CHAPTER - XI
# CHAPTER - 11
THE IMPERATIVES OF EQUITY

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CHAPTER - 11
THE IMPERATIVES OF EQUITY

Introduction ~ Rationalisation of Levy ~ to provide for legal and moral substratum for revenue collection:

Being the repository of people's power and confidence, the legislature enjoys the paramount prerogative to decide upon the quantum of levy of any tax or duty. However in the constitutional scheme of powers even the legislature cannot disregard the basic commandments of the constitution. The statute enacted cannot be arbitrary or discriminatory or ultra vires Article 14, which proscribes unreasonableness. The legislature is free to prescribe the rates of levy for various documents. Nevertheless it should be rational and based on a legally valid substratum. In particular the classification should not be guilty of legal discrimination.

Almost every state is guilty of having prescribed anomalous and discriminatory rates of levies for the documents falling under the heads of charge in the Schedule to its Act.

Handsome reductions and concessions for transactions within family members:

The government of Tamil Nadu has, in exercise of its powers under Section 9 of the Indian Stamp Act 1899 and a subsequent amendment to Articles 6, 35, 45, 46, 55
and 58 has scaled down the sky high levies to earthly levels and established its earnestness to usher in an era of fiscal progress. This historical decision has been hailed by all and sundry and rewarded by increase in collection of revenue from 1650 crores and 1750 crores. However the State should endeavour to eliminate discrimination in these levies between similar instruments and unreasobleness in the existing rates for certain instruments. The image of the State will be greatly enhanced if it displays a similar conviction in setting off anomalies in the existing structure of levies for various Articles in the schedule. Inspite of the giant leap forward, the Schedule to the Act still suffers levies, which are discriminatory and devoid of any moral and legal justification.

In a direct contrast to the discriminatory levies in Tamil Nadu the Schedule to the Bombay Stamp Act 1958 is a model of reasonableness and logic. Articles 25, 36, 36A, 52 are so logical and reasonable in their slab-wise levy and fixed duty that they are more than worthy of emulation by Tamil Nadu.

The prestige and gains of the state will be immensely enhanced if it rationalises and eliminates inequalities in the rates of stamp duty for various documents. For a state, which has triumphed in its heroic adventure of reduction of levies for production of revenue, it would be a facile task to accommodate the longings of equity in its structure of levy.
The recent reductions in levies of stamp duty for sale, mortgage, settlement and partition have given an immense relief to the public. This is a substantial progress in recognising the rule of law and responding to the calls of fairness. None imagined that the government would go this far to reduce the pressure of oppressive stamp levies. However most of these transactions relate only to those within the family. There is a lot to be done in other areas in the same spirit and with similar foresight. Reduction of levies without proper assessment of value in the case of sale transactions will be as futile as replenishing water in a leaking pot. This flexibility of accommodation and understanding should be displayed in other areas of enforcement of law. The State should emphasise more on investigating unearthing and accepting truth in assessment of properties. Instead of concentrating on a few instruments the State should consider spreading the burden of levy over a wide range of instruments particularly those, which will not strain the public. For instance power of attorney vested with third parties in relation to immovable properties devoid of consideration could be charged much more than Rs.100/- There are hundreds of transactions done through power of attorney where the attorneys are business entrepreneurs making substantial profits with these instruments.
A) PRESENT INEQUALITIES / EXORBITANT AND ULTRA VIRES LEVIES-

ARTICLE 17, 23, 31, 33, 35, 40, 41, 45, 46, 48, 55, 58, 64

Article 17:
The duty prescribed for this instrument is only a fixed amount of Rs.50/-. However in practice cancellation is never accepted as such. It is instead interpreted as an instrument undoing the effect of the original instrument and thereby restoring the original status quo of the rights as vested with the executant. For instance if a sale agreement is cancelled it is not accepted as a mere cancellation. It is treated as a document re-conveying the interest created therein. Similarly in the case of a cancellation of sale deed, the authorities insist upon stamp duty at the rate of conveyance since they consider that the effect of the deed would restore the property to the original owner. This practice of classifying deeds of cancellation under Article 23 is an unwholesome practice. The Transfer of Property Act makes it clear that no deed of cancellation can undo or revoke an instrument of sale, settlement or any other conveyance. Hence levy of a rate of eight percent for cancellation deed should be abandoned simply because they are a nullity in the eyes of law in relation to deeds of conveyance.

