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### REDUCTION IN PENALTY PAYABLE ON DEFICIT STAMP DUTY UPON IMPOUNDING OF REGISTERED INSTRUMENTS IN MAHARASHTRA

19 August 2024 **INTRODUCTION**

On 31 July 2024, the Maharashtra Tax Laws (Amendment) Act, 2024 (Amendment Act) was passed, with a view to amend certain tax laws in the state of Maharashtra. The Amendment Act was passed to give effect to the proposals contained in the budget speech presented by the Government of Maharashtra for the financial year 2024-25.

The Amendment Act amends the Maharashtra Stamp Act, 1958 (Stamp Act) and the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975.

#### **AMENDMENTS TO THE STAMP ACT**

The Amendment Act has reduced the penalty levied on registered instruments where there is a deficit in the stamp duty paid thereon. Section 39 of the Stamp Act empowers the Collector of Stamps to determine the stamp duty and penalty, if any, payable on an instrument which is impounded under Sections 33, 33A or 37 of the Stamp Act.

As per the process for impounding, every person having by law or consent of parties, the authority to receive evidence, and every person in charge of a public office (except police and other investigating authorities) has the power to impound an instrument which it believes is not duly stamped, and to ascertain the actual stamp duty payable thereon.

Prior to the amendment, the Collector of Stamps was empowered to charge, over and above the deficit stamp duty, a penalty of an amount equal to 2% of the deficient portion of the stamp duty, for every month or part thereof from the date of execution of the instrument subject to a minimum penalty of INR 100. Vide the Amendment Act, a distinction has been drawn between instruments which are registered and those which are not registered. While the quantum of penalty for non-registered instruments remains unaffected, the penalty chargeable in case of registered instruments has been reduced from 2% to 1% per month.

Thus, in case a registered instrument is impounded by the Collector of Stamps under the provisions of the Stamp Act, the penalty payable on the deficit stamp duty will be equivalent to 1% of the deficient portion of the

stamp duty, calculated for every month or part thereof from the date of execution of the instrument. Needless to say, the outer limit on the quantum of penalty continues to remain the same, that is, the penalty amount cannot exceed double the deficient portion of the stamp duty.

It is pertinent to note that the reduction in the penalty amount is only applicable in case of determination of penalty by the Collector of Stamps, that is, where the Collector itself is impounding the instrument or if it receives the instrument for taking necessary action by any person or authority which does not have the power to receive evidence. As such, in the event a registered instrument is being impounded by any other person or authority (other than the Collector of Stamps) which has the power to receive evidence, then the penalty chargeable on the insufficiently stamped (but duly registered) instrument, continues to remain 2% of the deficient portion of the stamp duty.

The Amendment Act also increases the time limit for filing an application seeking refund of stamp duty (as prescribed under Section 48 of the Stamp Act), from 6 months to 1 year.

### **CONCLUSION**

The amendments to the Stamp Act introduced by the Amendment Act, provide much-needed relief to all persons who have executed and registered instruments but inadvertently paid lesser stamp duty. However, a similar change needs to be brought in with respect to impounding of registered instrument by authorities other than the Collector of Stamps, because on several occasions, such registered instruments are also received by income tax authorities for assessing tax implication.

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