

KARNATAKA STAMP ACT, 1957

34 of 1957

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SCHEDULE 1 :- SCHEDULE

KARNATAKA STAMP ACT, 1957

34 of 1957

STATEMENT OF OBJECTS AND REASONS KARNATAKA ACT No. 34 OF 1957 Karnataka Gazette, Extraordinary, dated 20-6-1957 [For the Report of the Select Committee - See Karnataka Gazette, Extraordinary, 18-9-1957]

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Karnataka Stamp Act, 1957.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

(1) In this Act, unless the context otherwise requires,-

1[(a) "Assistant Commissioner of Stamps" means, the Inspector of Registration Offices appointed under the Registration Act, 1908 (Central Act 16 of 1908) and includes such officer in such areas as the State Government may by notification specify.

(aa) "Association" means any association, exchange, organisation or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling or conducting business of the sale or purchase of, or other transaction relating to, any goods or marketable securities.]

2[(aaa)] "Bond" includes.-

(i) 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;

(ii) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(iii) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

(b) "Chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument chargeable

under the law in force in the territories of the State of Karnataka when such instrument was executed or, where several persons executed the instrument at different times, first executed;

3[(c) "Chief Controlling Revenue Authority" means the officer

4[(ca) "Clearance List" means a list of transactions relating to contracts either maintained by an association or an individual or required to be submitted to the Clearing House of an association in accordance with the rules or bye-laws of the association and shall always mean to include all the transactions pertaining to sale as well as purchase of marketable securities.]

5[(d) "Conveyance" includes.-

(i) a conveyance on sale;

(ii) every instrument;

(iii) every decree or final order of any Civil Court;

(iv) every order made by the High Court under Section 394 of the Companies Act, 1956 in respect of amalgamation of companies, by which property, whether moveable or immovable or any estate is transferred to, or vested in, any other person, and which is not otherwise specifically provided for by the schedule;]

6[(dd) "Deputy Commissioner" means the Chief Officer-in-charge of the revenue administration of a district and includes in respect of such provisions of this Act or rules made thereunder such officer in such area as the State Government may by notification in the Official Gazette specify;] [See Notifications under Section 45-A],

(e) "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 that such stamp has been affixed or used in accordance with the law for the time being in force in the territories of the State of Karnataka;

(f) "Executed" and "Execution", used with reference to instruments, mean "signed" and "signature";

(g) "Government Security" means a Government security as defined in the Public Debt Act, 1944 (Central Act XVIII of 1944);

7[(gg) "Immovable Property" includes land, buildings, rights to

ways, air rights, development rights, whether transferable or not, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.]

(h) "Impressed Stamp" includes-

(i) labels affixed and impressed by the proper officer; and

(ii) stamps embossed or engraved on stamped paper;

(i) "India" means the territory of India excluding the State of Jammu and Kashmir;

(j) "Instrument" includes every document 1[and record created or maintained in or by an electronic storage and retrieval device or media] by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;

8[(k) "Instrument of Partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severally and includes-

(i) a final order for effecting a partition passed by any revenue authority or any Civil Court;

(ii) an award by an arbitrator directing a partition; and

(iii) when any partition is effected without executing any such instrument, any instrument or instruments signed by the co-owners and recording, whether by way of declaration of such partition or otherwise, the terms of such partition amongst the co-owners:]

(l) "Lease" means a lease of 3[immoveable or movable property or both], and includes also-

(i) a patta;

(ii) a kabuliyat or other undertaking in writing not being a counterpart of a lease to cultivate, occupy, or pay or deliver rent for, immoveable property;

(iii) any instrument by which tolls of any description are let;

(iv) any writing on an application for a lease intended to signify that the application is granted;

(m) "Marketable Security" means a security of such a description as to be capable of being sold in any stock market in India;

9 [(mm) "Market Value" in relation to any property which is the subject-matter of an instrument, means the price which such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument whichever is higher: Provided that notwithstanding anything contained in this Act or in the Articles, in respect of an instrument executed by or on behalf of or in favour of the State Government or the Central Government or a local Authority or other Authority constituted by or under any law for

(n) "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;

(o) "Taper" includes vellum, parchment or any other material on which an instrument may be written;

(p) "Tower 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;

(q) "Settlement" means any non-testamentary disposition in writing, of moveable or immoveable property made-

(i) in consideration of marriage,

(ii) 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

(iii) 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.

(2) The Mysore General Clauses Act, 1899, shall apply for the interpretation of this Act, as it applies for the interpretation of a Karnataka Act.

1. Clauses (a) and (aa) inserted by Act No. 24 of 1999, w.e.f. 18-8-1999

2. Clause (a) renumbered as clause (aaa) by Act No. 24 of 1999, s.

2(i), w.e.f. 18-8-1999

3. Clause (c) substituted by Act No. 29 of 1962, w.e.f. 1-10-1962

4. Clause (ca) inserted by Act No. 24 of 1999, s. 2(ii), w.e.f. 18-8-1999

5. Clause (d) substituted by Act No. 6 of 1999, w.e.f. 1-4-1999.

6. Clause (dd) inserted by Act No. 29 of 1962, w.e.f. 1-10-1962.

7. Clause (gg) inserted by Act No. 24 of 1999, s. 2(iii), w.e.f. 18-8-1999

8. Clause (k) substituted by Act No. 29 of 1962, w.e.f. 1-10-1962.

9. Clause (mm) inserted by Act No. 6 of 1999, w.e.f. 1-4-1999.

CHAPTER 2

Stamp Duties

3. Instruments chargeable with duty :-

Subject to the provisions of this Act and the exemptions contained in the Schedule, 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 the territories of the State of Karnataka on or after the commencement of this Act; and

(b) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed out of the State of Karnataka on or after that day, relates to any property situate, or to any matter or thing done or to be done, in the territories of the State of Karnataka and is received in the territories of the State of Karnataka: Provided that no duty shall be chargeable in respect of-

(1) any instrument, executed by, or on behalf of, or in favour of, the ¹[State Government] in cases where, but for this exemption, the ²[State Government] would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for 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 ³[the Merchant Shipping Act, 1958].

⁴ [Explanation.-Where no proper duty has been paid on the

1. Substituted for the word "Government" by Act No. 17 of 1966, w.e.f. 15-11-1966.

2. Substituted for the word "Government" by Act No. 17 of 1966, w.e.f. 15-11-1966.
3. Substituted for the words and figures "the Merchant Shipping Act, 1894 or under Act xix of 1838 or the Indian Registration of Ships Act, 1841" by Act No. 29 of 1962, w.e.f. 1-10-1962.
4. Explanation inserted by Act No. 24 of 1999, s. 3, w.e.f. 18-8-1999.

3A. Instruments liable to duty in multiples of five paise :-

1 .-Notwithstanding anything contained in Section 3 and the Schedule or any rule or order published under Section 9, the proper duty payable on any instrument shall be computed and determined in multiples of five paise: Provided that where a scale has been specified for determining the proper duty, the total amount of duty payable on any instrument shall be calculated in accordance with such scale, and where the total amount so calculated includes in addition to any multiple of five paise a fraction of five paise, such fraction shall be deemed to be five paise, and the total amount of duty payable on the instrument shall be determined accordingly.]

