

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

47. When any bill of exchange or promissory note chargeable with the duty of five poisha is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon canceling the same in manner hereinbefore provided, may pay the sum payable upon such bill, or note, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as foresaid, and such bill, or note shall, so far as respects the duty, be deemed good and valid:

Power of payer to stamp bills and promissory notes received by him unstamped

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, or note.

48. All duties, penalties and other sums required to be paid under this chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

Recovery of duties and penalties

48A. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES

49. Subject to such rules as may be made by the Government as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the case hereinafter mentioned, namely:—

Allowance for spoiled stamps

- (a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person:
- (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto:
- (c) in the case of bills of exchange payable otherwise than on demand or promissory notes-
 - (1) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance ; provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon:
 - (2) the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands:
 - (3) the stamp used or intended to be used for any such bill of exchange or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange, or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, or note:
- (d) the stamp used for an instrument executed by any party thereto which—
 - (1) has been afterwards found to be absolutely void in law from the beginning:

- (2) has been afterwards found unfit by reason of any error or mistake therein, for the purpose originally intended:
- (3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed:
- (4) for want of the execution thereof by some material party, and his inability or refusal to sign the same is in fact incomplete and insufficient for the purpose for which it was intended:
- (5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose:
- (6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value:
- (7) is deficient in value and the transaction intended to be thereby effected had been effected by some other instrument between the same parties and bearing a stamp of not less value:
- (8) is inadvertently and undersignedly spoiled and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

Application for relief under section 49 when to be made

50. The application for relief under section 49 shall be made within the following periods, that is to say,—

- (1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument:
- (2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled:
- (3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated within six months after the execution thereof by the person by whom it was first or alone executed:

Provided that,—

- (a) when the spoiled instrument has been sufficient reasons sent out of [Bangladesh, the application may be made within six months after it has been received back in Bangladesh:
- (b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

Allowance in case of printed forms no longer required by Corporation

51. The Chief Revenue-authority or the Collector if empowered by the Chief Revenue-authority in this behalf may, without limit of time, make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or body corporate, provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance for misused stamps

52.(a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13;

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused for rendered useless.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

- (a) other stamps of the same description and value; or,
- (b) if required, and he thinks fit, stamps of any other description to the same amount in value; or,
- (c) at his discretion, the same value in money, deducting six and one fourth *per centum* of that value.

Allowance for spoiled or misused stamps how to be made

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money the words deducting six and one-fourth *per centum* of that value upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

- (a) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them; and
- (b) that he has paid the full price thereof; and
- (c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Allowance for stamps not required for use

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

Allowance on renewal of certain debentures

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less:

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the Government may direct.

Explanation—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:—

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and
- (d) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI

REFERENCE AND REVISION

Control of, and statement of cases to, Chief Revenue-authority

56.(1) The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 26 shall in all cases be subject to the control of the Chief Revenue-authority.

(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.