



GOVERNMENT OF INDIA
LAW COMMISSION OF INDIA

**AMENDMENTS IN INDIAN STAMP ACT 1899 AND
COURT-FEES ACT 1870 PERMITTING
DIFFERENT MODES OF PAYMENT**

Report No. 231

August 2009



**LAW COMMISSION OF INDIA
(REPORT NO. 231)**

**AMENDMENTS IN INDIAN STAMP ACT 1899 AND
COURT-FEES ACT 1870 PERMITTING
DIFFERENT MODES OF PAYMENT**

**Submitted to the Union Minister of Law and Justice,
Ministry of Law and Justice, Government of India by
Dr. Justice AR. Lakshmanan, Chairman, Law
Commission of India, on the 5th day of August, 2009.**

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D.O. No. 6(3)/170/2009-LC (LS)

5 August, 2009

Dear Dr Veerappa Moily ji,

Subject: Amendments in Indian Stamp Act 1899 and Court-fees
Act 1870 Permitting Different Modes of Payment

I am forwarding herewith the 231st Report of the Law Commission of India on the above subject.

2. The Indian Stamp Act 1899 and the Court-fees Act 1870 are statutes of the British era, which provide for payment of stamp duty on instruments and court-fee on documents to be filed in courts only in the form of adhesive stamps or stamped papers, which are printed by the Central Government in bulk involving huge costs. In the recent past, there have been scandals and some State Governments have decided to sell them through post offices to prevent the occurrence of such scams.

3. Our country is carrying the unbearable load under the said Acts, which again is a British legacy. The main reason for stamped paper scams is that they are printed in bulk. Another reason is that the Government is not alive to the fact that these Acts are anachronistic pieces of legislation. Ridiculously small amount of court-fee, like 50 naya paisa, is still required to be paid on some types of documents. Then there are complicated provisions for cancelling those court-fee stamps. In High Courts also, where the paper-books are very heavy, the petitioner is required to affix a court-fee stamp of 65 naya paisa on each page. Considerable amount of man-hours is wasted in this useless process. Litigants or the clerks of advocates are always found busy in pasting court-fee stamps on pages of the paper-books, and then writing the title of the case on the court-fee stamps for cancellation thereof (so that those court-fee stamps may not be reused). Then, employees of the courts check each and every page of paper-book to ensure that stamps of correct amount are affixed and properly cancelled before clearing the

paper-book for further processing. These ridiculous provisions continue to remain on the statute-book even fifty-nine years after the Constitution of India came into force. Added to all these problems is the artificial shortage of stamps and stamped papers, occasionally created by agents, leading to their sale in black market.

4. We *suo motu* took up the subject for consideration. In view of more modern and convenient methods of charging duty on instruments and court-fees on documents to be filed in courts being available in our country, the mode of their payment requires to be drastically overhauled. Court-fee amounts should be in round figures and be payable through demand drafts, banker's cheques, pay orders, money orders, postal orders, *challans* or even cash. Similarly should be payable non-judicial stamp duties. These alternative modes of payment of court-fees and non-judicial stamp duties would not only save the Government huge costs of printing them and commission to stamp-vendors, but also prevent fraud and avoidable hassles to the public.

5. We have recommended accordingly.

With warm regards,

Yours sincerely,

(Dr AR. Lakshmanan)

Dr M. Veerappa Moily,
Union Minister of Law and Justice,
Government of India,
Shastri Bhawan,
New Delhi – 110 001.

**AMENDMENTS IN INDIAN STAMP ACT 1899 AND
COURT-FEES ACT 1870 PERMITTING
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I. INTRODUCTION

Indian Stamp Act 1899

1.1 The idea of raising revenue for the State from the transactions of its citizens originated in Holland. The first stamp law was passed in Holland in 1624. In England, it was first adopted under Charles II, but under the reign of William and Mary, it assumed a definite shape and thereafter various statutes were passed requiring stamps on various instruments among the English people.¹

1.2 In India, the first stamp law was Regulation VI of 1797, which was limited in its extent to Bengal, Bihar, Orissa and Benaras. Various stamp Regulations were subsequently introduced in the sister provinces of Bombay and Madras.²

1.3 In 1860, the first Act relating to stamp duties was enacted in India. It repealed all the existing Regulations. The Stamp Act 1860 was replaced by the Stamp Act of 1862. Thereafter were enacted the Stamp Act 1869 and the Stamp Act 1879 replacing the Act of 1869. The Stamp Act 1879 was ultimately replaced by the Stamp Act 1899, the present law on the subject.³

1.4 IN *Jagdish Narain v. Chief Controlling Revenue Authority*⁴, the Allahabad High Court observed:

¹ 67th Report of the Law Commission of India

² Ibid.