1. Section 3-A inserted by Act No. 29 of 1962, w.e.f. 1-10-1962.

3B. Certain instruments chargeable with additional duty :-

1

(1) Any instrument of conveyance, exchange, settlement, gift or lease in perpetuity of immovable property chargeable with duty under Section 3 read with articles of the Schedule shall, for a period of four years effective from the First day of April, 1998 be chargeable with additional duty at the rate of five per cent on such duty chargeable on such instrument of conveyance, exchange, gift, settlement and lease in perpetuity for the purpose of equity investment in the Infrastructure Development Corporation (Karnataka) Limited and Bangalore Mass Rapid Transit Limited in the proportion of 67:33 respectively.

(2) The additional duty chargeable under sub-section (1) shall be in addition to any duty chargeable under Section 3.

(3) Except as otherwise provided in sub-section (1) provisions of this Act, shall so far as may be apply in relation to the additional duty chargeable under sub-section (1) as they apply in relation to the duty chargeable under Section 3.]

1. Section 3-B substituted by Act No. 6 of 2001 and shall be deemed to have been substituted w.e.f. 1-4-1998.

3BB. Instruments chargeable with additional duty :-

1

(1) Every instrument chargeable with duty under Section 3 read with Articles of the Schedule shall, in addition to such duty, be chargeable with a duty of ten paise.

(2) The additional duty with which any instrument is chargeable under sub-section (1) shall be paid and such payment shall be indicated on such instruments by means of adhesive stamps bearing such inscription as the State Government may, by order published in the Official Gazette, specify, whether with or without any other design, picture or inscription.

(3) Except as otherwise provided in sub-section (2), the provisions of this Act shall so far as may be, apply in relation to the additional duty chargeable under sub-section (1) as they apply in relation to the duty chargeable under Section 3.]

1. Section 3-B inserted by President's Act No. 17 of 1971, w.e.f. 1-12-1971 and as per the Kamataka Re-enacting Act, 1973 (Act No. 4 of 1973) it shall remain in force upto and inclusive of 31st March, 1974.

3C. Limit on levy of additional stamp duty :-

1 -Notwithstanding anything contained in any other law for the time being in force, no instrument shall be charged with any duty in the form of additional stamp duty under such other law, exceeding the maximum amount of duty with which such instrument is chargeable under this Act.]

1. Section 3-C inserted by Act No. 6 of 1999, w.e.f. 1-4-1999.

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 the Schedule ' for the conveyance, mortgage, or settlement, and each of the other instruments shall be chargeable with a duty of ¹ [one hundred] rupees instead of the duty (if any) prescribed for it in the Schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purpose 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 instruments employed.

1. Substituted for the word "three" by Act No. 8 of 1995, w.e.f 1-4-1995.

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.

6. Instruments coming within several descriptions in Schedule :-

Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the . descriptions in the Schedule shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties: Provided that nothing contained in this Act shall render chargeable with duty exceeding ¹ [four rupees and fifty paise] a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

1. Substituted for the words "three rupees" by Act No. 29 of 1962, w.e.f. 1-10-1962.

7. Payment of higher duty in respect of certain instruments :-

(1) Notwithstanding anything contained in Section 4 or 6 or in any other enactment, unless it is proved that the duty chargeable under this Act has been paid-

(a) on the principal or original instrument, 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 the State, have been chargeable under this Act with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under Section 19.

(2) Notwithstanding anything contained in any enactment for the

time being in force, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence unless the duty chargeable under this section has been paid thereon: Provided that any Court before which any such instrument, duplicate or copy is produced may permit the duty chargeable under this section to be paid thereon and may then receive it in evidence.

1 [(3) Where any instrument is registered in any part of India other than Karnataka and the instrument relates wholly or partly to any property situated in Karnataka, the copy of such instrument shall, when received in Karnataka be liable to be charged with the difference of stamp duty as original under Section 19 to the extent of and in proportion to the consideration or value of the property situated in Karnataka and the party liable to pay stamp duty on the original instrument shall upon receipt of notice from the registering officer pay the difference in duty within the time allowed.]

1. Sub-section (?) inserted by Act No. 24 of 1987, w.e.f. 12-6-1987.

8. Bonds or other securities issued on loans :-

(1) Notwithstanding anything contained in this Act, any local authority raising a loan under the provisions of any law for the time being in force, by the issue of bonds 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 or other securities issued by it, and such bonds 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 or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds or other securities of all outstanding loans of the kind mentioned

(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.

9. Power to reduce, remit or compound duties :-

(1) The State Government may, by rule or order published in the

Official Gazette.-

(a) ¹[reduce upto fifty per cent], or retrospectively in the whole or any part of the State of Karnataka, if in the opinion of the State Government it is necessary in public interest so to do, the duties with which 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 ²[Provided that the State Government may in public interest reduce or remit the stamp duty payable on an instrument executed to obtain loan.-

(i) by any person for an agricultural purpose as defined in the Karnataka Agricultural Credit Operations Miscellaneous Provisions Act, 1974[Karnataka Act 2 of 1975]; and

(ii) by a public sector undertaking, for the purpose for which it is established:]

[Provided further that the State Government may in public interest reduce or remit, by notification; till the end of 31st March, 2001, the stamp duty payable on any instrument, to be specified therein, executed by a new Tiny and Small Scale Industrial unit as defined under the new Industrial Policy of the Government of Karnataka dated Fifteenth March, 1996.]

³[Provided also that the State Government may reduce or remit in public interest, by notification the Stamp duty payable on any instrument to be specified therein executed in respect of such Key Project of a core area:

Explanation.-For the purpose of this proviso, Key Project of a core area means such projects as may be specified by the State Government from time to time.] ⁴[Provided also that the State Government may in public interest reduce or remit by notification, the stamp duty payable on any instrument to be specified therein executed by or in favour of Rajiv

(b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate, of bonds or other marketable securities.

⁵[(1-A) Notwithstanding anything contained in any other law for the time being in force, no reduction or remission of stamp duty

shall be allowed unless it is notified in accordance with sub-section (1).]

6 [(2) Every rule or order published under clause (a) of sub-section (1) shall be laid as soon as may be after it is published before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or order or both Houses agree that the rule or order should not be made, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.]

1. Substituted for the words "reduce or remit, whether prospectively" by Act No. 5 of 1998, w.e.f. 1-4-1998.

2. Proviso inserted by Act No. 5 of 1998, w.e.f. 1-4-1998.

3. Third proviso inserted by Act No. 7 of 2000, w.e.f. 1-4-2000

4. Fourth proviso inserted by Act No. 6 of 2001, w.e.f. 1-4-2001.

5. Sub-section (1-A) inserted by Act No. 5 of 1998, w.e.f. 1-4-1998.

6. Sub-section (2) substituted by Act No. 29 of 1962, w.e.f. 1-10-1962.

10. Duties how to be paid :-

(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps-

(a) according to the provision herein contained; or

(b) when no such provision is applicable thereto, as the 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 stamps-the number of stamps which may be used.

