



## ERGO

*Analysing developments impacting business*

### REDUCTION OF MARKET VALUE AND RATE OF STAMP DUTY IN WEST BENGAL AND DELHI

#### *Introduction*

The COVID-19 pandemic has brought about an economic slowdown, including in the real estate sector, and has curtailed the purchasing power of the citizenry. In the wake of such crisis and in order to avoid piling up of unsold properties, the government of West Bengal (WB Government) and government of NCT of Delhi (Delhi Government) has decided to grant temporary relaxations to stakeholders in the real estate sector by way of reduction in market value of immovable properties (in Delhi and West Bengal) and in the rate of stamp duty (in West Bengal) payable on transactions involving such immovable properties.

For ease of reference, this note has been sub-divided in two parts. The first part deals with reduction in market value of immovable properties and rate of stamp duty payable on transactions in the state of West Bengal; and the second part deals with reduction in market value of immovable properties situated in Delhi along with its implications.

#### **I. PART I: WEST BENGAL**

##### **1. *Reduction and Rebate***

- a. In his budget statement dated 7 July 2021, the Minister-in-Charge of the Finance Department (Minister) of the WB Government announced that the WB Government is proposing to allow relief to the registrant public by reducing the rate of stamp duty for registration of deeds affecting sale/lease of land/house/flat etc by 2% from the present rate. The Minister further announced that the circle rate/market value for registration of deeds for land/house and flats etc has been proposed to be reduced by 10%. However, as per the budget statement, both the benefits could only be availed if the registration process is completed within 30 October 2021.
- b. Subsequently, by its Order No IGR/115/2021 dated 9 July 2021 issued by the Directorate of Registration and Stamp Revenue (Directorate), the Inspector General of Registration (IGR) and Commissioner of Stamp Revenue, West Bengal noted that the WB Government in the Finance Department has declared **a reduction of 10% in the circle rate/IGR rate of all immovable properties within the State of West Bengal** for a temporary time period. The said Order No IGR/115/2021 further states that the revised circle rate/IGR rate has been updated in the records of Directorate.
- c. Further, by its Order No IGR/116/2021 dated 9 July 2021 issued by the Directorate, the IGR and Commissioner of Stamp Revenue, West Bengal noted that the WB Government has declared **a rebate of 2% on the prevailing rate of stamp duty for all the documents for which the stamp duty is charged under Article 23 (Conveyance) of Schedule IA of the Indian Stamp Act, 1899 (as applicable to West Bengal)**

**except the document of 'amalgamation of contiguous land'** for a temporary period of time. The said Order No IGR/116/2021 further states that such revised rates of stamp duty are being updated in the e-nathikran system of registration of the WB Government.

- d. It appears that in line with the budget statement of the Minister, the rebate of 2% on the prevailing rate of stamp duty is also being provided on all transactions in relation to immovable properties.

## 2. **Illustration**

- a. We have seen in one of our transactions that an immovable property which was valued at approximately INR 4,00,00,000 before 8 July 2021 on the website of the Directorate was valued at approximately 3,60,00,000 on 9 July 2021, i.e., at a market value which is reduced by 10%.

Further, we have also seen that a sale transaction which was to incur a stamp duty of 7% on the market value before 8 July 2021, shall incur a stamp duty of only 5% effective 9 July 2021.

Thus, it appears that the aforesaid rebates in market value and rate of stamp duty have already been put in effect by the WB Government.

