

BOMBAY STAMP RULES, 1939

CONTENTS

CHAPTER 1 :- Preliminary

1. Short title
2. Definitions
3. Description of Stamps

CHAPTER 2 :- Of Impressed Stamps

4. Hundis
5. Promissory notes and bills of exchange
6. Other instruments
7. Provision where single sheet of paper is insufficient
8. +Ten nP., Fifteen nP. and Twenty Five nP. impressed stamps
9. Proper Officer
10. Affixing and Impressing of labels by Proper Officer permissible in certain cases
11. Mode of affixing and impressing labels
12. Certain instruments to be stamped with impressed labels

CHAPTER 3 :- Of Adhesive Stamps

13. Use of adhesive stamps on certain instrument
14. Section
15. Supply of deficient duty on transfer of share
16. Mode of cancelling "Share Transfer" Stamps at the time of registration of the deed of transfer
17. Enrolment of Advocates, Vakils or Attorneys
18. Adhesive stamps or stamps denoting duty
19. Special adhesive stamps to be used in certain cases

CHAPTER 4 :- Miscellaneous

20. Provision for cases in which improper description of stamp is used
21. Evidence as to circumstances of claim to refund or renewal
22. Payment of allowances in respect of spoiled or misused stamp or on the renewal of debentures
23. Mode of cancelling original debenture on refund under section 55
24. Rewards
25. Document recording transactions for the purchase or sale of certain securities, etc., not to be destroyed for two years

- 26. Manner of returning instruments received for stamping
- 27. Documents specified in entry 91 of List I in Seventh Schedule to the Constitution of India not to be destroyed for two years
- 28. Power to make inquiry or take evidence in certain cases
- 29. Procedure of the verification
- 30. Amount of fine to be considered while Imposing penalty

BOMBAY STAMP RULES, 1939

In exercise of the powers conferred by sections 10, 18, 37, 49, 55 and 75 of the Indian Stamp Act, 1899 (II of 1899), and of the functions of the Central Government entrusted to the Provincial Government under Government of India, Finance Department (Central Revenues) Stamps, Notification No. 9, dated 13th November 1937, and in supersession of the Government of India, Finance Department (Central Revenues) Stamps, Notification No. C. 63-Stamps/25, dated the 5th May 1925, the Government of Bombay is pleased to make the following rules, namely :

CHAPTER 1 Preliminary

1. Short title :-

These rules may be called the Bombay Stamp Rules, 1939 .

2. Definitions :-

In these rule

(a) "The Act" means the Stamp Act, 1899 (II of 1899),

(b) "Section" means a section of the Act.

(c) "Schedule" means a schedule of the Act.

(d) "Superintendent of Stamps" means the Superintendent of Stamps, Bombay and any other officer appointed by the Provincial Government to perform the functions of the Superintendent of Stamps.

3. Description of Stamps :-

(1) Except as otherwise provided by the Act or by these rule,

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

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

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

(a) impressed stamps, and

(b) adhesive stamps.

CHAPTER 2 Of Impressed Stamps

4. Hundis :-

(1) Hundis, other than hundis which may be stamped with an adhesive stamp under section 11 , shall be written on paper as follow, namely :

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

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

(2) Every sheet of paper on which a hundi is written shall be not less than 8-5/8 inches wide and no plain paper shall be jointed thereto.

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

5. Promissory notes and bills of exchange :-

A promissory note or bill of exchange shall, except as provided by section 11 or by rule 13 and section 18, be written on paper on which a stamp of the proper value, with or without the word "hundi" has been engraved or embossed.

6. Other instruments :-

Every other instrument chargeable with duty shall, except as provided by section 11 or by rules 10, 12 and 13 be written on paper on which a stamp of the proper value, not bearing the word "hundi" has been engraved or embossed.

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

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

(2) Where a single sheet of paper not being paper bearing an impressed hundistamp, is insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp, so much plain paper may be sub-joined thereto as may be

necessary for the complete writing of such instrument: Provided that in every such case a substantial part of the instrument shall be written on the sheet which bears the stamp before any part is written on the plain paper sub-joined.

8. +Ten nP., Fifteen nP. and Twenty Five nP. impressed stamps :-

The duty on any instrument which is chargeable with a duty Ten nP. under the Act or of Fifteen nP. and Twenty Five nP. under Articles 5, 19, 36, 37, 43, 49 and 52 of Schedule I may be denoted by a coloured impression marked on a skeleton form of such instrument by the Superintendent of Stamps.

