts less than five paise shall be ignored.

8. . :-

Payments to Municipal Board or Town Committee, as the case may be, by the Accountant General, Assam and Nagaland. The Accountant General, Assam and Nagaland shall issue necessary authorisation on Treasuries for payment to the Municipal Board or Town Committee concerned the amount payable to them under R. 7. The deduction on account of collection of transfer duty shall be credited to the Consolidated Fund of the State.