³ Ibid.

⁴ AIR 1994 All. 371

“The sole object of the Indian Stamp Act is to increase the revenue and its provisions must be construed as having in view only the protection of revenue. Although the provisions contained in the Act imposed pecuniary burdens and this Act is a fiscal enactment yet considering the implications involved therein its provisions must be given a construction which prevents undue hardship to the subject.”

1.5 Section 10 of the Indian Stamp Act envisages stamps as the mode of payment of duty. An instrument is “duly stamped” only if it bears an adhesive or impressed stamp of the proper amount, *vide* section 2(11) of the said Act.

Court-fees Act 1870

1.6 We are here dealing with two types of stamps, judicial and non-judicial. The Stamp Act covers non-judicial stamps which are for use in transactions between persons where written instruments are used. Judicial stamps bear the words “Court-fee” and judicial stamped papers bear the word “Judicial”, and are for use in courts and certain public offices under the provisions of the Court-fees Act 1870.

1.7 Before the advent of the British rule in India, administration of justice was considered to be the basic function of the State as guardian of the people without levy of any charge on the party approaching court for redress of its grievances. During the Mughal rule and the period prior to that, administration of justice was totally free. It was only after the British rule that regulations imposing court-fees were brought into existence.⁵

⁵ 189th Report of the Law Commission of India

1.8 Court-fees in civil courts appear to have been first levied in the 18th century by Madras Regulation III of 1782, Bengal Regulation XXXVIII of 1795 and Bombay Regulation VIII of 1802. Paradoxically, the preamble to the Bengal Regulation justified the imposition of court-fees on the ground that it would prevent the institution of frivolous litigation.⁶

1.9 All the provincial regulations were amalgamated into a single Act XXXVI of 1860 enacted for whole of India. Subsequent Acts followed and ultimately came into being the present Court-fees Act 1870.⁷

1.10 The Court-fees Act prescribes fees which are to be paid in respect of documents to be used in courts and certain public offices. Like the Stamp Act, the Court-fees Act also provides for payment of court-fees through stamps which shall be impressed or adhesive, *vide* sections 25 and 26 of the Court-fees Act. No document shall be valid unless and until it is properly stamped, *vide* section 28 of the Court-fees Act.

Adhesive stamps

1.11 Adhesive stamps are printed on small pieces of paper and affixed to instruments or documents filed in courts. Certain instruments listed under section 11 of the Stamp Act may be stamped with adhesive stamps. There are special adhesive stamps to be used on particular instruments.

⁶ 14th Report of the Law Commission of India

⁷ *Supra* note 5

Stamped papers

1.12 In our country, the people for paying stamp duty to the State or for paying court-fees purchase stamped papers. If the amount of duty or court-fee payable is substantial, then one has to purchase stamped papers of requisite value.

Printing of adhesive stamps and stamped papers

1.13 Adhesive stamps and stamped papers are printed by the India Security Press, Nashik Road and the Security Printing Press, Hyderabad in various denominations. The Stamp Press unit of the India Security Press prints, *inter alia*, non-judicial stamps, court-fee stamps, non-judicial stamped papers and impressed court-fee stamps. The Central Stamp Depot of the India Security Press deals with supply of finished products to the Central and State Governments. The Security Printing Press set up in 1982 to supplement the output of the India Security Press to meet the demands of the whole country, *inter alia*, prints non-judicial stamped papers of lower denominations. Instruments or documents are written or typed on these stamped papers themselves; sometimes the stamped papers are annexed with the related instrument or document.

Problem and proposition

1.14 Now, in view of various scandals, some State Governments have decided to sell adhesive stamps and stamped papers through post offices, to prevent the occurrence of such scams.

1.15 Our country is carrying the unbearable load under the Indian Stamp Act 1899 and the Court-fees Act 1870, which again is a British legacy. The main reason for stamped paper scams is that they are printed in bulk. Another reason is that the Government is not alive to the fact that these Acts are anachronistic pieces of legislation. Ridiculously small amount of court-fee, like 50 naya paisa, is still required to be paid on some types of documents. Then there are complicated provisions for cancelling those court-fee stamps. In High Courts also, where the paper-books are very heavy, the petitioner is required to affix a court-fee stamp of 65 naya paisa on each page. Considerable amount of man-hours is wasted in this useless process. Litigants or the clerks of advocates are always found busy in pasting court-fee stamps on pages of the paper-books, and then writing the title of the case on the court-fee stamps for cancellation thereof (so that those court-fee stamps may not be reused). Then, employees of the courts check each and every page of paper-book to ensure that stamps of correct amount are affixed and properly cancelled before clearing the paper-book for further processing. These ridiculous provisions continue to remain on the statute-book even fifty-nine years after the Constitution of India came into force. Added to all these problems is the artificial shortage of stamps and stamped papers, occasionally created by agents, leading to their sale in black market.