1 [(3) Subject to the rules made under clause (b) of sub-section (1), the Chief Controlling Revenue Authority or any other officer empowered by the State Government in this behalf may authorise any person, body or organisation, including Post Offices and Banks, to use machine for making impression of stamps indicating the payment of stamp duty on the instrument.]

1. Sub-section (?) inserted by Act No. 6 of 1999, w.e.f. 1-4-1999.

10A. Payment of Stamp Duty by cash in certain cases :-

1

(1) Notwithstanding anything contained in Section 10, the stamp duty payable on an instrument may also be paid in cash by challan in the Banking Treasury or Treasury, countersigned by an officer empowered by the State Government by notification in this behalf or by Demand Draft or by Pay Order drawn on a branch of any Scheduled Bank. The officer so empowered shall, on production of such challan and after due verification that the duty has been paid, or upon production of Demand Draft or Pay Order as the case may be, certify in such manner as may be prescribed by endorsement on the instrument of the amount of duty so paid.

(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 stamps, in accordance with the requirements of Section 10.

(3) Nothing in this section shall apply to.-

(i) the payment of stamp duty chargeable on the instruments specified in Entry 91 of List I of the Seventh Schedule to the Constitution of India; and

(ii) the instruments presented after two months from the date of their execution or first execution.]

1. Section 10-A inserted by Act No. 24 of 1999, s. 4, w.e.f. 18-8-1999.

11. Use of adhesive stamps :-

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

(a) instruments chargeable **1**[with a duty not exceeding fifty paise].

2[(b) certificate of enrolment in the roll of Advocates maintained by the State Bar Council];

(c) notarial acts;

(d) instruments mentioned in Article 51 of the Schedule;

3 [(e) instruments chargeable with such amount of duty as the State Government may, by notification specify.]

1. Substituted for the words "with a duty not exceeding Thirty Paise" by Act No. 15 of 1980, w.e.f. 3-12-1979.

2. Clause (b) substituted by Act No. 29 of 1962, w.e.f. 1-10-1962.

3. Clause (e) inserted by Act No. 15 of 1980 and shall be deemed to have come into force w.e.f. 3-12-1979.

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 be 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.

15. Instruments 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 ¹[Deputy Commissioner] for that purpose, and on production of both the instruments, be denoted upon such first mentioned instrument, by endorsement under the hand of the ² [Deputy Commissioner] or in such other manner, if any, as the State Government may by rules prescribe.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

17. Instruments executed in the State of Karnataka :-

All instruments chargeable with duty and executed by any person in the State of Karnataka shall be stamped before or at the time of execution.

¹ [Provided that nothing in this section shall apply to an instrument in respect of which stamp duty has been paid under Section 10-A.]

1. Proviso added by Act No. 24 of 1999, s. 5, w.e.f. 18-8-1999.

18. Instruments executed out of India :-

(1) Every instrument chargeable with duty executed only out of India may be stamped within three months after it has been first received in the State of Karnataka.

(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 ¹ [Deputy Commissioner] who shall stamp the same, in such manner as the Government may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

1. Substituted for the figures "1889" by Act No. 8 of 1958, w.e.f. 29-3-1958.

19. Payment of duty on certain instruments liable to increased duty in the State of Karnataka :-

Where any instrument of the nature described in any Article in the Schedule and relating to any property situate or to any matter or thing done or to be done in the State of Karnataka is executed out of the said State and subsequently received in the said State-

(a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under the Schedule on a document of the like description executed in the State of Karnataka less the amount of duty, if any, already paid on such instrument in any other State in India,

(b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in the State of Karnataka for the first time at the time when it became chargeable with the higher duty, and

(c) the provisions contained in clause (b) of the proviso to subsection (3) of Section 32 shall apply to such instrument as if such were an instrument executed or first executed out of India and first received in the State of Karnataka when it became chargeable to the higher duty aforesaid, but the provision contained in clause (a) of the said proviso shall not apply thereto.

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.

(2) The rate of exchange prescribed by the Central Government under sub-section (2) of Section 20 of the Indian Stamp Act, ¹[1899] (Central Act IT of ² [1899]) shall be deemed to be the current rate of exchange for the conversion of any foreign currency for the purposes of calculating the duty under sub-section (1).

1. Substituted for the figures "1889" by Act No. 8 of 1958, w.e.f. 29-3-1958.

2. Substituted for the figures "1889" by Act No. 8 of 1958. w.e.f. 29-3-1958.

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 may 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.

24. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements :-

(1) Where an instrument-

(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

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

25. How transfer in consideration of debt, or subject to future payment, etc., to be charged :-

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 in respect whereof the transfer is chargeable with ad valorem duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article 15 of the Schedule.

Explanation.-In the case of a 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. Illustrations

(1) A owes B Rs. 1,000. A sells a property to B the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.

26. Valuation in case of annuity, etc :-

Where an instrument is executed to secure the payment of annuity or other sum payable periodically, ¹[x x x x x] - the amount secured by such instrument ²[x x x x x] 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 ³[x x x x x] the total amount which, according to the terms of such instrument ⁴[x x x x x] 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 ⁵ [x x x x x] - 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.

1. The words "or where the consideration for a conveyance is an annuity or other sum payable periodically" omitted by Act No. 12 of 1975, w.e.f. 1-5-1975.

2. The words "or the consideration for such conveyance, as the case may be" omitted by Act No. 12 of 1975, w.e.f. 1-5-1975.

3. The words "or conveyance" omitted by Act No. 12 of 1975, w.e.f. 1-5-1975.

4. The words "or conveyance" omitted by Act No. 12 of 1975. w.e.f. 1-5-1975.

5. The words "or conveyance" omitted by Act No. 12 of 1975. w.e.f. 1-5-1975.

27. Stamp where value of subject matter is indeterminate :-

Where the amount or value of the subject matter of any instrument chargeable with ad valorem duty cannot be or 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 mine in which royalty or a share of the produce is received as the rent, or the 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 ¹[Deputy Commissioner] 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 any instrument under Section 31 or 39, the amount certified by the ² [Deputy Commissioner] shall be deemed to be the stamp actually used at the date of execution.

1. Substituted for the word "Collector" by Act No. 29 of 1962. w.e.f. 1-10-1962.

2. Substituted for the word "Collector" by Act No. 29 of 1962. w.e.f. 1-10-1962.

28. Facts affecting duty to be set forth in instrument :-

1[(1)] The consideration (if any) 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.

2[(2) In the case of instruments relating to immoveable property

3 [(3) In the areas where Section 45-A is in force, the instruments referred to in the said section shall fully and truly set forth the market value of the property which is the subject matter of the instrument and such other particulars as the State Government may by rules prescribe.]

1. Section 28 re-numbered as sub-section (1) by Act No. 17 of 1966. w.e.f. 15-11-1966.

2. Sub-section (2) inserted by Act No. 17 of 1966. w.e.f. 15-11-1966.

3. Sub-section (?) inserted by Act No. 12 of 1975. w.e.f. 1-5-1975.

28A. Intimation of transfer of ownership of Motor Vehicle :-

1 -xxxx.

1. Sections 28-A and 28-B omitted by Act No. 6 of 1999, w.e.f. 1-4-1999.

28B. Restriction to registration :-

x x x x x.]