(2) Notwithstanding anything contained in this rule, so long as the Bombay Increase of Stamp Duties Act, 1943, is in force, the duty on any, instrument which is chargeable with a duty of Fifteen nP. under Articles, 5 , section 18 , 36 and 43 of Schedule 1, as increased by a sur-charge of Ten nP. under the said Act, as subsequently amended by the Bombay Increase of Stamp Duties (Amendment) Act, 1944, may also be denoted by a coloured impression marked on a skeleton form of such instrument by the Superintendent of Stamps.

9. Proper Officer :-

The Officer specified in appendix I and any officer appointed in this behalf by the State Government are empowered to affix and impress labels, and each of them shall be deemed to be "the proper Officer" for the purposes of the Act and of these rules.

10. Affixing and Impressing of labels by Proper Officer permissible in certain cases :-

Except as provided in section 11 and rule 13 labels may be affixed and impressed by the Proper Officer in the case of all instruments chargeable with stamp duty under the Act other than instruments

on which the duty is less than two annas when

(i) they are written in English, Hindi or any recognised regional language of the State; or

(ii) they are written in any other language and accompanied by the translation in English or Hindi.

11. Mode of affixing and impressing labels :-

The proper officer shall upon any instrument specified in rule 10 being brought to him before it is executed and upon application being made to him affix thereto a label or labels of such value as the applicant may require and pay for, by hand or impress such label or labels by means of a stamping machine and also stamp or write on the face of the label or labels the date of affixing or impressing the same, as the case may be where a label of the value below rupees five is affixed by hand, he shall put his initials on the face of the label".

Provided that in the case of clearance list chargeable with stamp duty under Articles 20-A, 20-B, 20-C, 20-D, 20-E of the Schedule I the "Proper Officer" may affix and impress the labels thereon at any time but not later than two months after it is submitted to the Clearing House of an Association in accordance with its rules and bylaws. (Vide Revenue Department Notification No. 9110/49, dated 2nd February 1953, published on pages 72-73 of the Bombay Government Gazette, Part IV-A, dated , 12th February 1953).

(2) On affixing any label or labels under this rule, the proper officer shall where the duty amounts to Rs. 5 or upwards, write on the face of the label or labels his initials, and where the duty amounts to Rs. 20 or upwards, shall also attach his usual signature to the instrument immediately under the label or labels.

12. Certain instruments to be stamped with impressed

labels :-

(1) Instruments executed out of the State of Bombay and requiring to be stamped after their receipt in the State of Bombay (other than instruments which under- section 11 of rule 13, may be stamped with adesive stamps) shall be stamped with impressed labels.

(2) Where any such instrument as aforesaid is taken to the Collector under sub-section(2) of section 18 , the Collector, unless he is himself the proper officer, shall send the instrument to the proper officer, remitting the amount of duty paid in respect thereof; and the proper officer shall stamp the instrument in the manner prescribed by rule 11, and return in to the Collector for delivery to the person by whom it was produced.

CHAPTER 3 Of Adhesive Stamps

13. Use of adhesive stamps on certain instrument :-

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

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

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

(c) Copies of maps or plans, printed copies and copies of or extracts from registers given on printed forms when chargeable with duty under Article 26 of Schedule I of Bombay Stamp Act.

(d) Instruments chargeable with stamp duty under entry (a), (aa), (b), (bb), (be), (bd) or (be) of Article 5 or Article 43 of the Schedule *(Vide Revenue Department Notification No. 9110/49, dated 2nd Feburary, 1953, published on pages 72-73 of the

Bombay Government Gazette, Part IV-A, dated 12th February 1953),

(e) Instruments chargeable with stamp duty under Article 47 of Stamp Act, 1899 .

(f) Instruments chargeable with stamp duty under Articles 19 and S.37 of Indian Stamp Act, 1899, and 36 , 49 (ii) and (iii) and 52 of Bombay Stamp Act, 1958 .

14. Section :-

Notwithstanding anything contained in these rules whenever the stamp duty payable under the Act in respect of any instrument cannot be paid exactly by reason of the fact that the necessary stamps are not in circulation, the amount by which the payment of duty shall on that account be in defect shall be made up by the affixing of one-anna and half-anna adhesive stamps such as are described in rule 118, provided that the Provincial Government may direct that instead of such stamps adhesive court-fee stamps shall be used for the purpose.

In exercise of the powers conferred by rule 14 of the Bombay Stamp Rules 1939, the Government of Bombay hereby directs that whenever the stamp duty payable under the Bombay Stamp Act, 1958 (Bom. LX of 1958), in respect of any instrument referred to in entry (g) of Article 5 or entry (d) of Article 43 of Schedule I to the said Act, cannot be paid exactly by reason of the fact that the necessary stamps are not in circulation, then instead of such stamps, adhesive court-fee shall be used for the purpose. (Vide Government Notification No. STP-1159/135586 N, printed and published on page 1505 of the Bombay Government Gazette, dated the 12th November 1959, Part IV-B).

