



# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष ३, अंक ७५]

गुरुवार, ऑक्टोबर १२, २०१७/आश्विन २०, शके १९३९

[पृष्ठे ४, किंमत : रुपये २७.००

असाधारण क्रमांक १५१

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Municipal Corporations (Second Amendment) Ordinance, 2017 (Mah. Ord. XXIII of 2017), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,  
I/c. Secretary to Government,  
Law and Judiciary Department.

(Translation in English of the Maharashtra Municipal Corporations (Second Amendment) Ordinance, 2017 (Mah. Ord. XXIII of 2017), published under the authority of the Governor).

### URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,  
Mumbai 400 032, dated the 12th October 2017.

### MAHARASHTRA ORDINANCE No. XXIII OF 2017.

#### AN ORDINANCE

*further to amend the Maharashtra Municipal Corporations Act.*

WHEREAS both Houses of the State Legislature are not in session ;

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action

LIX of further to amend the Maharashtra Municipal Corporations Act, for the 1949. purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

## CHAPTER I

### PRELIMINARY

Short title  
and  
commence-  
ment.

1. (1) This Ordinance may be called the Maharashtra Municipal Corporations (Second Amendment) Ordinance, 2017.
- (2) It shall come into force at once.

## CHAPTER II

### AMENDMENT TO THE MAHARASHTRA MUNICIPAL CORPORATIONS ACT.

Amendment  
of section  
149A of LIX of  
1949.

2. In section 149A of the Maharashtra Municipal Corporations Act,— LIX of 1949.
  - (i) for sub-sections (1) and (2), the following sub-sections shall be substituted and shall be deemed to have been substituted with effect from the 1st July 2017, namely :—

“(1) The stamp duty leviable under the Maharashtra Stamp Act, on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the City, shall be increased by a surcharge at the rate of one per cent., in the case of sale or gift, on the value of the property so situated and in the case of an instrument of usufructuary mortgage on the amount secured by the instrument as set forth in the instrument and shall be collected accordingly under the said Act. LX of 1958.

(2) For the purposes of this section, section 28 of the Maharashtra Stamp Act, shall be read and enforced as if specifically required the particulars therein referred to be set forth separately in respect of,— LX of 1958.

(a) the property situated in the City ; and

(b) the property situated in any other area,” ;

(ii) in sub-section (3), for the words “each of the notified City” the words “of the City” shall be substituted and shall be deemed to have been substituted with effect from the 1st July 2017 ;

(iii) in sub-section (5), the following shall be added at the end, namely :—

“For the purposes of this section, the State Government may make rules retrospectively with effect from the 1st July 2017.”.

## CHAPTER III

### MISCELLANEOUS

Validation of  
duty levied  
and collected.

3. (1) Notwithstanding anything contained in any judgement, decree or order of any court to the contrary, any assessment, review, levy or collection of stamp duty or surcharge in respect of execution of instruments of sale, gift and usufructuary mortgage, or any action taken or thing done in relation to such assessment, review, levy or collection under the provisions of the

LIX of 1949. Maharashtra Municipal Corporations Act (hereinafter in this section referred to as “the Municipal Corporations Act”) prior to the date of commencement of the Maharashtra Municipal Corporations (Second Amendment) Ordinance, 2017 (hereinafter in this section referred to as “the Amendment Ordinance”), shall be deemed to be valid and effective as if such assessment, review, levy or collection or action or thing had been duly made, taken or done under the Municipal Corporations Act, as amended by Amendment Ordinance, and accordingly,—

(a) all acts, proceedings or things done or taken by any authority or by the State Government or by any officer of the State Government in connection with the assessment, review, levy or collection or action or thing in connection with the levy of such stamp duty or surcharge, for all purposes be deemed to be, and to have always been done or taken in accordance with the law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority for the refund of such stamp duty or surcharge so paid; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of such duty or surcharge.

(2) For the removal of doubt 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 Municipal Corporations Act, as amended by the Amendment Ordinance, assessment, review, levy or collection of such stamp duty or surcharge, referred to in sub-section (1), or

(b) from claiming refund or any stamp duty or surcharge paid by him in excess of the amount due from him by way of stamp duty under the Municipal Corporations Act as amended by the Amendment Ordinance.

(3) Nothing in the Municipal Corporations Act, as amended by the Amendment Ordinance, shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the date of commencement of the Amendment Ordinance, if such act or omission was not an offence under the Municipal Corporations Act on the relevant date, but for such amendment made by the Amendment Ordinance; nor shall any person in respect of such act or omission be subject to a penalty greater than that which could have been imposed on him under the law in force immediately before the date of commencement of the Amendment Ordinance.

LIX of 1949. 4. (1) If any difficulty arises in giving effect to the provisions of the Maharashtra Municipal Corporations Act, as amended by this Ordinance, the State Government may, as the occasion arises, by an Order published in the *Official Gazette*, give such directions not inconsistent with the provisions of the said Act as amended by this Ordinance, as may appear to it to be necessary or expedient for the purpose of removing the difficulty. Power to remove difficulty.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

## STATEMENT.

Section 149A of the Maharashtra Municipal Corporations Act (LIX of 1949), provides that the stamp duty livable under the Maharashtra Stamp Act (LX of 1958) on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the notified City where the Local Body Tax (LBT) was made applicable under the provisions of clause (*aaa*) of sub-section (2) of section 127 of that Act, be increased by a surcharge at the rate of one per cent., in the case of sale or gift, on the value of the property so situated and in the case of an instrument of usufructuary mortgage on the amount secured by the instrument as set forth in the instrument and shall be collected accordingly under the said Act.

2. Due to omission of clause (*aaa*) of sub-section (2) of section 127 of the said Act (regarding levy of 'Local Body Tax') by section 36 of the Maharashtra Goods and Services Tax related laws (Amendments, Validation and Savings) Act, 2017 (Mah. XLII of 2017), the provisions of said section 149A has now become redundant.

3. To ensure that the Corporations of the cities where LBT was applicable continue to receive the amount equal to one per cent., of the stamp duty leviable under the Maharashtra Stamp Act (LX of 1958) on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property, it is considered expedient to amend the said section 149A with effect from the 1st July 2017, being the date of implementation of GST. It is considered expedient to make suitable provisions for the validation of levy or collection of such stamp duty or surcharge already collected.

4. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Municipal Corporations Act (LIX of 1949), for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,

Dated the 10th October 2017.

CH. VIDYASAGAR RAO,

Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

MANISHA PATANKAR-MHAISKAR,

Principal Secretary to Government.