



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ५, अंक १०]

शुक्रवार, मार्च ८, २०१९/फाल्गुन १७, शके १९४०

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असाधारण क्रमांक १७

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Stamp (Amendment and Validation) (Continuance) Ordinance, 2019 (Mah. Ord. VII of 2019), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,

Secretary (Legislation) to Government,
Law and Judiciary Department.

(Translation in English of the Maharashtra Stamp (Amendment and Validation) (Continuance) Ordinance, 2019 (Mah. Ord. VII of 2019), published under the authority of the Governor).

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 8th March 2019.

MAHARASHTRA ORDINANCE No. VII OF 2019.

AN ORDINANCE

further to amend the Maharashtra Stamp Act.

Mah. Ord. 1 of 2019. WHEREAS the Governor of Maharashtra had promulgated the Maharashtra Stamp (Amendment and Validation) Ordinance, 2019 (hereinafter referred to as "the said Ordinance"), on the 13th February 2019;

AND WHEREAS upon the reassembly of the State Legislature on the 25th February 2019, the Maharashtra Stamp (Amendment and Validation) Bill, 2019 (L. A. Bill No. 1 of 2019), for converting the said Ordinance into an Act of the State Legislature, was passed by the Maharashtra Legislative Assembly on the 26th February 2019 and was transmitted to the Maharashtra Legislative Council ;

AND WHEREAS thereafter as the Maharashtra Legislative Council was prorogued on the 28th February 2019, the said Bill could not be passed by the Maharashtra Legislative Council ;

AND WHEREAS as provided by article 213(2)(a) of the Constitution of India, the said Ordinance shall cease to operate on the 7th April 2019, the date on which the period of six weeks from the date of reassembly of the State Legislature expires ;

AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Ordinance;

AND WHEREAS both Houses of the State Legislature are not in session; and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following ordinance, namely:—

- Short title and commencement.
1. (1) This Ordinance may be called the Maharashtra Stamp (Amendment and Validation) (Continuance) Ordinance, 2019.
- (2) It shall be deemed to have come into force on the 13th February 2019.
- Amendment of section 9 of LX of 1958.
2. In section 9 of the Maharashtra Stamp Act (hereinafter referred to as “the principle Act”), in clause (a) for the word “duties” and words “duties or penalty if any, or both” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 1994.
- Amendment of section 39 of LX of 1958.
3. In section 39 of the principal Act, in subsection (1), in clause (b),—
- (i) before the first proviso, the following shall be inserted, namely:—
- “Provided that, duty for which reduction or remission is granted by the Government under clause (a) of section 9 under any prevailing policy shall not be treated as deficient portion of duty for the purposes of calculation of penalty, if the beneficiary of such reduction or remission in duty surrenders or forgoes or has surrendered or forgone such benefit with prior approval or with no objection from the Government:”;
- (ii) in the first proviso, for the words “Provided that” the words “Provided further that” shall be substituted;
- (iii) in the second proviso, for the words “Provided further that” the words “Provided also that” shall be substituted.
- Validation.
4. (1) Notwithstanding anything contained in any judgment, decree or order of any court to the contrary or in the principal Act, reduction or remission in the duties or penalty or both, granted under clause (a) of section 9 of the principal Act including any action taken in pursuance of such reduction or remission by the

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authorities under the said Act, acting or purporting to act under the provisions of the principal Act, shall be deemed to have been validly granted in accordance with law as if the provisions of clause (a) of section 9 of the principal Act as amended by the Maharashtra Stamp (Amendment and Validation) (Continuance) Ordinance, 2019 (hereinafter in this section referred to as "the Amendment Ordinance") had been continuously in force at all material times and accordingly,—

(a) all actions, proceedings or things done or taken by the authorities under the principal Act in connection with the reduction or remission of the duty or penalty or both shall for all purposes, be deemed to have been done or taken in accordance with the provisions of the principal Act ;

(b) no suit or other proceedings shall be maintainable or continue in any court, against the said authorities for the remission or reduction granted in respect of the duties or penalty or both.

(2) For the removal of doubt, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the principal Act, as amended by the Amendment Ordinance, any assessment, re-assessment, levy or collection of stamp duty or penalty or both, referred to in sub-section (1) of this section; or

(b) from claiming refund to any stamp duty paid by him under the principal Act, in excess of the amount due from him by way of duties or penalty or both under the principal Act, as amended by the Amendment Ordinance.

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5. (1) The Maharashtra Stamp (Amendment and Validation) Ordinance, 2019, is hereby withdrawn.

Repeal by
withdrawal of
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saving.

(2) Notwithstanding such withdrawal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance shall be deemed to have been done, taken or, as the case may be, issued under the corresponding provisions of the principal Act, as amended by this Ordinance.

STATEMENT

The Government of Maharashtra has from time to time, in exercise of the powers conferred by clause (a) of section 9 of the Maharashtra Stamp Act (LX of 1958) notified Amnesty Schemes in the years 1994, 1997, 1998, 2004 and 2008 for various periods to reduce or remit the amount of penalty chargeable in respect of the deficit portion of Stamp Duty assessed under clause (ii) of subsection (4) of section 31. subsections (2) and (4) of section 32A and clause (b) of subsection (1) of section 39 of the said Act.

2. In order to validate reduction or remission in the penalty granted under clause (a) of section 9 of the said Act under the said amnesty schemes including any action taken in pursuance of such reduction or remission by the authorities under the said Act, acting or purporting to act under the provisions of the said Act. it was considered expedient to amend clause (a) of section 9 of the said Act, suitably, with retrospective effect *i.e.* from 1st April 1994.

3. It was also proposed to amend section 39 of the said Act with a view to providing that the duty for which reduction or remission is granted by the Government under clause (a) of section 9 of the said Act under any prevailing policy shall not be treated as deficient portion of stamp duty for the calculation of the penalty, if the beneficiary of such reduction or remission in duty surrenders or forgoes or has surrendered or forgone such benefit with prior approval or with no objection from the Government.

4. The amendments were expected to help the Government launch fresh amnesty scheme for reducing the penalty on the deficient portion of stamp duty in a variety of cases.

5. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Stamp Act (LX of 1958), for the purposes aforesaid, the Maharashtra Stamp (Amendment and Validation) Ordinance, 2019 (Mah. Ord. I of 2019), was promulgated by the Governor of Maharashtra on the 13th February 2019.

6. Thereafter, upon the reassembly of the State Legislature on the 25th February 2019, the Maharashtra Stamp (Amendment and Validation) Bill, 2019 (L. A. Bill No. I of 2019), for converting the said Ordinance into an Act of the State Legislature, was passed by the Maharashtra Legislative Assembly on the 26th February 2019 and was transmitted to the Maharashtra Legislative Council. However, as thereafter the Maharashtra Legislative Council was prorogued on the 28th February 2019, the said Bill could not be passed by the Maharashtra Legislative Council.

7. As provided by article 213(2)(a) of the Constitution of India, the said Ordinance would cease to operate at the expiration of six weeks from the reassembly of the State Legislature, that is, on the 7th April 2019. It is, therefore, necessary to take immediate action to continue the provisions of the said Ordinance by promulgating a fresh Ordinance.

8. As both Houses of the State Legislature are not in session; and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the Maharashtra Ordinance No. 1 of 2019, this Ordinance is promulgated.

Mumbai,

Dated the 8th March 2019.

CH. VIDYASAGAR RAO,

Governor of Maharashtra.

By order and in the name of the
Governor of Maharashtra,

MANU KUMAR SRIVASTAVA,
Additional Chief Secretary to Government.