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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 42-L.—8th January, 2013.—The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information:—

West Bengal Act XXXIII of 2012

THE INDIAN STAMP (WEST BENGAL AMENDMENT) ACT, 2012

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Kolkata Gazette*,
Extraordinary, of the 8th January, 2013.]

An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal.

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application 2 of 1899.
to West Bengal, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Sixty-third Year of the Republic of India, by the
Legislature of West Bengal, as follows:—

Short title and
commencement.

1. (1) This Act may be called the Indian Stamp (West Bengal Amendment)
Act, 2012.

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

The Indian Stamp (West Bengal Amendment) Act, 2012.

(Sections 2-5.)

Application of
the Act.

2. The Indian Stamp Act, 1899 (hereinafter referred to as the principal Act) shall, in its application to West Bengal, be amended for the purposes and in the manner hereinafter provided.

Amendment of
section 2 of
Act 2 of 1899.

3. In section 2 of the principal Act,—

(1) in clause (10),—

(a) for the words “and every instrument”, the words and figures “, every instrument and every decree or final order of any Civil Court or every order made by the High Court under section 394 of the Companies Act, 1956, in respect of amalgamation, merger, reconstruction, or demerger of companies, other than amalgamation, merger, reconstruction or demerger, of two banking companies or a banking company with a non-banking financial company” shall be substituted; and

1 of 1956.

(b) for the words “is transferred”, the words “or any estate or interest in any property is transferred to, or vested in any other person.” shall be substituted;

(2) to clause (10), the following proviso shall be added:—

“Provided that on and after the constitution of the National Company Law Tribunal, the expression ‘High Court’ shall be read as ‘Tribunal’.”;

(3) in clause (11), for the words “for the time being in force in India.”, the words, figures and brackets “for the time being in force in India, and includes an instrument which bears impression of stamps under sub-section (3) of section 10;” shall be substituted;

(4) after clause (17), the following clause shall be inserted:—

“(17A) “notification” means a notification published in the *Official Gazette*.”.

Amendment of
section 10.

4. In section 10 of the principal Act, after sub-section (2), the following sub-sections shall be inserted:—

“(3) Subject to the rule made under clause (b) of sub-section (1), the State Government may, by notification, specify the instrument on which duty may be paid by using machine for making impression indicating the value of stamp-duty paid.

(4) The Chief Controlling Revenue Authority or any other officer empowered by the State Government in this behalf, may, by notification, authorise any person, body, organisation, treasury, or treasury linked bank including post offices and banks to use machine for making impressions indicating the value of stamp-duty paid, for the purpose of sub-section (3).”.

Amendment of
section 47A.

5. In section 47A of the principal Act,—

(1) in sub-section (1), after clause (g), the following clause shall be inserted:—

“(ga) lease, including a under-lease or a sub-lease and any agreement to let or sublet for a period exceeding thirty years.”;

(2) in sub-section (4), for the words, letter and brackets “or clause (g)”, the words, letters and brackets “clause (g), or clause (ga)” shall be substituted;

(3) in clause (a) of the proviso to sub-section (8), for the words, letter and brackets “or clause (g).”, the words, letters and brackets “clause (g), or clause (ga).” shall be substituted.

*The Indian Stamp (West Bengal Amendment) Act, 2012.**(Section 6.)*Amendment of
Schedule IA.

6. In Schedule IA to the principal Act,—

(1) in article 23, in the column under the heading “Description of Instruments”, after the words, figures and brackets “as defined by section 2(10),” the words, figures and letter “not being a conveyance under No. 23A and” shall be inserted;

(2) after article 23, the following article in the first column and entries relating thereto in the second column shall be inserted:—

“23A. **Conveyance**, in respect of amalgamation, merger, reconstruction, or demerger, of companies, other than amalgamation, merger, reconstruction or demerger, of two banking companies or a banking company with a non-banking financial company, executed on the basis of decree or final order of any Civil Court or every order made by the Tribunal under section 394 of the Companies Act, 1956, as defined by section 2(10), not being a transfer charged or exempted under No. 62, on the market value of the property which is the subject-matter of the conveyance, when the property of the transferor company located in the State of West Bengal is transferred to the transferee company by way of such amalgamation, merger, reconstruction, or demerger or companies under the decree of final order of any Civil Court or every order of the Tribunal under section 394 of the Companies Act, 1956:

Provided that on and after the constitution of the National Company Law Tribunal, the expression ‘High Court’ shall be read as ‘Tribunal’.