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

When any instrument of transfer of shares in a Company or Association is written on a sheet of paper on which a stamp of the

proper value is engraved or embossed, and the value of the stamp so engraved or embossed is subsequently, in consequence of a rise in the value of such shares, found to fall short of the amount of duty chargeable under Article 59 (a) of Bombay Stamp Act, 1958 , one or more adhesive stamps bearing the words "Share Transfer" may be used to make up the amount required.

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

"Share Transfer" stamps affixed to deeds of transfer of shares, shall, before effect is given to the transfer by the Joint Stock Company concerned, be cancelled by the Company by means of a punch which can perforate either the word "Cancelled" * " or an abbreviation thereof, namely, canceled, or cancelled" or the initial of the Company, even though the stamps were previously cancelled in accordance with section 12 of the Bombay Stamp Act. In case a company fails so to cancel the share transfer stamps as provided by this rule the company shall be liable to the penalty prescribed by section 61 of the Bombay Stamp Act: Provided that for the purpose of cancelling "Share Transfer" stamps, the State Government may, on being satisfied by a certificate from the Superintendent of Stamps, permit any Joint Stock Company to adopt any other method in lieu of perforation by means of punch. (Vide Government Notification, Revenue Department, No. 4298/33, dated 22nd August 1939, printed at page 1586 of the Bombay Government Gazette, Part IV-A, dated 24th August 1939).

17. Enrolment of Advocates, Vakils or Attorneys :-

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

18. Adhesive stamps or stamps denoting duty :-

Except as otherwise provided by these rules, the adhesive stamps

used to denote duty shall be the requisite number of stamps bearing the words "India Revenue" or "Bombay Revenue" and the words "four annas" or "two annas" or "one anna" or "half anna".

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

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

(a) Bills of exchange, cheques and promissory notes drawn or made out of the State of Bombay and chargeable with a duty of more than Ten nP.; with stamps bearing the words "Foreign Bill".

(b) Separate instruments of transfer of shares and transfers of debentures of Public Companies and Associations : with stamps bearing the words "Share Transfer".

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

(d) Notarial acts: with stamps bearing the words "Notarial".

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

(f) Instruments chargeable with stamp duty under entry (a),(aa), (b), (bb), (be), (bd), or (be) of Article 5 or Article 43 of the Schedule I, (Vide Revenue Department Notification No. 9110/49, dated 2nd February 1953, Published on pages 72-73 of the Bombay Government Gazette, Part IV-A dated 12th February 1953). (With stamps bearing either the words "Agreement" or "Brokers Note").

(g) Instruments chargeable with stamp duty under Article 47 of Schedule I of the Indian Stamp Act : with stamps bearing the word

"Insurance".

(h) Instruments chargeable with stamp duty under Article 38-A of Bombay Stamp Act, 1958 : with stamps bearing the word "Agreement".

CHAPTER 4 Miscellaneous

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

When an instrument bears a stamp of proper amount, but of improper description, the Collector may, on payment of the duty with which the instrument is chargeable, certify by endorsement that it is duly stamped : Provided that where the stamp borne on the instrument is a postage stamp and the proper description of stamp is a stamp bearing the words "India Revenue" or the words "Bombay Revenue" the Collector shall so certify if the instrument was executed before, and shall not so certify if it was executed on or after, the 1st April 1935.

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

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

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

When an application is made for the payment, under Chapter V of the Act, of an allowance in respect of stamp which has been spoiled or misused or for which the applicant has had no immediate use, or on the renewal of the debenture, and an order is passed by the Collector sanctioning the allowance or calling for further evidence in support of the application then, if the amount of the allowance or the stamp given in lieu thereof is not taken or if the further

evidence required is not furnished, as the case may be, by the applicant within one year of the date of such order, the application shall be struck off, and the spoiled or misused stamp (if any) sent to the Superintendent of Stamps, or other officer appointed in this behalf by the State Government for destruction.

23. Mode of cancelling original debenture on refund under section 55 :-

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

24. Rewards :-

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

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

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

26. Manner of returning instruments received for stamping :-

If any instrument received for stamping by "Proper Officer" is required to be returned by post, it shall be sent to the party concerned by Value Payable Post unless the postal charges inclusive of registration have been deposited in advance along with the value of the stamps to be affixed to the instrument.]

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

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

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

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

29. Procedure of the verification :-

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

30. Amount of fine to be considered while Imposing penalty :-

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