1.16 In view of more modern and convenient methods of charging duty on instruments and court-fees on documents to be filed in courts being available in our country, the mode of their payment requires to be drastically overhauled. Court-fee amounts should be in round figures and be payable through demand drafts, banker's cheques, pay orders, money orders, postal orders, *challans* or even cash. Similarly should be payable non-judicial stamp duties. These alternative modes of payment of court-fees and non-judicial stamp duties would not only save the Government huge costs of printing them and commission to stamp-vendors, but also prevent fraud and avoidable hassles to the public.

II. PARALLEL PROVISIONS

2. Herein below we give a list of authorities, tribunals, other quasi-judicial bodies, where the requisite fee is payable through one or more of the aforesaid alternative modes of payment:

- [1] **Public Authority** under the Right to Information Act 2005
Mode of payment: cash, demand draft, banker's cheque or Indian Postal Order {*vide* Rules 3, 4 and 5, Right to Information (Regulation of Fee and Cost) Rules 2005, made by the Central Government}
Various State and Union territory Governments, Rajya Sabha and Lok Sabha Secretariats, High Courts have made their own rules providing for payment of fee for information through different alternative modes of payment.
- [2] **Central Administrative Tribunal** under the Administrative Tribunals Act 1985
Mode of payment: demand draft or Indian Postal Order {*vide* Rule 7, Central Administrative Tribunal (Procedure) Rules 1987}
- [3] **Debts Recovery Tribunal** under the Recovery of Debts Due to Banks and Financial Institutions Act 1993
Mode of payment: demand draft or Indian Postal Order {*vide* Rule 7, Debts Recovery Tribunal (Procedure) Rules 1993, and Rule 13, Security Interest (Enforcement) Rules 2002 made under the Securitisation and Reconstruction of

Financial Assets and Enforcement of Security Interest Act 2002}

- [4] **Debts Recovery Appellate Tribunal** under the Recovery of Debts Due to Banks and Financial Institutions Act 1993
Mode of payment: demand draft or Indian Postal Order {*vide* Rule 8, Debts Recovery Appellate Tribunal (Procedure) Rules 1994, and Rule 13, Security Interest (Enforcement) Rules 2002 made under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002}
- [5] **Consumer Forums** under the Consumer Protection Act 1986
Mode of payment: demand draft or Indian Postal Order {*vide* Rule 9A, Consumer Protection Rules 1987}
- [6] **Copyright Board** under the Copyright Act 1957
Mode of payment: Indian Postal Order, bank draft or *challan* {*vide* Rule 26, Copyright Rules 1958}
- [7] **Telecom Disputes Settlement and Appellate Tribunal** under the Telecom Regulatory Authority of India Act 1997
Mode of payment: demand draft {*vide* Rule 4, Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fee for Filing an Appeal) Rules 2003}

- [8] **Appellate Tribunal for Foreign Exchange** under the Foreign Exchange Management Act 1999
Mode of payment: cash or demand draft {*vide* Rule 10, Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules 2000}
- [9] **Special Director (Appeals)** under the Foreign Exchange Management Act 1999
Mode of payment: cash or demand draft {*vide* Rule 5, Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules 2000}
- [10] **Railway Claims Tribunal** under the Railway Claims Tribunal Act 1987
Mode of payment: demand draft or Indian Postal Order {*vide* Rule 6, Railway Claims Tribunal (Procedure) Rules 1989}
- [11] **Monopolies and Restrictive Trade Practices Commission** under the Monopolies and Restrictive Trade Practices Act 1969
Mode of payment: *challan* or demand draft {*vide* Rule 10, Monopolies and Restrictive Trade Practices Rules 1970}
- [12] **Appellate Tribunal for Electricity** under the Electricity Act 2003

Mode of payment: demand draft {*vide* Rule 55, Appellate Tribunal for Electricity (Procedure, Form, Fee and Record of Proceedings) Rules 2007}

- [13] **Cyber Regulations Appellate Tribunal** under the Information Technology Act 2000

Mode of payment: demand draft or pay order {*vide* Rule 6, Cyber Regulations Appellate Tribunal (Procedure) Rules 2000}

- [14] **Appellate Tribunal** under the Prevention of Money-laundering Act 2002

Mode of payment: demand draft {*vide* Rule 3, Prevention of Money-laundering (Appeal) Rules 2005}

- [15] **Central Government** under the Securities and Exchange Board of India Act 1992

Mode of payment: deposit in the State Bank of India {*vide* Rule 5, Securities and Exchange Board of India (Appeal to the Central Government) Rules 1993}