Cancellation of Instruments of General Power of Attorney, Sale Agreement etc which are legally permitted / valid may be charged a fixed stamp duty. Those instruments which cannot be legally cancelled may be charged a duty which will
deter frivolous registrations. Even though purchasers may approve cancellation of sale deeds by the Vendors it will not have any effect in the eyes of law. Therefore treating the cancellation as re-conveyance, unless it has been worded as such and, levying stamp duty at the rate of conveyance will not be legally or otherwise justified. Hence a stamp duty of 4% on the market value or Rs.5, 000/- whichever is higher could be charged for cancellation of deed of sale, mortgage, settlement, partition, release and gifts. The nature of cancellation deeds and assessment of duty therefor have already been discussed under Chapter 4 of the thesis.

**Article 23: ~ Slab wise levy ~ concession for transfer between divorced spouses:**

Article 23 should provide for slab wise levy. Insisting upon the same rate of stamp duty from a crorepathy and a lakhipathy would mean unequal treatment. Just as the Income Tax Act has provided for a slab wise rate of levy, the Stamp Act as applicable to Tamil Nadu may charge a maximum of six percent upto a value of five lakhs. For properties exceeding the value of ten lakhs the rate of stamp duty may be increased from the present rate of nine percent to eleven percent. For properties valued between five lakhs and ten lakhs, the existing structure of rates may continue. Similarly there could be a concession for properties transferred between spouses after divorce.
Transfers to Authentic Charitable Institutions:
All transfers to charitable institutions engaged in a) poverty alleviation b) conduct of orphanages c) AIDS prevention d) Educational institutions administered gratis and imparting Free Education for the poor may be exempted from levy under this Article.

Existing G.O on concession to Charitable Institutions needs review:
The existing G.O providing for exemption to educational and charitable institutions should be thoroughly reviewed and qualified as aforesaid. Insistence of a certificate from the I.T department u/s 80G will not be enough to identify the real nature of charitable service.

Amalgamations and reconstructions of companies:
With stipulations to check abuse of concession amalgamations and reconstructions should be exempted from stamp duty.

THIS WOULD ENCOURAGE CORPORATE ENTERPRISE AND ECONOMIC GROWTH.

Charging same duty for flats and Apartments ~ unjust:-
Insisting upon the rate of duty for conveyance of flats is legally discriminatory and arbitrary. The ownership of land continues to be undivided and joint. The building value is bound to decline over a period of time. Just as the stamp duty land tax in U.K\(^1\) and the Bombay Stamp Act 1958\(^2\) have provided for concessional and slab-wise rate for flats, Tamil Nadu state should modify its levy accordingly. (vide amendments proposed.)

\(^1\) Stamp Duty Land Tax
\(^2\) Article 25
<table>
<thead>
<tr>
<th>Description of instrument</th>
<th>Proper stamp duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 17(b) – Where the instrument of cancellation purports to cancel a previously executed instrument of sale, mortgage, settlement, partition, release or gift, if attested or not otherwise provided for.</td>
<td>Four rupees for every rupees hundred or part thereof of the market value or the value of the property which is the subject matter of the instrument sought to be cancelled or Rs.3,000/- whichever is higher.</td>
</tr>
<tr>
<td>Article 23 - Conveyance (as defined by Section 2(10), not being a Transfer charged or exempted under No: 62- a. (i) of immovable property situated within the Chennai Metropolitan Planning area and the Urban agglomeration of Madurai, Coimbatore, Salem and Tiruchirapalli and the City of Tirunelveli. (ii) of flats / apartments forming part of minimum of three floors including the ground floor for which only undivided share of land is sold:</td>
<td>- the existing stamp duty may continue</td>
</tr>
</tbody>
</table>
a) where the value of the flat does not exceed Rs.5,00,000/-

Three rupees for every rupees hundred or part thereof of the market value of the property which is the subject matter of conveyance

b) where the value of the flat exceeds Rs.5,00,000/- but does not exceed Rs.15,00,000/-

Four rupees for every hundred or part thereof of the market value of the property which is the subject matter of conveyance

c) where the value of the flat exceeds Rs.15,00,000/-

Six rupees for every hundred or part thereof of the market value of the property which is the subject matter of conveyance