29. Direction as to duty in case of certain conveyances :-

1 .-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 market value of the property which is the subject matter of conveyance and is duly stamped accordingly, any conveyance to be afterwards made to him for 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 market value of the property which is the subject matter of the conveyance or where such duty would exceed ten rupees, with a duty of ten rupees.]

1. Section 29 substituted by Act No. 12 of 1975. w.e.f. 1-5-1975.

30. 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 the Schedule, namely: No. 2 (Administration Bond), No. 6 (Agreement relating to deposit of title deeds, pawn or pledge), No. 12 (Bond), No. 13 (Bottomry Bond), No.¹[23] (Customs Bond), No. ²[27] (Further Charge), No. ²[29] (Indemnity Bond), No. ²[34] (Mortgage Deed), No. ²[45] (Release), No. ²[46] (Respondentia Bond), No. ²[47] (Security Bond or Mortgage Deed), No. ²[48] (Settlement), No. [52] (a) (Transfer of Debentures, being marketable securities, whether the debenture is liable to duty or not), No. ~[52] (b) (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 conveyance (including a re-conveyance of mortgaged property) by the grantee; in the case of a lease or agreement to lease - by the lessee or intended lessee;

(c) in the case of a counterpart of lease - by the lessor;

9[(cc) in the case of power of attorney - by the principal.]

(d) in the case of an instrument of exchange - by the parties in equal shares;

10 [(dd) in the case of a certificate of enrolment in the roll of Advocates maintained by the State Bar Council - by the Advocate enrolled)];

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

(f) 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.

1. Substituted for the figures "22, 26, 28, 33, 44, 45, 46, 47 and 52 respectively" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Sections 28-A and 28-B omitted by Act No. 6 of 1999, w.e.f. 1-4-1999.

9. Clause (cc) inserted by Act No. 24 of 1999, s.6, w.e.f. 18-8-1999.

10. Clause (dd) inserted by Act No. 29 of 1962, w.e.f. 1-10-1962.

CHAPTER 3

Adjudication as to Stamps

31. Adjudication as to proper stamps :-

(1) When any instrument, whether executed or not and whether previously stamped or not is brought to the ¹[Deputy Commissioner], 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 one hundred rupees the ²[Deputy Commissioner] shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the ³ [Deputy Commissioner] 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 any enquiry 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.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Substituted for the words and brackets "such amount (not exceeding seven rupees and fifty paise and not less than seventy paise), as the Deputy Commissioner may in each case direct" by Act No. 24 of 1999, s. 7, w.e.f. 18-8-1999.

3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

32. Certificate by 2[Deputy Commissioner :-

(1) When an instrument brought to the ¹[Deputy Commissioner] under Section 31, is in his opinion, one of a description chargeable with duty, and

(a) the ²[Deputy Commissioner] determines that it is already fully stamped, or

(b) the duty determined by the ³[Deputy Commissioner] 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 ⁴[Deputy Commissioner] shall certify by endorsement on such

(2) When such instrument is, in his opinion, not chargeable with duty, the ⁵[Deputy Commissioner] shall certify in manner aforesaid that such instrument is not so chargeable.

(3) ⁶ [Subject to any orders made under Chapter VI, 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 3[Deputy Commissioner] to endorse,-

(a) any instrument 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 India and

brought to him after the expiration of three months after it has been first received in the State of Karnataka; or

(c) any instrument chargeable 4[with a duty not exceeding fifteen paise] or a mortgage of crop Article 5[35](a) of the Schedule chargeable under clause (a) or (b) of Section 3 with a duty of twenty-five paise, when brought to him, after the execution thereof, on paper not duly stamped.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

4. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

5. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

6. Substituted for the words "Any instrument upon which" by Act No. 29 of 1962. w.e.f. 1-10-1962.

CHAPTER 4

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 a 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 the State of Karnataka when such instrument 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;

(b) in the case of a Judge of the High Court, the duty of 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, the Government may determine.-

(a) what offices shall be deemed to be public offices; and

(b) who shall be deemed to be persons in-charge of public offices.

34. Instruments 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 parries 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 ¹[with a duty not exceeding fifteen paise] only, or a mortgage of crop Article ²[35](a) of the Schedule chargeable under clauses (a) and (b) of Section 3 with a duty of twenty-five paise 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 exceeds five rupees, of a sum equal to ten times such duty or portion;

(b) 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;

(c) 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;

(d) 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 ³[Deputy Commissioner] as provided by Section 32 or any

other provision of this Act⁴ [and such certificate has not been revised in exercise of the powers conferred by the provisions of Chapter VI].

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
4. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

35. Admission of instrument where riot to be questioned :-

Where an instrument has been admitted in evidence such admission shall not, except as provided in Section 58, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

36. Admission of improperly stamped instruments :-

The State Government may make rules providing that, where an instrument bears a stamp of sufficient amount but or 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.

37. Instruments impounded how dealt with :-

(1) When the person impounding an instrument under Section 33 has by law or consent or parries authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by Section 34 or of duty as provided by Section 36, he shall send to the ¹[Deputy Commissioner] 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 ²[Deputy Commissioner] 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 ³ [Deputy Commissioner].

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
3. Substituted for the word "Collector" by Act No. 29 of 1962,

w.e.f. 1-10-1962.

38. Deputy Commissioners] power to refund penalty paid under sub-section (1) of Section 37 :-

1

(1) When a copy of an instrument is sent to the ²[Deputy Commissioner] under sub-section

(2) When such instrument has been impounded only because it has been written in contravention of Section 13 or Section 14, the ³[Deputy Commissioner] may refund the whole penalty so paid.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

39. Deputy Commissioners] power to stamp instruments impounded :-

1

(1) When the ²[Deputy Commissioner] impounds any instrument under Section 33, or receives any instrument sent to him under sub-section (2) of Section 37, not being an instrument chargeable ³[with a duty not exceeding fifteen paise] only or a mortgage of crop [Article ⁴[35](a) of the Schedule] chargeable under clause (a) or (b) of Section 3 with a duty of twenty-five paise, 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 ⁵[Deputy Commissioner] may, if he thinks fit, remit

the whole penalty prescribed by this section.

(2) ⁶[Subject to any orders made under Chapter VI, every certificate] under clause (a) 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 ⁷[Deputy Commissioner] under sub-section (2) of Section 37, the ⁸ [Deputy Commissioner] shall, when he has dealt with it as provided by this section, return it to the Impounding Officer.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
3. Substituted for the words "with a duty of ten naye paise or five naye paise" by Act No. 29 of 1962, w.e.f. 1-10-1962.
4. Substituted for the figure "34" by Act No. 29 of 1962, w.e.f. 1-10-1962.
5. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
6. Substituted for the words "Every certificate" by Act No. 29 of 1962, w.e.f. 1-10-1962.
7. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
8. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

40. Instruments unduly stamped by accident :-

If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable ¹[with a duty not exceeding fifteen paise] or a mortgage of crop Article ²[35](a) of the Schedule chargeable under clause (a) or (b) of Section 3 with a duty of twenty-five paise is produced by any person of his own motion before the ³[Deputy Commissioner] within one year from the date of its execution or first execution and such person brings to the notice of the ⁴[Deputy Commissioner] the fact that such instrument is not duly stamped and offers to pay to the ⁵[Deputy Commissioner] the amount of the proper duty, or the amount required to make up the same, and the ⁵ [Deputy Commissioner] is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under Sections 33 and 39, receive such amount and proceed as next hereinafter prescribed.

