

L. A. BILL No. XXXVIII OF 2021.

A BILL

further to amend the Maharashtra Stamp Act.

(As passed by the Legislative Assembly on the 27th December 2021.)

LX of
1958.

WHEREAS it is expedient further to amend the Maharashtra Stamp Act
5 for the purposes hereinafter appearing; it is hereby enacted in the Seventy-
second Year of the Republic of India, as follows :—

1. (1) This Act may be called the Maharashtra Stamp (Second Amendment
and Validation) Act, 2021.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force with effect from the 5th
10 August 2016.

- Amendment of section 2 of LX of 1958. **2.** In section 2 of the Maharashtra Stamp Act (hereinafter referred to as “the principal Act”), in clause (g), in sub-clause (iv), after the words “Banking Companies”, the following shall be inserted, namely :—
- “and every order made by the Board for Industrial and Financial Reconstruction under section 18 or 19 of the Sick Industrial Companies (Special Provisions) Act, 1985, in respect of sanction of Scheme specified therein or every order made by the National Company Law Tribunal under section 31 of the Insolvency and Bankruptcy Code, 2016, in respect of approval of resolution plan”.
- Amendment of Schedule I of LX of 1958. **3.** In Schedule I appended to the principal Act, in article 25, in clause (da), in column (1), after the words “Banking Companies” the following shall be added, namely :—
- “and every order made by the Board for Industrial and Financial Reconstruction under section 18 or 19 of the Sick Industrial Companies (Special Provisions) Act, 1985, in respect of sanction of Scheme specified therein or every order made by the National Company Law Tribunal under section 31 of the Insolvency and Bankruptcy Code, 2016, in respect of approval of resolution plan”.
- Validation. **4.** Notwithstanding anything contained in any judgement, decree or order of any court to the contrary or in the principal Act, stamp duty assessed, levied and collected, including any action taken in pursuance of such assessment, levy and collection by the authorities under the said Act, acting or purporting to act under the provisions of article 25 in Schedule I of the principal Act, shall be deemed to have been validly levied and collected in accordance with law as if the provisions of the said article 25, as amended by the Maharashtra Stamp (Second Amendment and Validation) Act, 2021 (hereinafter in this section referred to as “the Amendment Act”) had been continuously in force at all material time and accordingly,—
- (a) all actions, proceedings or things done or taken by the authorities under the principal Act in connection with the levy and collection of the stamp duty shall for all purposes, be deemed to have been done or taken in accordance with the provisions of the principal Act ;
- (b) no suit or other proceedings shall be maintainable or continued in any court, against the said authorities for the refund of the stamp duty so levied and collected ;
- (c) no court or any other authority shall enforce any decree or order directing the refund of the stamp duty so levied or collected.
- (2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,-
- (a) from questioning in accordance with the provisions of the principal Act as amended by the Amendment Act, any assessment, reassessment, levy or collection of stamp duty referred to in sub-section (1), or
- (b) from claiming refund of any stamp duty paid by him under the principal Act, in excess of the amount due from him by way of stamp duty under the principal Act, as amended by the Amendment Act.

STATEMENT OF OBJECTS AND REASONS

The orders of the High Court, National Law Company Tribunal (NCLT) and confirmation issued by the Central Government under the Companies Act, 2013 (18 of 2013), in respect of amalgamation, merger, demerger, arrangement or reconstruction of companies and order of Reserve Bank of India under section 44A of the Banking Regulation Act, 1949 (10 of 1949), in respect of amalgamation or reconstruction of banking companies are included in the definition of 'Conveyance' contained in clause (g) of section 2 of the Maharashtra Stamp Act (LX of 1958) (hereinafter referred to as "the said Act"), and are chargeable with stamp duty under article 25(*da*) of Schedule I of the said Act.

2. Under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) (hereinafter referred to as "the SIC Act"), the Board for Industrial and Financial Reconstruction (BIFR) has passed orders in respect of sanction of Scheme of financial reconstruction or the proper management of the sick industrial company including amalgamation, reconstruction, etc., thereof as a part of revival of sick industrial company. Also under section 19 of the SIC Act, the BIFR has sanctioned schemes to provide for financial assistance to such sick industrial companies.

For reorganization and insolvency resolution of corporate debtor the NCLT approves the Resolution Plan under section 31 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) (hereinafter referred to as "the Insolvency Code"), which includes provisions for restructuring of the corporate debtor, including by way of merger, amalgamation and demerger.

Such orders of the BIFR and NCLT under the SIC Act and the Insolvency Code provide for amalgamation, merger and demerger of companies which involves the issue or allotment of shares or transfer of assets and liabilities from one company to other company.

3. In order to increase revenue and to bring uniformity in charging stamp duty in respect of orders passed by various authorities under various Acts relating to amalgamation, merger, etc., of the companies, the Government considered it expedient to charge stamp duty also on such orders of the BIFR and NCLT on the lines of the above referred orders of the High Court, NCLT and Reserve Bank of India. As the Insolvency Code came into force with effect from 5th August 2016, the Government considered it expedient to charge stamp duty on such orders of the BIFR and NCLT with retrospective effect from the 5th August 2016. For that purpose, clause (g) of section 2 and article 25(*da*) of Schedule I of the Maharashtra Stamp Act (LX of 1958), is proposed to be amended, suitably.