## 3. **Reduction of Capital Gains and Income Tax liability**

- a. The aforesaid reduction of market value shall provide relief to transferors with respect to the income chargeable as tax as capital gains (Capital Gains) as well as to transferees with respect to their income from other sources.
- b. Capital Gains relief for the transferor: As per the Income Tax Act, 1961 ("Tax Act") the value of the property adopted by the stamp valuation authority for the purpose of payment of stamp duty - circle rate - in respect of transfer of any asset shall be the value used for the purposes of computation of Capital Gains. Therefore, in cases where the consideration value of a transaction is less than the fair market value of the immovable property, reduction of 10% in the fair market value would amount to a reduced Capital Gains liability for the transferor of an immovable property.
- c. Income tax relief for the transferee: Where any person purchases any immovable property for consideration which is lower than the circle rate, the difference between these values is assumed to be the income of the person, subject to certain limits as prescribed under the Tax Act from time to time. Therefore, in all such cases, a reduction of 10% in the fair market value would mean a reduced deemed income for the transferee and consequently, reduced income tax liability.

## 4. **Temporary benefit**

- a. It is imperative to note that the aforesaid reduction in circle rate and rate of stamp duty payable on transactions in respect of immovable properties situated in West Bengal is a purely temporary measure, and benefit in relation to the same **will only accrue to those stakeholders who execute and register their instruments between 9 July 2021 and 30 October 2021.**
- b. Accordingly, stakeholders intending to avail of such benefits, are advised to **execute and register their instruments of transfer before 30 October 2021,** since there is no indication from the WB Government regarding extension of the aforesaid benefits beyond 30 October 2021.

## II. **PART II: DELHI**

## 1. **Reduction and Rebate**

- a.. The Lt. Governor of NCT of Delhi vide notification dated 26 February 2021 bearing number No. F. 1(2854)/Regn.Br./Div.Comm./HQ/2020/5453 (Notification) has allowed relief to the registrant public and granted reduction in the circle value of immovable properties situated in Delhi by 20% for the following categories:
  - i. Residential;
  - ii. Cost of construction for residential use;
  - iii. Cost of construction for commercial use;
  - iv. Built-up flats up to 4 (four) storeys;
  - v. Built-up flats having more than 4 (four) storeys.
- b. The reduced rates are applicable from date of Notification, i.e., 26 February 2021 till 30 September 2021, on all categories mentioned hereinabove.
- c. In cases where circle value is higher than the sale consideration agreed between the parties, the amount of stamp duty and registration charges are calculated based on the circle value of the property. Accordingly, in such cases the reduction in circle value by 20% vide the aforesaid Notification implies that stamp duty payable on immovable properties situated in Delhi shall also stand reduced. The revised circle rates can translate into 20% lower stamp duty and up to 20% reduction in registration charges payable for the immovable properties situated in Delhi.
- d. In Delhi, we had noticed that properties in many localities were selling for less than the circle rate, due to market corrections. This revision will particularly help such cases.

## 2. **Illustration**

- a. For 1000 sq mts 'category A' immovable property (such as property situated at Golf Links, Delhi), the circle rate was approximately INR 77,40,00,000 per sq mts, before 26 February 2021, whereas from 26 February 2021 till 30 September 2021, the said circle rate has been reduced to INR 61,92,00,000. Accordingly, if the agreed consideration for sale is lower than 77,40,00,000, then the compulsory stamp duty implication will reduce to the higher of the agreed consideration or the revised circle rate, i.e., 61,92,00,000.

## 3. **Reduction of Capital Gains and Income Tax liability**

- a. It is pertinent to note that capital gains and income tax liability is governed by the Tax Act which is a central act applicable throughout India. Therefore, the benefits as mentioned herein above in Part I, shall apply *mutatis mutandis* to State of NCT of Delhi.

## 4. **Temporary benefit**

- a. Similar to the case of benefits extended by the WB Government, it should be borne in mind that the aforesaid reduction in circle rate and consequently the stamp duty payable on transactions in respect of immovable properties situated in Delhi is a purely temporary measure, and benefit in relation to the same **will only accrue to those stakeholders who execute and register their instruments between 26 February 2021 and 30 September 2021.** Stakeholders are therefore advised to **execute and register their instruments**

**of transfer before 30 September 2021, if the consideration is lower than the earlier circle rates**, as there is no indication from the Delhi Government that the aforesaid benefits will be extended further than 30 September 2021.

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