O/o Inspector General of Registration,
Chennai – 28.

Circular No.16125/C2/2019 Dated: 16.4.2019

Sub: Article 35 of Schedule I to The Indian Stamp Act 1899 – Chargeability of Stamp Duty – GST on Rent payable by Lessee cannot be treated as part of Rent for chargeability of Stamp Duty – Reg

Ref: 1.Inspector General of Registration, Circular No.31330/C2/2009 Dated:31.11.2010.
2.Inspector General of Registration, Circular No. 25764/C2/2016 Dated:06.06.2016.
3.Advocate General of Tamil Nadu,Opinion No.54/AGVN/2019 Dated: 04.04.2019.
4.The Principal Secretary to Government, Commercial Taxes and Registration, Letter No.2237/J1/2019-2 Dated:09.04.2019.

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As per Explanation under Article 35 of the Schedule I to the Indian Stamp Act 1899; when a lessee undertakes to pay any recurring charge such as Government revenue, Municipal taxes etc, which is by law recoverable from the lesser, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent. As per this explanation, "Service Tax" agreed to be paid by the lessee would also be deemed to be part of rent for the purpose of levying Stamp duty. Based on that, Circulars cited 1 and 2 in the reference were issued.

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2. After the implementation of Goods and Services Tax (GST) by the Central Government on 01.07.2017 a question has been raised as to whether the GST payable by the lessee should be chargeable for Stamp duty or not.

3. It is informed that the opinion of the Advocate General of Tamil Nadu was sought for on the point whether the GST payable by the lessee should be treated as part of rent as per the explanation provided under Article 35 of Schedule I to the Indian Stamp Act, 1899.

4. The Advocate General of Tamil Nadu in his opinion cited (copy enclosed) has stated that from the reading of the Explanation provided under Article 35 of the Schedule I to the Indian Stamp Act, 1899, it is clear that when the lessee undertakes to pay any recurring charges such as Government revenue, the landlord's share of cess or municipal tax, such amount shall be deemed to be a part of the rent and that GST on rent amount is obviously not a recurring charge on the property and that the explanation makes it clear that the chargescontemplated are in the nature of municipal rates or taxes or any other levy on the property itself and not on the lease rent and hence GST cannot be included as part of the rent for the purpose of chargeability of Stamp Duty. He has therefore opined that the GST payable by the lessee cannot be treated as part of the rent for the purpose of chargeability of Stamp Duty under the Indian Stamp Act, 1899.

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5. In view of the opinion of the Advocate General of Tamil Nadu, the Government has clarified that the GST payable by the lessee cannot be treated as part of the rent for the purpose of chargeability of Stamp Duty under the Indian Stamp Act, 1899. Hence all registering officers are directed to take this into consideration while registering lease deeds of all future cases and cases with effect from 01.07.2017(GST implementation date). Hence Registering officers are hereby instructed to adhere to the above clarification scrupulously and avoid complaints.

Sd/16.04.2019.

Inspector General of Registration.

/By order/

Additional Inspector General of Registration,

(Stamps and Registration).

NO 22/4/2019

To
All Sub Registrars
All District Registrars(Admin. and Audit)
All Deputy Inspectors General of Registration
Copy to:
1.All Officers/Superintendents, O/o IGR
2. The Director, Registration Training Institute , Chennai – 14.
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