1. Substituted for the words "with a duty of ten naye paise or five naye paise" by Act No. 29 of 1962, w.e.f. 1-10-1962.
2. Substituted for the figures "34" by Act No. 29 of 1962, w.e.f. 1-10-1962.
3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
4. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
5. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

41. Endorsement of instruments on which duty has been paid under Sections 34, 39 or 40 :-

(1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under Section 34, Section 39 or Section 40, the person admitting such instrument in evidence or the ¹[Deputy Commissioner], 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 34, shall be so delivered before the expiration of one month from the date of such impounding, or if the ² [Deputy Commissioner] has certified that its further detention is necessary and has not cancelled such certificate;

(b) nothing in this section shall affect order XIII, rule 9 of the First Schedule to the Code of Civil Procedure, 1908.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

42. 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 law relating to stamps 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 ¹ [Deputy Commissioner] that the offence was committed with an intention of evading payment of the proper duty.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

43. Persons paying duty or penalty may recover same in certain cases :-

(1) When any duty or penalty has been paid under Section 34, Section 36, Section 39 or Section 40, by any person in respect of an instrument, and by agreement or under the provisions of Section 30 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense 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.

44. Power to Revenue Authority to refund penalty or excess duty in certain cases :-

(1) Where any penalty is paid under Section 34 or Section 39, 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 ¹[any of the provisions of this Act], such authority may, upon application in writing made ³[within six months from the date of registration of the instrument or the order charging the same], refund the excess: ² [Provided that with the sanction of the State Government the Chief Controlling Revenue Authority may make the refund after the period specified in sub-section (1) or (2)].

1. Substituted for the words "Section 34 or Section 39" by Act No. 6 of 1999, w.e.f. 1-4-1999.

2. Proviso added by Act No. 29 of 1962, w.e.f. 1-10-1962.

45. Non-liability for loss of instruments sent under Section 37 :-

(1) If any instrument sent to the ¹ [Deputy Commissioner] under sub-section (2) of Section 37 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.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

45A. Instrument of conveyance, etc, undervalued how to be dealt with :-

1

²[(1) If the registering officer appointed under the Registration Act, 1908 (Central Act XVI of 1908), while registering any instrument of conveyance, gift, exchange, settlement, partition, dissolution of partnership ³[, release], or an agreement to sell covered under sub-clause (i) of clause (e) and clause (f) of Article 5, a lease covered under item (iv) of sub-clause (a), item (ii) of sub-clause (b), item (ii) of sub-clause (c) of clause (1) of Article 30, a Power of Attorney covered under clause (ea) or (eb) of Article 41 or any conveyance under a decree or final order of any Civil Court, has reason to believe, having regard to the estimated market value

published by the Committee constituted under Section 45-B, if any, or otherwise, that the market value of the property which is the subject-matter of such instrument has not been truly set forth, he shall after arriving at the estimated market value, communicate the same to the parties and unless the parties pay the duty on the basis of such valuation, shall keep pending the process of registration and refer the matter along with a copy of such instrument to the Deputy Commissioner for determination of the market value of the property and the proper duty payable thereon.]

(2) On receipt of a reference under sub-section (1), the Deputy Commissioner shall, after giving the parties reasonable opportunity of being heard and after holding an inquiry in such manner as the State Government may by rules prescribe, determine by order ⁴[as far as may be within ninety days from the, date of receipt of such reference] the market value of the property which is the subject matter of conveyance, ⁵[exchange, gift, settlement, partition ⁶[dissolution of partnership ⁷[, release], an agreement to sell covered under sub-clause (i) of clause (e) and (f) of Article 5, a lease covered under item (iv) of sub-clause (a), item (ii) of sub-clause (b), item (ii) of sub-clause (c) of ⁸[, or a power of attorney covered under clause (ea) or (eb) of Article 41 or every decree or final order of any Civil Court]]] and the duty payable thereon. The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty.

(3) The Deputy Commissioner may, suo motu within two years from the date of registration of any instrument of conveyance, ⁹[exchange, gift, settlement, partition ¹⁰[dissolution of partnership ¹¹[,release], an agreement to sell covered under sub-clause (i) of clause (e) and (f) of Article 5, a lease covered under item (iv) of sub-clause (a), item (ii) of sub-clause (b), item (ii) of sub-clause (c) of clause (1) of Article 30 ¹²[, or a power of attorney covered under clause (ea) or (eb) of Article 41 or every decree or final order of any Civil Court]]] 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 conveyance ⁵[exchange, gift, settlement, partition ⁶[, dissolution of partnership ⁷[, release], an agreement to sell covered under sub-clause (i) of clause (e) and (f) of Article 5, a lease covered under item (iv) of sub-clause (a),

item (ii) of sub-clause (b), item (ii) of sub-clause (c) of clause (1) of Article 30 or a power of attorney covered under clause (ea) or (eb) of Article 41]] 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 by order the market value of such property and the duty payable thereon 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 commencement of the Karnataka Stamp (Amendment) Act, 1975.

(4) The order of the Deputy Commissioner under sub-section (2) or (3) shall be communicated to the person liable to pay the duty. A copy of every such order shall be sent to the registering officer concerned.

(5) Any person aggrieved by an order of the Deputy Commissioner under sub-section (2) or sub-section (3) may, prefer an appeal before the ¹⁶[Divisional Commissioner of the Revenue Division] ¹⁷[Provided that no appeal shall be admitted unless the person aggrieved has deposited, in the prescribed manner, fifty per cent of the difference in the amount of duty as determined by the Deputy Commissioner under sub-section (2) or (3):

Provided further that, whereafter the determination of the market value by the Appellate Authority or determined again by the Deputy Commissioner on a remand of the case, the stamp duty borne is found to be sufficient, the amount deposited shall be returned to the person concerned:

Provided also that whereafter the determination of the market value by the Appellate Authority or by the Deputy Commissioner on a remand of the case, such person shall pay the deficient duty so determined along with interest at twelve per cent per annum on the amount of the difference of stamp duty calculated from the date of execution of the document.]

1. Section 45-A inserted by Act No. 12 of 1975, w.e.f. 8-7-1985, 1-4-1990 and 1-4-1991.

2. Sub-section (J) substituted by Act No. 24 of 1999, s. 8(1), w.e.f. 18-8-1999.

3. Inserted by Act No. 7 of .2000, w.e.f. 1-4-2000.

4. Inserted by Act No. 24 of 1999, s. 8(2X0, w.e.f. 18-8-1999.
5. Substituted for the words "exchange or gift" by Act No. 11 of 1991, w.e.f. 1-4-1991.
6. Substituted for the words "or dissolution of partnership" by Act No. 5 of 1998, w.e.f. 1-4-1998.
7. Inserted by Act No. 7 of 2000, w.e.f. 1-4-2000.
8. Substituted for the words, brackets, letters and figures "or a power of attorney covered under clause (ea) or (eb) of Article 41" by Act No. 24 of 1999, s. 8(2)(ii), w.e.f. 18-8-1999.
9. Substituted for the words "exchange or gift" by Act No. 11 of 1991, w.e.f. 1-4-1991.
10. Substituted for the words "or dissolution of partnership" by Act No. 5 of 1998, w.e.f. 1-4-1998.
11. Inserted by Act No. 7 of 2000, w.e.f. 1-4-2000.
12. Substituted for the words, brackets, letters and figures "or a power of attorney covered under clause (ea) or (eb) of Article 41" by Act No. 24 of 1999, s. 8(3), w.e.f. 18-8-1999.
16. Substituted for the words "District Judge" by Act No. 11 of 1991, w.e.f. 1-4-1991.
17. Section 45-B inserted by Act No. 11 of 1991, w.e.f. 1-4-1991.