The same duty as a Conveyance (No. 23) on the aggregate of the market value of the shares issued or allotted, in exchange or otherwise, and the amount of consideration paid—

(a) by the transferee company, for such amalgamation or merger:

Provided that the amount of such duty chargeable under this article shall not exceed—

(i) an amount equal to two *per centum* of the true market value of the immovable property located within the State of West Bengal of the transferor company, or

(ii) an amount equal to half *per centum* of the aggregate of the market value of the shares issued or allotted, in exchange or otherwise, and the amount of consideration paid by such transferor company, for such amalgamation,

whichever is higher;

(b) by the resulting company, for such reconstruction or demerger:

Provided that in case of reconstruction or demerger, the amount of such duty chargeable under this item shall not exceed—

(i) an amount equal to two *per centum* of the true market value of the immovable property located within the State of West Bengal of the transferor company, or

(ii) an amount equal to half *per centum* of the aggregate of the market value of the shares issued or allotted, to the resulting company and the amount of consideration paid for such demerger,

whichever is higher.”;

*The Indian Stamp (West Bengal Amendment) Act, 2012.**(Section 6.)*

(3) in article 35,—

(a) for item (a) and the entries relating thereto, the following item and the entries relating thereto shall be substituted:—

“(a) where by such lease the rent is fixed and no premium is paid or delivered—

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| (i) where the lease purports to be for a term not exceeding one year; | The same duty as a Bottomry Bond (No. 16) for the whole amount paid, payable or deliverable under such lease. |
| (ii) where the lease purports to be for a term exceeding one year but not exceeding ten years; | The same duty as a Conveyance (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved. |
| (iii) where the lease purports to be for a term exceeding ten years but not exceeding thirty years; | The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved. |
| (iv) where the lease purports to be for a term exceeding thirty years and for any term renewed. | The same duty as a Conveyance (No. 23) on the market value of the property which is the subject-matter of the lease.”; |

(b) for item (b) and the entries relating thereto, the following item and the entries relating thereto shall be substituted:—

“(b) where such lease is granted for a fine or premium, or for money advanced, or for security charges advanced, and where no rent is reserved—

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| (i) where the lease purports to be for a term not exceeding thirty years; | The same duty as a Conveyance (No. 23) for a consideration equal to the amount or the value of such fine or premium or money advanced, or security charges advanced, as set fourth in the lease. |
| (ii) where the lease purports to be for a term exceeding thirty years and for any term renewed or in perpetuity or where no term is mentioned. | The same duty as a Conveyance (No. 23) on the market value of the property which is the subject-matter of the lease.”; |

At the

Amend section Act

Amendment section

Amendment section 47

*The Indian Stamp (West Bengal Amendment) Act, 2012.**(Section 6.)*

(c) for item (c) and the entries relating thereto, the following item and the entries relating thereto shall be substituted:—

“(c) where such lease is granted for a fine or premium, or for money advanced, or for development charges advanced, or for security charges advanced, in addition to rent reserved—

(i) where the lease purports to be for a term not exceeding thirty years;

The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advanced as set fourth in such lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered.

(ii) where the lease purports to be for a term exceeding thirty years and for any term renewed or in perpetuity or where no term is mentioned.

The same duty as a Conveyance (No. 23) on the market value of the property which is the subject-matter of the lease:

Provided that in any case, when an agreement for a lease or a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed rupees ten.”;

(d) existing *Explanation* shall be renumbered as *Explanation I* and after *Explanation I* as so renumbered, the following *Explanations* shall be inserted:—

Explanation II.—The expressions “the lease purports to be for a term” and “for any term renewed” referred to in items (a)(iv) or (b)(ii) or (c)(ii), shall include not only the period stated in the lease document but shall also be deemed to be the sum of such stated period and all previous or subsequent periods immediately preceding or succeeding the stated period respectively without any break for which the lessee, and the lessor, remained the same.

Explanation III.—The stamp-duty chargeable on market value of the lease for a term exceeding thirty years, and for any term renewed, shall be the amount of stamp-duty less stamp-duty already paid for all previous period immediately preceding the stated period without a break for which the lessee and lessor remained the same.”;

The Indian Stamp (West Bengal Amendment) Act, 2012.

(Section 6.)

- (4) for article 61 in the first column and the entries relating thereto, in the second column, the following article in the first column and entries relating thereto in the second column shall be substituted:—

“61. Surrender of the lease, when such lease is chargeable with duty; Rupees one hundred irrespective of the term of lease.”

Exemption.

Surrender of the lease, when such lease is exempted from duty.

By order of the Governor,

MALAY MARUT BANERJEE,
Secy. to the Govt. of West Bengal,
Law Department.