It is also proposed to make suitable provisions to validate the stamp duty levied and collected on such orders of the BIFR and NCLT before such amendments.

4. The Bill seeks to achieve the above objectives.

Mumbai,

dated the 16th December 2021.

BALASAHEB THORAT,
Minister for Revenue.

FINANCIAL MEMORANDUM

Clauses 2 and 3 of the Bill proposes to amend section 2 (*g*) and article 25(*da*) of Schedule I of the Maharashtra Stamp Act (LX of 1958), with a view to charge stamp duty on every order made by the Board for Industrial and Financial Reconstruction under section 18 or 19 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), in respect of sanction of Scheme specified therein or every order made by the National Company Law Tribunal under section 31 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in respect of approval of resolution plan to bring uniformity in charging stamp duty in respect of orders passed by various authorities under various Acts relating to amalgamation, merger, etc., of the companies.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

**GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF
THE CONSTITUTION OF INDIA**

(Copy of Government of Maharashtra Order, Law and Judiciary Department)

In exercise of the power conferred upon him by clause (1) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the Introduction of the Maharashtra Stamp (Second Amendment and Validation) Bill, 2021.

*ANNEXURE TO THE L.A. BILL No. XXXVIII OF 2021—
THE MAHARASHTRA STAMP (SECOND AMENDMENT AND
VALIDATION) BILL, 2021.*

(Extracts from the Maharashtra Stamp Act, 1958)

(Mah. LX of 1958.)

1. * * * *

2. In this Act, unless there is anything repugnant in the subject or context, - Definitions.

(aa) to (f) * * * *

(g) “Conveyance” includes,—

(i) a Conveyance on sale,

(ii) every instrument,

(iii) every decree or final of any Civil Court,

(iv) every order made by the High Court under section 394 of the Companies Act, 1956 or every order made by the National Company Law Tribunal under sections 230 to 234 of the Companies Act, 2013 or every confirmation issued by the Central Government under sub-section (3) of section 233 of the Companies Act, 2013, in respect of the amalgamation, merger, demerger, arrangement or reconstruction of companies (including subsidiaries of parent company) ; and every order of the Reserve Bank of India under section 44A of the Banking Regulation Act, 1949 in respect of amalgamation or reconstruction of Banking Companies ;

by which property, whether moveable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, inter vivos and which is not otherwise specifically provided for by Schedule I ;

Explanation.—An instrument whereby a co-owner of any property transfers his interest to another co-owner of the property and which is not an instrument of partition, shall, for the purposes of this clause, be deemed to be an instrument by which property is transferred inter vivos ;

(ga) to (u)

3. to 76. * * * *

SCHEDULE I

STAMP DUTY ON INSTRUMENTS

(See Section 3)

Description of Instrument (1)	proper Stamp Duty. (2)
1. to 24.	* * * *
25. CONVEYANCE (not being a transfer charged or exempted under Article 59) -	
On the true market value of the property, which is the subject matter of Conveyance,-	
(a) to (d)	* * * *
(da) if relating to the order of the High Court under section 394 of the Companies Act, 1956 or the order of the National Company Law Tribunal under sections 230 to 234 of the Companies Act, 2013 or confirmation issued by the Central Government under sub-section (3) of section 233 of the Companies Act, 2013 in respect of the amalgamation, merger, demerger, arrangement or reconstruction of companies (including subsidiaries of parent company) or order of the Reserve Bank of India under section 44A of the Banking Regulation Act, 1949 in respect of amalgamation or reconstruction of Banking Companies.	<p>10 per cent. of the aggregate of the market value of the shares issued or allotted in exchange or otherwise and the amount of consideration paid for such amalgamation :</p> <p>Provided that, the amount of duty chargeable under this clause shall not exceed,-</p> <p>(i) an amount equal to 5 per cent. of the true market value of the immovable property located within the State of Maharashtra of the transferor company; or</p> <p>(ii) an amount equal to 5 per cent. of the aggregate of the market value of the shares issued or allotted in exchange or otherwise and the amount of consideration paid, for such amalgamation, whichever is higher :</p> <p>Provided further that, in case of reconstruction or demerger the duty chargeable shall not exceed,-</p> <p>(i) an amount equal to 5 per centum of the true market value of the immovable property located within the State of Maharashtra transferred by the Demerging Company to the Resulting Company; or</p>

(i) an amount equal to 0.7 per centum of the aggregate of the market value of the shares issued or allotted to the Resulting Company and the amount of consideration paid for such demerger, whichever is higher.

26. to 63.	*	*	*	*
SCHEDULES II	*	*	*	*

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. XXXVIII OF 2021.]

**[A Bill further to amend the Maharashtra
Stamp Act.]**

[SHRI BALASAHEB THORAT,
Minister for Revenue.]

**[As passed by the Legislative Assembly
on the 27th December 2021.]**

RAJENDRA BHAGWAT,
Principal Secretary,
Maharashtra Legislative Assembly.