45B. Constitution of a Committee for estimation of property

:-

1

(1) Subject to such rules as may be prescribed, the State Government shall, by notification, constitute for each Taluk or any part thereof one or more committees consisting of such number of members, as may be prescribed, to estimate the market value of any property or of such properties in any area in the prescribed manner and at prescribed intervals ²[and to publish the estimated market value in such manner as may be prescribed.]

(2) The Committee shall follow such procedures as may be prescribed. ³ [(3) x x x x x.]

1. Section 45-B inserted by Act No. 11 of 1991, w.e.f. 1-4-1991.

2. Added by Act No. 6 of 1999, w.e.f. 1-4-1999.

3. Sub-section (?) omitted by Act No. 6 of 1999, w.e.f. 1-4-1999.

46. Recovery of duties and penalties :-

¹[(1)] All duties, penalties and other sums required to be paid under this Chapter may be recovered ²[along with simple interest at such rate as may be specified by the State Government by notification] by the ³[Deputy Commissioner] by distress and sale of the moveable property or 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.

4 [(2) All duties, penalties and other sums required to be paid under this Chapter shall be a charge on the property which is the subject-matter of the instrument: Provided that the provisions of sub-section (2) shall be deemed to apply to all cases of which are pending recovery and to proceedings under sub-section (1) which have already been initiated.

(3) Notwithstanding anything contained in the Registration Act, 1908 (Central Act XVI of 1908), a note of such charge and its extinguishment shall be made in the indices prescribed therein and shall be deemed to be a notice under the said Act.]

1. Section 46 renumbered as Section 46(1) by Act No. 11 of 1991. w.e.f. 1-4-1991.

2. Inserted by Act No. 24 of 1999. s. 9(i). w.e.f. 18-8-1999.

3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

4. Sub-sections (2) and (3) substituted for sub-section (2) by Act No. 24 of 1999, s. 9(ii), w.e.f. 18-8-1999.

46A. Recovery of Stamp Duty not levied or short levied :-

1

(1) Where any instrument chargeable with duty has not been duly stamped, the Chief Controlling Revenue Authority or any other officer authorised by the State Government (hereinafter referred to as the authorised Officer) may, within ²[five years] from the date of commencement of the Karnataka Stamp (Amendment) Act, 1980 or the date on which the duty became payable whichever is later, serve 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 up 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 this Act or of the rules made thereunder with intent to evade payment of duty, the provisions of this sub-section shall have effect, as if for the words ³[five years] the words ⁴[ten years] were substituted:

Provided further that nothing in this sub-section shall apply to instruments executed prior to First day of April, 1972.

Explanation.-Where the service of a notice, under this sub-section

is stayed by an order of a Court, the period of such stay shall be excluded in computing the aforesaid period of ⁵[five years] or ⁶[ten years,] as the case may be.

(2) The Chief Controlling Revenue Authority or the authorised officer shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of duty due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(3) Any person aggrieved by an order under sub-section (2), may prefer an appeal before the Karnataka Appellate Tribunal within three months from the date of such order.

⁷ [(4) All duties payable under this section shall be recovered in accordance with provisions of Section 46.]

1. Section 46-A inserted by Act No. 15 of 1980, w.e.f. 1-4-1972.

2. Substituted for the words "three years" by Act No. 16 of 1983, w.e.f. 1-6-1958 and shall be and shall be deemed always to have been substituted.

3. Substituted for the words "three years" by Act No. 16 of 1983, w.e.f. 1-6-1958 and shall be and shall be deemed always to have been substituted.

4. Substituted for the words "six years" by Act No. 16 of 1983, w.e.f. 1-6-1958 and shall be and shall be deemed always to have been substituted.

5. Substituted for the words "three years" by Act No. 16 of 1983, w.e.f. 1-6-1958 and shall be and shall be deemed always to have been substituted.

6. Substituted for the words "six years" by Act No. 16 of 1983, w.e.f. 1-6-1958 and shall be and shall be deemed always to have been substituted.

7. Sub-section (4) substituted by Act No. 24 of 1999, s. 10, w.e.f. 18-8-1999.

46B. Duties, penalties, etc., to be certified :-

All duties whether proper or deficit, penalties, or any other sums paid or recovered under any of the provisions of this Act shall be certified on the instruments in the manner prescribed.]

CHAPTER 5

Allowances for Stamps in Certain Cases

47. Allowances for spoiled stamps :-

Subject to such rules as may be made by the State Government as to evidence to be required, or the enquiry to be made, the Deputy

Commissioner may, on application made within the period prescribed in Section 48, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:-

(a) the stamps on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for 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) 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;

(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 by 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 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 and that the instrument is given up to be cancelled.

Explanation.-The certificate of the ¹ [Deputy Commissioner] 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.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

48. Application for relief under Section 47 when to be made :-

The application for relief under Section 47 shall be made within the following periods, that is to say,-

(1) in the cases mentioned in clause (c)(5), within ¹[six months] of the date of the instrument;

(2) in the case of a stamped paper on which no instrument has ²[one year] after the stamp has been spoiled;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within ³[six months] after the date of the instrument or, if it is not dated, within [one year] after execution thereof by the person by whom it was first or alone executed:

Provided that.-

(a) when the spoiled instrument has been for sufficient reasons sent out of the State of Karnataka, the application may be made within ⁴[six months] after it has been received back in the State of Karnataka;

(b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within ⁵ [six months] after the date of execution of the substituted instrument.

1. Substituted for the words "two months" by Act No. 6 of 1999, w.e.f. 1-4-1999.

2. Substituted for the words "six months" by Act No. 6 of 1999, w.e.f. 1-4-1999.
3. Substituted for the words "two months" by Act No. 6 of 1999, w.e.f. 1-4-1999.
4. Substituted for the words "two months" by Act No. 6 of 1999, w.e.f. 1-4-1999.
5. Substituted for the words "two months" by Act No. 6 of 1999, w.e.f. 1-4-1999.

49. Allowance in case of printed forms no longer required by Corporations :-

The Chief Controlling Revenue Authority 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 papers has been duly paid.

50. 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 ¹[Deputy Commissioner] may, on application made within ²[one year] after the date of the instrument, or, if it is not dated, within ³ [one year] after the execution thereof by the person by whom it was

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.
2. Substituted for the words "six months" by Act No. 6 of 1999, w.e.f. 1-4-1999.
3. Substituted for the words "six months" by Act No. 6 of 1999, w.e.f. 1-4-1999.

