



MEMBERSHIP DEPARTMENT

Circular No. 731

NSE/MEM/16622

December 26, 2010

Dear Members,

Sub: Levy and collection of Stamp Duty on the transaction made under the Securities Contracts (Regulation) Act, 1956.

The Exchange is in receipt of a letter dated December 10, 2010 from the office of Inspector General of Registration and Commissioner of Stamps, Bangalore bearing reference No. STP/06/06-07(67B) regarding levy and collection of stamp duty on the transactions made under the Securities Contracts (Regulation) Act, 1956. Extract of the same is reproduced below:-

Quote

Karnataka Stamp Act 1957 levies stamp duty on the transactions made by the Trading Members / Brokers of a Stock Exchange recognized under the Securities Contracts (Regulation) Act, 1956 on behalf of their clients of the State of Karnataka. The proper stamp duty prescribed is one rupee for every ten thousand rupees or part thereof of the value of the security at the time of its purchase or sale, as the case may be. (Relevant extract of the Act is enclosed).

Yours faithfully,

Sd/-
(K. Ramanna Naik, IAS)
Deputy Inspector General of Registration,
(Vigilance)

Unquote

In view of the same all members are requested to comply with the above requirement.

For National Stock Exchange of India Limited

Sd/-

Rehana D'souza
Chief Manager
Membership

Encl: As above

AUDIT ENQUIRY No.16

Sub: Non/Short-levy of stamp duty on Certificate or other document evidencing the right or title of the holder thereof, or to become proprietor of share, scrip or stock in or of any such company or body.

Under the Karnataka Stamp Act, 1957 every instrument mentioned in Schedule shall be chargeable with amount of duty mentioned in that schedule. The Act prescribes that all instruments chargeable with duty and executed by any person in the State of Karnataka shall be stamped before or at the time of execution. The duties were to be paid by way of stamps (impressed or adhesive) till July 1999. From August 1999 to March 2003, stamp duties may also be paid by way of cash or Demand Draft or Pay Order drawn on a branch of any scheduled bank. From April 2003, all stamps were abolished in the State and hence the stamp duty became payable by way of Demand Draft / Pay Order/ Cash.

By the Karnataka Stamp (Amendment) Act, 1995 (Act No.8 of 1995), Article No.16 was substituted into the Schedule from 1 April 1995 to cover 'Certificate or other document evidencing the right or title of the holder thereof, or any other person, either to any share, scrip or stock in or of any incorporated company or other body corporate or to become proprietor of share, scrip or stock in or of any such company or body'. The certificate or other document issued by any incorporated company or body, evidencing the right or title of the holder either to any share, scrip or stock were made liable to the duty. The proper stamp duty was to be determined by considering the value of the share, scrip or stock including the amount of premium.

As per Section 2 (1) (j) of the Karnataka Stamp Act, 1957, 'Instrument includes every document and record created or maintained in or by an electronic storage and retrieval device or media by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded'. Therefore, stamp duty is payable in respect of certificate of shares issued in dematerialized (Demat) form also.

Under Rule 11-A of the Karnataka Stamp Rules, 1958, any incorporated company or other body corporate in the State may in respect of certificates of shares or letters of allotment to be issued by it apply in writing to the State Government for permission for consolidation of the duties payable thereof under the Act and to pay the consolidated duties.

There was no system in the Stamps and Registration Department to obtain periodically information from all the incorporated companies (having their registered offices in Karnataka) (State / Central Government undertakings) issuing shares, amount realised or to be realised thereunder, the stamp duty payable thereon together with details of payment. Consequently, the extent of compliance with this provision could not be ascertained.

During the years 2003-04 to 2007-08, 18 incorporated companies (State / Central Government undertakings) have issued share certificates valuing Rs. 1314.628 crore. The rate of proper stamp duty payable as per Article 16 of the Schedule to the Karnataka Stamp Act is one rupee for every one thousand rupees or a part thereof of the value of the share, scrip or stock including the amount of premium. The total stamp duty payable amounted to Rs.131.46 lakh, of which Rs.60,500/- has been paid. This has resulted in non/short-levy of stamp duty of Rs.130.86 lakh as detailed in the Annexure.

Further, Section 67 of the Karnataka Stamp Act, 1957 provides for inspection of records maintained in any form by every public officer or any person which may tend to secure any duty or to prove or lead to the discovery of any fraud or omission in relation to any duty and take such notes and extracts as may deem necessary and if necessary seize them and impound them. Further, as per Section 67-B (2) of the Karnataka Stamp Act, 1957, if the inspecting officer is of the opinion that any instrument chargeable with duty is not duly stamped he shall require the person concerned to pay the proper duty or the amount required to make up the same and also penalty not exceeding five times the amount of deficient duty thereof. However, audit scrutiny revealed that the Stamps and Registration Department has not formulated any rules / procedures to be followed for conducting such inspection and hence no inspections were conducted by the Department. Thus, maximum penalty realisable at five times the amount of deficient duty in respect of certificate of shares as mentioned above works out to Rs 654.30 lakh.

This may kindly be examined.

A Subramanya
Sr. Audit Officer - Stamps Review

Done on
12/11/08
A/S