- [16] **Securities Appellate Tribunal** under the Securities and Exchange Board of India Act 1992

Mode of payment: demand draft {*vide* Rule 9, Securities Appellate Tribunal (Procedure) Rules 2000}

- [17] **Central Electricity Regulatory Commission** under the Electricity Act 2003
Mode of payment: demand draft or pay order {*vide* Rule 2, Central Electricity Regulatory Commission (Payment of Fee) Regulations 2004}
- [18] **Company Law Board** under the Companies Act 1956
Mode of payment: bank draft {*vide* Rule 4, Company Law Board (Fees on Applications and Petitions) Rules 1991}
- [19] **Employees' Provident Funds Appellate Tribunal** under the Employees' Provident Funds and Miscellaneous Provisions Act 1952
Mode of payment: demand draft {*vide* Rule 7, Employees' Provident Funds Appellate Tribunal (Procedure) Rules 1997}
- [20] **Appellate Tribunal for Forfeited Property** under the Narcotic Drugs and Psychotropic Substances Act 1985
Mode of payment: cash {*vide* Rules 2 and 3, Appellate Tribunal for Forfeited Property (Fees) Rules 1989}
- [21] **Appellate Tribunal for Forfeited Property** under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act 1976
Mode of payment: cash {*vide* Rules 2 and 3, Appellate Tribunal for Forfeited Property (Fees) Rules 1987}

- [22] **Authority for Advance Rulings** under the Income-tax Act 1961
Mode of payment: demand draft {*vide* Form No. 34C with reference to Rule 44E, Income-tax Rules 1962}
- [23] **Authority for Advance Rulings (Central Excise, Customs and Service Tax)** under the Customs Act 1962
Mode of payment: demand draft {*vide* Form-AAR (CUS.) with reference to Rule 3, Customs (Advance Rulings) Rules 2002}
- [24] **Income-tax Settlement Commission** under the Income-tax Act 1961
Mode of payment: deposit in an authorised bank or the SBI or the RBI {*vide* Form No. 34B with reference to Rule 44C, Income-tax Rules 1962}
- [25] **Settlement Commission** under the Customs Act 1962
Mode of payment: deposit in an authorised bank or the SBI or the RBI {*vide* Form SC (C)-1 with reference to Rule 3, Customs (Settlement of Cases) Rules 1999}
- [26] **Appellate Tribunal** under the Income-tax Act 1961
Mode of payment: deposit in an authorised bank or the SBI or the RBI {*vide* Form No. 36 with reference to Rule 47, Income-tax Rules 1962}

[27] **Customs, Excise and Service Tax Appellate Tribunal**
under the Customs Act 1962

Mode of payment: demand draft {*vide* Form No. CA-3 with
reference to Rule 6, Customs (Appeals) Rules 1982}

[28] **Commissioner (Appeals)** under the Income-tax Act 1961

Mode of payment: deposit in an authorised bank or the SBI
or the RBI {*vide* Form No. 35 with reference to Rule 45,
Income-tax Rules 1962}

III. RECOMMENDATION

3.1 We strongly are of the view that in order to save the Government huge costs of printing judicial and non-judicial stamps and commission to stamp vendors as also to prevent fraud and avoidable hassles to the public, the Indian Stamp Act 1899 and the Court-fees Act 1870 need suitable amendments to provide for payment of stamp duty on instruments and court-fee on documents to be filed in courts through alternative modes of payment, namely, demand draft, banker's cheque, pay order, money order, postal order, *challan*, cash. Stamp duty and court-fee amounts should also be in round figures.

3.2 We recommend accordingly.

(Dr Justice AR. Lakshmanan)

Chairman

(Prof. Dr Tahir Mahmood)

Member

(Dr Brahm A. Agrawal)

Member-Secretary

F. No.6 (3) 170/ 2009-LC (LS)

Government of India
Ministry of Law and Justice
Department of Legal Affairs
Law Commission of India

Indian Law Institute Bldg,
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New Delhi-110001

Dated: 30.09.2009

OFFICE MEMORANDUM

SUB: REPORT NO. 231ST TITLED “AMENDMENTS IN INDIAN STAMP ACT 1899 AND COURT-FEES ACT 1870 PERMITTING DIFFERENT MODES OF PAYMENT” OF THE LAW COMMISSION OF INDIA. REG.

The undersigned is directed to inform that paragraphs 1.15 and 1.16 of the above-mentioned Report as well as paragraphs 3 and 4 of the D. O. letter dated 05.08.2009 broadly drawn from a letter dated 11.5.2009 written by Sh. H. C. Arora, Advocate, Punjab and Haryana High Court addressed to the Hon’ble Chairman, 18th Law Commission of India.

Sh. A. K. Srivastava
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(A K Upadhyay)
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