51. Allowance for spoiled or misused stamps how to be made :-

¹ .-In any case in which allowance is made for spoiled or misused stamps, the Deputy Commissioner may, after deducting twenty

paise for each rupee or a fraction thereof, give in lieu thereof.-

(a) other stamps of the same description; or

(b) if required and if he thinks fit, stamps of any, other description; or

(c) at his discretion the value in money equal to the discounted value.]

1. Section 51 substituted by Act No. 6 of 1999, w.e.f. 1-4-1999.

52. Allowance for stamps not required for use :-

¹[(1)] 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 ²[Deputy Commissioner] shall repay to such person the value of such stamp or stamps in money, deducting ³[ten paise] for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the ⁵[Deputy Commissioner'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 ⁴[one year] next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the ⁵[Deputy Commissioner] may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

6 [(2) An appeal shall lie against the orders of the Deputy Commissioner within sixty days from the date of the order passed under this chapter to the Chief Controlling Revenue Authority.]

1. Section 52 renumbered as sub-section (1) thereof by Act No. 6 of 1999, w.e.f. 1-4-1999.

2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

3. Substituted for the words "six naye paise" by Act No. 8 of 1958, w.e.f. 29-3-1958.

4. Substituted for the words "six months" by Act No. 6 of 1999, w.e.f. 1-4-1999.

5. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

6. Sub-section (2) inserted by Act No. 6 of 1999, w.e.f. 1-4-1999.

52A. Power of State Government to grant relief :-

¹ .-Notwithstanding anything in the preceding sections of this Chapter, the State Government, after consultation with the Chief Controlling Revenue Authority, if satisfied that it is just and equitable to grant relief in any case or class of cases,-

(i) other than those to which any of the said sections is applicable; or

(ii) after the period specified in any of the said sections; may by order direct the grant of such relief as may be specified in the order and the Deputy Commissioner shall dispose of the case or class of cases conformably to such order.]

[Provided that the provisions of this section shall not apply to cases where refunds are claimed for loss of stamps.]

1. Section 52-A inserted by Act No. 29 of 1962, w.e.f. 1-10-1962.

CHAPTER 6

Reference and Revision

53. Control of, and statement of case to Chief Controlling Revenue Authority :-

(1) The power exercisable by a ¹[Deputy Commissioner] under ²[any provision of this Act or any rule or order made thereunder] shall in all cases be subject to the control of the Chief Controlling Revenue Authority.

(2) If any ³[Deputy Commissioner] acting under Section 31, Section 39 or Section 40, 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 ⁴ [Deputy Commissioner], who shall proceed to assess and charge the duty (if any) in conformity with such decision.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Substituted for the word "Collector" by Act No. 29 of 1962.

w.e.f. 1-10-1962.

3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

4. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

53A. Revision of order passed by Deputy Commissioner or Authorised Officers :-

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(1) The Chief Controlling Revenue Authority may except where the matter is pending before an Appellate Authority under this Act, suo motu, within a period of five years from the date of the order passed under this Act by the Deputy Commissioner or such other officer authorised by the State Government in this behalf, call for and examine the records relating to such order or proceedings taken under this Act by the Deputy Commissioner or the authorised officer, and if after such examination it has reason to believe that the order so made or proceedings so taken is erroneous or are not in accordance with the provisions of this Act or prejudicial to the interest of the revenue, it may after giving the parties interested an opportunity of being heard, pass an order in writing confirming, modifying or setting aside such order and direct the Deputy Commissioner or the authorised officer, as the case may be to collect the difference of duty, if any payable, in accordance with the provisions of Section 46:

Provided that in appropriate cases, the Chief Controlling Revenue Authority may order stay of operation of the order under revision, pending hearing of the case.

(2) The Chief Controlling Revenue Authority may for the purpose of sub-section (1), require the concerned person to produce before it, the instrument and examine such instrument to determine whether any duty is chargeable or the duty is short levied or improperly levied on account of any wilful mis-statement or suppression of facts made or of contravention of any of the provisions of this Act or rules made thereunder by such person with intent to evade payment of duty.]

1. Now see Chapters IX and X of Cr P.C., 1973.

54. 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 sub-section (2) of Section 53 or otherwise coming to its notice, and refer such case, with its opinion thereon, to the High Court.

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

55. 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.

56. 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.

57. Statement of case by other Courts to High Court :-

(1) If any Court, other than the High Court, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to Section 34, 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.

(2) Such Court shall deal with the case as if it had been referred under Section 54, 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.

58. 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 under¹[Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 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 34, 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 ²[Deputy Commissioner], 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 34, 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 with 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 ³[Deputy Commissioner] 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 ⁴[Deputy Commissioner] may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under Section 41, or in Section 42, prosecute any person for any offence against the stamp law which the ⁵[Deputy Commissioner] 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 34, is paid to the ⁶ [Deputy Commissioner], unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(b) except for the purpose 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 41.

1. Now see Chapters IX and X of Cr P.C., 1973.

2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

3. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

4. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

5. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

6. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

CHAPTER 7

Criminal Offences and Procedure

59. Penalty for executing, etc., instrument not duly stamped :-

(1) Any person executing or signing otherwise than as a witness any instrument chargeable with duty, without the same being duly stamped shall for every such offence ¹[be punishable with imprisonment for a term which shall not be less than one month but which may extend to six months or with fine which may extend to five thousand rupees or with both]: Provided that, when any penalty has been paid in respect of any instrument under Section 34, Section 39 or Section 58, 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.

59A. Penalty for making false declaration in clearance list :-

¹ .-Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false where it results in loss of stamp duty to the State Government shall, on conviction be punishable with imprisonment for a term which shall not be less than one month but which may extend to six months

and with fine which may extend to five thousand rupees.

1. Sections 59-A and 59-B inserted by Act No.24 of 1999. s.15, w.e.f. 18-8-1999.

59B. Penalty for failure to produce documents :-

Any person who.-

(i) fails to produce any register, book, record, paper, application, document, instrument or proceedings for inspection; or

(ii) prevents or obstructs the inspection, entry, search or seizure by an officer, empowered under this Act, shall on conviction, be punishable with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which may extend to five thousand rupees or with both.]

60. 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.

61. Penalty for omission to comply with provisions of Section 28 :-

Any person who, with intent to defraud the Government.-

(a) executes any instrument in which all the facts and circumstances required by Section 28 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

¹[(c) makes any false statement or 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 ² [five times the amount of the deficient duty thereof].

1. Clause (c) substituted by Act No. 24 of 1999, s. 16(i), w.e.f. 18-8-1999.

2. Substituted for the words "five thousand rupees" by Act No. 24 of 1999, s. 16(ii), w.e.f. 18-8-1999.

62. Penalty for devices to defraud the revenue :-

Any person who with intent to defraud the Government of duty,

practices or is concerned in any act, contrivance or device not specially punishable under this Act or any other law for the time being in force shall be punishable with fine which may extend to one thousand rupees.

63. 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 68, and

(b) any person not so appointed who sells or offers for sale any stamp other than a ¹[fifteen paise, ten paise or five paise] adhesive stamp, ² [shall, on conviction, be punishable with imprisonment for a term which shall not be less than one month but which may extend to six months or with fine which may extend to five thousand rupees or with both.]