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**Article 45 ~ Partition:**

Since the State Government has progressively reduced the Stamp Duty for partition emulating Karnataka in principle and fixing a Stamp Duty of Rs.10,000/- for each share, the scope for complication in assessment of duty has almost disappeared. However, in so far as partition relating to non-family members and other co-owners are concerned the discrimination in the basis of levy will continue to be a subject of controversy.
According to the latest amendment of Article 45\(^1\), the stamp duty as per Article 45 (a) will be 1% of the market value of the property subject to a maximum of Rs. 10,000/- for each share for partitions effected among members of the “family” as defined under Article 58. While the levy is a salutary development the following infirmities have to be cured:

**Brothers and Sisters cannot effect a partition:**

a) if the word “family” has to be understood as clarified in the explanation to this Article then this levy will not apply to a partition between brothers and sisters. This would negate the very spirit of the amendment. The word “family” has to be defined as including brothers and sisters. Clarification by way of circulars cannot amplify the scope of a statutory Article. Hence an amendment is inevitable,

b) The proviso to Article 45 (b) as contained in a, b, c thereof have not been made applicable Article 45(a),

c) The basis of levy as between A and B of Article 45 is highly discriminatory. While Article 45(a) stipulates “market value” as the basis, Article 45(b) stipulates just “value” of the “separated share” or shares of the property as criterion for levy. Besides the earlier clarification on separated shares is

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\(^1\) vide G.O. Ms No:47/CT Department / dt: 12-2-2004 w.e.f. 12-2-2004
Gazette extraordinary No:297 of 2004 dt: 25-11-2004 w.e.f.16-2-2004
Implications of the term “separated share:”

Owing to the statutory omission to clarify or explain the meaning of a separated share, one will have to rely upon the sage rulings of the Madras High Court in the cases of “Krishna Chandra vs President Agency District” and “Gurram Pedda Venkatappa Naidu vs Gurram Musal Naidu and others.” In these cases the courts have held that smaller shares should be considered to be separated from largest share.

The aforesaid rulings have been followed by the division bench of the Andhra Pradesh High Court in a recent case of “Pothula vs Pothula alias Gaddam Sashi Reddy”

Absence of discrimination in levy for partitions under the Karnataka Stamp Act 1957 and Bombay Stamp Act 1958:

Article 39 of the Schedule to the Karnataka Stamp act 1957 does not discriminate between co-owners within or outside the family. Nor is the levy harsh for the parties. A very nominal duty of Rs.1000/- is prescribed for each share. There are no discriminatory bases of “value” and “market value” as contemplated under Section

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1AIR 1928 MAD 1181 (FB)  
2AIR 1934 MAD 204  
3AIR 1976 AP 45
45(a) and (b) of the Act in Tamil Nadu. Similarly Article 46 of the Schedule to the Bombay Stamp act 1958 does not discriminate between co-ownership among family members and non-family members.

**Article 31:**

Though the Article under the stamp act does not prohibit exchange as may occur between two groups of family members, the auditors insist that in such cases the levy of stamp duty shall be for both the properties forming subject matter of exchange. They remark that the stamp levy as contemplated under Article 31 is applicable to only those cases where the exchange is between two single persons. The Transfer of Property Act has defined exchange as:

**Section 118:** “When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both things being money only, the transaction is called an “exchange”“. Hence the auditors hold that exchange of property between two groups of people will not qualify for exemption of stamp duty for one of the properties exchanged. Therefore Article 31 should clarify that notwithstanding the definition in the Transfer of Property Act as aforesaid, stamp duty shall be paid only on the greater value of the two properties exchanged even if it is between two groups of people as joint owners. It may be amended as follows: .
Article 31:

Exchange of Property, that is to say, any instrument by which two persons or groups of persons or bodies corporate or institutions or organisations transfer the ownership of one thing for the ownership of another neither things or both things being money only The same duty as a Conveyance (No:23) for a market value equal to the market value of the property of greater value which is the subject matter of exchange.

Article 33:-

In case of gifts the rate of stamp duty is the same as provided for sale. Now that the Income tax Department would not accept third party gifts for exemption from tax, most of the gifts are bound to be genuine and between parties standing in near relations to each other. Hence there should be a concession in the rate of levy for gifts between brothers and sisters as shown in Article 34 of the Bombay Stamp Act 1958. This relationship has been kept out of the definition of “family” under Article 58, 45 and 46 of the Indian Stamp act as applicable to Tamil Nadu. Even the latest concessions effected from 16-12-2004 have NOT accommodated this relationship for concessional duty.

