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15 February 2024

Stamp Duty Amnesty Scheme 2023

INTRODUCTION

With a view to boost collection of revenue in an era of highly significant property transactions, Government of Maharashtra introduced Maharashtra Stamp Duty Amnesty Scheme - 2023 on 7 December 2023 which, read with the explanatory note and guidelines dated 11 December 2023, the corrigendum dated 13 December 2023 and an order dated 2 February 2024 issued by Revenue and Forest Department, Government of Maharashtra (the Amnesty Scheme), provides for a reduction or remission not only of the penalty but also of the stamp duty chargeable under the Maharashtra Stamp Act, 1958 in relation to certain instruments.

Penal provision under Maharashtra Stamp Act, 1958

For insufficiently stamped instruments, the Maharashtra Stamp Act, 1958 (Stamp Act) provides for penalty to be levied at the rate of 2% of the deficient stamp duty for every month from the date of execution of such instrument subject to a maximum of 400% i.e. 4 times the deficient stamp duty. As against such exorbitant penal provision, the Amnesty Scheme provides for substantial discount in payment of the penalty amount.

Benefits and phased-wise implementation of Amnesty Scheme

The benefits provided under the Amnesty Scheme is proposed to be implemented in two phases as under:

Phase	Date of execution of the instrument	Stamp duty amount (in INR)	Reduction in stamp duty	Reduction in penalty
Phase 1 (1 December 2023 to 29 February 2024)	1 January 1980 to 31 December 2000	1 to 1,00,000	100%	100%
		Exceeding 1,00,000	50%	100%
	1 January 2001 to 31 December 2020	1- 25 crore	25%	90% with a cap of INR 25 lakhs
		Exceeding 25 crore	20%	Fixed penalty of INR 1 crore

Phase	Date of execution of the instrument	Stamp duty amount (in INR)	Reduction in stamp duty	Reduction in penalty
Phase 2 (1 March 2024 to 31 March 2024)	1 January 1980 to 31 December 2000	1 to 1,00,000	80%	80%
		Exceeding 1,00,000	70%	40%
	1 January 2001 to 31 December 2020	1- 25 crore	20%	80% with a cap of INR 50 lakhs
		Exceeding 25 crore	10%	Fixed penalty of INR 2 crores

The Amnesty Scheme extends to inter alia the following documents which are executed in last four decades i.e. between the 1 January 1980 and 31 December 2020, irrespective of whether they are presented for registration or not:

- Instrument related to conveyance or agreement to sale or lease or sale certificate or gift or mortgage related documents of immovable property for residential or non-residential or industrial purposes;
- Agreement relating to transfer of tenancy of immovable property for residential use;
- Conveyance of allotment of residential or non-residential units from MHADA, CIDCO, SRA;
- Conveyance of allotment of residential or non-residential units in registered co-operative housing societies or any apartments whose deemed conveyance is pending;
- Any type of development agreement or instrument of transaction of assignment of rights to the developer regarding redevelopment of dilapidated buildings or any building whose redevelopment is necessary;
- Instrument in respect of amalgamation, merger, demerger, arrangement or reconstruction of companies; and
- Any instrument executed by MHADA, CIDCO, MIDC, SRA, Municipal Corporation, Municipal Council, Nagar Panchayat, various development and planning authorities.

Other applicable Conditions

The Government has carved out the following cases to which the benefits shall not be available:

- (a) An unstamped instrument executed on a plain paper;
- (b) Any instrument involving fake stamp papers or obtained from unauthorised sources; and
- (c) If the applicant fails to pay the deficient stamp duty with penalty at reduced rate as per the Amnesty Scheme within 7 days from the date of demand notice from the concerned Collector of Stamps.

In addition to the aforesaid, the Amnesty Scheme inter alia further clarifies that no refund of any stamp duty or penalty will be available for the instrument in respect of which the deficient portion of the stamp duty and penalty has already been paid prior to the date of publication of the Amnesty Scheme;

Instruments which are already under scrutiny of concerned authorities

Instruments which have either been submitted to a Collector for adjudication or which are referred to the Collector for determination of a true market value or which are impounded or in respect of which there is a notice issued or order passed by the Collector under Stamp Act and in respect of which an action under certain provisions of Stamp Act has already been initiated or where appeal or review application is pending before any court, shall also be entitled to avail the benefits of this Amnesty Scheme. However, in case where appeal or review is pending for decision, the applicant is required to unconditionally withdraw the

case and submit a declaration to that effect along with the application in the prescribed form.

Procedure for claiming benefit under Amnesty Scheme

The application for reduction or remission as per the Amnesty Scheme should be filed either by a party to the instrument or his/her/its successor in title or power of attorney holder in a prescribed form (online application at: <https://isarita.igrmaharashtra.gov.in/AbhayYojana/login.php>) along with the original instrument, necessary evidence, and self-certified copies of the supporting documents on or before the end date as per the phases as mentioned above.

CONCLUSION

This Amnesty Scheme gives an opportunity for regularization to all those who have either not paid adequate stamp duty on their purchase documents or where the antecedent title documents are deficiently stamped or to those who have been served with demand notices in the past but have not paid the deficient stamp duties for any reason. Since this Amnesty Scheme is in force only till 31 March 2024, it is advisable for all interested parties to avail the benefits thereunder.

- Abhiraj Gandhi, Partner, Nirali Shah, Senior Associate

"The views of the author(s) in this article are personal and do not constitute legal / professional advice of Khaitan & Co. For any further queries or follow up please contact us at editors@khaitanco.com"

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