1. Substituted for the words "six naye paise or three naye paise" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Substituted for the words "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" by Act No.24 of 1999, s. 17, w.e.f. 18-8-1999.

63A. Penalty for contravention of other provisions :-

¹ Any person who wilfully acts in contravention of any of the provisions of this Act in respect of which no other provision has been made in this Chapter, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

1. Section 63-A inserted by Act No. 17 of 1966, w.e.f. 15-12-1966.

64. Institution and conduct of prosecutions :-

(1) No prosecution in respect of any offence punishable under this Act or any enactment hereby repealed, shall be instituted without the sanction of the ¹[Deputy Commissioner] or such other officer as the Government generally, or the ² [Deputy Commissioner] specially, authorises in that Behalf.

(2) The Chief Controlling Revenue Authority, or any officer generally or specially authorised 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 46.

1. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

2. Substituted for the word "Collector" by Act No. 29 of 1962, w.e.f. 1-10-1962.

65. Jurisdiction of Magistrates :-

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

66. Place of trial :-

1 Every offence under this Act committed in respect of any instrument may be tried in any district or metropolitan area in which such instrument is executed or found or where such offence is triable under the Code of Criminal Procedure, 1973.

1. Section 66 substituted by Act No. 24 of 1999, s. 18, w.e.f. 18-8-1999.

CHAPTER 8

Supplemental Provisions

67. Books, etc., to be open to inspection :-

1 .-A Deputy Commissioner or an Assistant Commissioner or any officer not below the rank of a Sub-Registrar authorised by the Deputy Commissioner or Chief Controlling Revenue Authority in this behalf may for the purpose of this Act require every public officer or any person to produce or permit at all reasonable time, inspection of such registers, books, records, papers, documents, information in electronic storage and retrieval device or medium, applications, instrument 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 and take such notes and extracts as he may deem necessary without fee or charge and may if necessary seize them and impound them under Section 33.]

1. Section 67 substituted by Act No. 24 of 1999, s. 19, w.e.f. 18-8-1999.

67A. Procedure of Chief Controlling Revenue Authority and the Deputy Commissioner and rectification of mistakes :-

1 .-(1) No order relating to the proper stamp duty payable under this Act shall be made by the Chief Controlling Revenue Authority or the Deputy Commissioner to the prejudice of any person liable to pay such duty, unless a reasonable opportunity to be heard is given

to such person. (2) The State Government, the Chief Controlling Revenue Authority or the Deputy Commissioner may suo motu or on application of any party affected at any time within three years from the date of any order passed by it or him, review such order and rectify any mistake, or error apparent from the record: Provided that no such rectification shall be made to the prejudice of any person unless a reasonable opportunity to be heard is given to such person.]

1. Section 67-A inserted by Act No. 29 of 1962, w.e.f. 1-10-1962.

67B. Power to enter premises and inspect certain documents :-

1

(1) Where the Deputy Commissioner or an Assistant Commissioner or any officer not below the rank of a Sub-Registrar authorised by the Deputy Commissioner or Chief Controlling Revenue Authority has reason to believe that any of the instruments specified in the schedule has not been charged at all or incorrectly charged with duty leviable under this Act or the Indian Stamp Act, 1899 insofar as it is applicable to the State of Karnataka, he shall have power to enter and search any premises where he has reason to believe that any register, book, record, paper, application, information in electronic storage and retrieval device or medium, instrument or proceedings are kept and to inspect them and to take such notes and extracts as he may deem necessary. Every person having in his custody or is maintaining such register, book, record, paper, application, instrument or proceedings, shall at all reasonable times produce, or permit the Deputy Commissioner, Assistant Commissioner or such officer to inspect them and to take notes and extracts as he may deem necessary and if necessary seize and impound them under Section 33: Provided that no residential accommodation (not being a place of business-cum-residence) shall be so entered into and searched except on the authority of a search warrant issued by a Magistrate having jurisdiction over the area, and all searches under this section shall, so far as may be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(2) If upon such inspection, the Deputy Commissioner, Assistant Commissioner or the officer so authorised is of opinion that any instrument chargeable with duty and is not duly stamped he shall require the person liable to pay the proper duty or the amount

required to make up the same and also penalty, not exceeding five times the amount or the deficient duty thereof if any leviable, and in case of default the amount of duty and penalty shall be recovered in accordance with Section 46:

Provided that before taking any action under this sub-section, a reasonable opportunity of being heard shall be given to the person likely to be affected thereby.]

1. Section 67-B substituted by Act No. 24 of 1999, s. 20, w.e.f. 18-8-1999.

68. Powers to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules to carry out generally the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may be made for regulating.-

(a) the supply and sale of stamps and stamped papers;

(b) the persons, by whom alone such sale is to be conducted;

(c) the duties and remuneration of such persons ¹[x x x x;]

(d) the fines which shall in no case exceed five hundred rupees, to be incurred on breach of any rule;

²[(e) the manner of holding inquiry under Section 45-A(2); and

(f) the time within which an appeal shall be preferred and the manner in which such appeal shall be heard and disposed of by the District Judge:] Provided that such rules shall not restrict the sale of ³[fifteen paise, ten paise or five paise] adhesive stamps.

⁴ [(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. The word "and" omitted by Act No. 12 of 1975, w.e.f. 1-5-1975.
2. Clauses (e) and (f) inserted by Act No. 12 of 1975, w.e.f. 1-5-1975.
3. Substituted for the words "six naye paise or three naye paise" by Act No. 29 of 1962, w.e.f. 1-10-1962.
4. Sub-section (3) substituted by Act No. 29 of 1962. w.e.f. 1-10-1962.

69. Saving as to Court Fees :-

Nothing contained in this Act shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

70. Act to be translated and sold cheaply :-

The State Government shall make provision for the sale of a translation of this Act in Kannada and other regional languages [at such price as the State Government may from time to time fix per copy].

71. Repeal and savings :-

The Karnataka Stamp Act, 1900 (Karnataka Act II of 1900), as in force in the Karnataka Area and the Hyderabad Stamp Act, 1331 F (Hyderabad Act IV of 1331 Fasli), as in force in the Hyderabad Area are hereby repealed: Provided that such repeal shall not affect.-

(a) the previous operation of the said enactments or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued, or incurred under the said enactments;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

72. Application of the Indian Stamp Act, 1899 :-

(1) The Indian Stamp Act, 1899 (Central Act II of 1899), as in force in the Madras Area, shall, notwithstanding anything contained in any law, extend to the whole of the State of Karnataka, and shall remain in force in so far such Act relates to the matter specified in

entry 44 of List III of the Seventh Schedule to the Constitution in respect of documents specified in entry 91 of List I of the said Schedule.

(2) Save as provided in sub-section (1), the Indian Stamp Act, 1899 (Central Act II of 1899), as in force in the Bombay Area, Coorg District and the Madras Area, in so far as it relates to the matter specified in entry 44 of List III of the Seventh Schedule to the Constitution, in respect of documents falling under entry 63 of List II of the said Schedule, is hereby repealed:

Provided that such repeal shall not affect.-

(a) the previous operation of the said enactments or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

SCHEDULE 1

SCHEDULE