Article 35 ~ the latest amendment ~ a disappointment:

The latest provision of levy of one percent on the total rent premium / fine does not show any real concession or reduction from the existing rates.
Example: The existing rate for a lease up to five years is four plus one percent on the average rental value. If the total rent were to be five lakhs then the stamp duty and fees therefor will work out to Rs.5000/- being four plus one percent on the average rental value. As per Article 35(a) as amended and effected from 16-12-2004 the stamp duty and fees for the above lease of five years will be double the existing amount. (Rs.5000/- Stamp Duty and Rs.5000/- - Registration Fees). The amendment of Article 35 is semantically suave but stinging in effect. It has only worsened the plight of the public.

The revised rate of one percent on the total rent will not make any difference. Hence it is suggested that a duty equal to one percent of the average annual rent, fine, premium etc for a period up to thirty years will justify compulsory registration of all lease deeds.

The amendment of Article 35 has only simplified the wordings of the statute and computation of levy. However the effect behind this sweet text is a sour levy. The Article is simple in content but sanguine in its levy. To remove this oddity in the scheme of kaleidoscopic concessions, Article 35 (a), (b) and (c), could be amended as follows:
**AMENDMENT PROPOSED**

<table>
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<tr>
<th>Description of instrument</th>
<th>Proper stamp duty</th>
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</thead>
<tbody>
<tr>
<td><strong>Article 35</strong> — a) Where the period of lease is below thirty years</td>
<td>Four rupees for every hundred or part thereof on the average annual rent and fine, premium or advance if any, payable,</td>
</tr>
<tr>
<td>b) may remain as they are</td>
<td>may remain as they are</td>
</tr>
<tr>
<td>c) may remain as they are</td>
<td>may remain as they are</td>
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**Article 40:**

The various kinds of Mortgages save those of equitable mortgage classified under Section 58 of the Transfer of Property Act 1882 have been dealt with under Articles 40 and 41 of the Schedule to the Indian Stamp Act 1899. Separate levy of stamp duty has been provided under Article 40(a) for mortgages under which possession of property is given and under Article 40(b) for mortgages under which possession is not given. The recent reduction of rate of duty from 12-2-2004 for the above two classes has transformed the cost of lending and borrowing and given a fresh impetus to the economy. However a minor discrimination still persists. Even the recent amendment has not eliminated this anomaly. Article 40 relates to mortgage for the first time. Article 32 relates to a mortgage creating a further charge. There is no difference otherwise than as aforesaid between the above two transactions. The nature and content of the deeds are one and the same. Still the Stamp Act has
discriminated between these two mortgages by providing for a severely contrasting levy for further charges. There is no justification for this differentiation. Presently the provisions are as follows:

<table>
<thead>
<tr>
<th>ARTICLE 40</th>
<th>ARTICLE 32</th>
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<tr>
<td>a) When possession is given:</td>
<td>a) When possession is given:</td>
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<tr>
<td>four percent on the secured</td>
<td>EIGHT PERCENT ON THE</td>
</tr>
<tr>
<td>amount (including surcharge of</td>
<td>AMOUNT SECURED BY FURTHER</td>
</tr>
<tr>
<td>one percent).</td>
<td>CHARGE.</td>
</tr>
<tr>
<td>b) When possession is not</td>
<td>b) When possession is not given:</td>
</tr>
<tr>
<td>given:</td>
<td>FOUR PERCENT ON THE AMOUNT</td>
</tr>
<tr>
<td>one percent on the secured</td>
<td>SECURED BY FURTHER CHARGE.</td>
</tr>
<tr>
<td>amount subject to a maximum of</td>
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<td>Rs.20,000/-</td>
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</table>

**Article 46:**

While Article 45 had provided for four percent of duty on partition transactions within the family, Article 46 provided for a discriminatory and contradictory levy of three percent stamp duty on the separated shares of property in cases of dissolution involving partition within family members. This anomaly of favouring business transactions in preference to non-business transactions had not engaged the department till recently when the tidal wave of stamp duty concessions announced
on 16-12-2004. Now it is only Rs.10,000/- per share or one percent of the market value per share subject to a maximum of Rs.10,000/-. 

After the above amendment of Article 46(B)(ii) there is no discrimination between documents falling under Article 45 and 46 in relation to family transactions. However there is a severe discrimination between co-ownership of non family members under Article 45 and 46 respectively. **Article 45(B) provides for a levy of only four percent on the value of “the separated share”. On the other hand Article 46(B)(i) provides for eight percent on the entire property dealt with in the deed of dissolution. This is arbitrary because both relate to co-ownership between non family members and the definition under Section2(15) of the Act.** If this irrationality were to linger on those seeking to dissolve partnership firms would resort to awards and other gateways provided in various Supreme Court rulings which do not require registration.

As stated in **“E.P.Royappa vs State of Tamil Nadu) (1974) 2SCR 348”**, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. The principle of

\[1\] AIR 1974 SC 555
equality enshrined in Article 14 must guide every state action, whether it be legislative, executive, or quasi-judicial: *Ramana Dayaram Shetty vs The International Airport Authority of India* (1979) 3 SCR 1014 at p.1042; *Ajay Hasia vs Khalid Mujib Sehravardi* (1981) 1 SCC 722; and *D.S.Nakara vs Union of India* (1983) 1 SCC 305;

**Gateway to avoid stamp duty for registration of dissolution deeds:**

The Supreme Court has ruled that an arbitration award recording distribution of residual assets of dissolved firm does not require compulsory registration as per Section 48(b)(iv) of the Indian Partnership Act 1932 and Section 17(i) of the Indian Registration Act 1908 in the case of *N.Khadarvali Saheb vs N.Gudu Sahib.*  

**Article 46B(1) ~ discriminatory vis-a-vis Article 45B:**

Viewed in the context of Section 2(15) of the Act, the kind of partition contemplated under Article 46(B)(i) ought to qualify for a similar treatment as provided under Article 45(b). The discriminatory levy of eight percent on the entire property partitioned in a dissolution of a partnership firm will only force the parties to avoid registration of dissolution deeds and still acquire legitimacy through Supreme Court rulings. Lest the revenue should suffer on this account Article 46(B) could be amended as follows:

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1AIR 1979 SC 1628 at p.1642  
2AIR 1981 SC 487  
3AIR 1983 SC 150  
42003(3)SCC 229
<table>
<thead>
<tr>
<th>Description of instrument</th>
<th>Proper stamp duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 46(B) –</td>
<td></td>
</tr>
<tr>
<td>i) When such dissolution involves partition of immovable property among the partners who are not family members;</td>
<td>i) The same duty as a Bottomry Bond (No:16) for the amount of the value of the separated share or shares of the property.</td>
</tr>
</tbody>
</table>

Since most of parties resort to dissolutions through unregistered documents exploiting the rulings of the Supreme Court, it is better the government encourages registration of these deeds by reducing the levy to four plus one percent even in cases of Articles 46 (a), (b) and (c). The Demand Details of the Registration Department for the year 2004-2005 show NIL collection of stamp duty for the year 2003 in the entire State on account of dissolution of partnership firm under Article 46B. Only two documents of dissolution have been registered throughout the state in the year 2003-2004. It is hence obvious that unless the statute is amended as aforesaid the leakage of revenue on this account will continue unabated.

The Supreme Court has, through its legendary ruling in *Adanki Narayanappa’s case*, permitted transfer of personal property to the firm by mere credit entry to the capital account. Through various other judgements the Hon’ble Supreme Court has also ruled that retirement or relinquishment from partnership business does not

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1 Demand Details of the Registration Department 2004-2005 Page 78 and 81 – (vide Article 46B)
2 AIR 1966 1300
require registration. Though avoiding registration may raise questions of legal validity, the bold and adventurous entrepreneurs will use the Supreme Court Rulings as a perfect excuse to avoid stamp duty.

**Article 48:**

The authorities have provided for different levies for “family members” and “non family members” under Articles 45, 46, 55 and 58. In the case of power of attorney, the state is losing revenue due to the absence of such a distinction. Business transactions with third parties are done through instruments of power of attorney. Therefore Article 48 could be amended as follows:

<table>
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<tr>
<th>Description of instrument</th>
<th>Proper stamp duty</th>
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<tbody>
<tr>
<td><strong>Article 48—</strong></td>
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<tr>
<td>a) (i) When executed in favour of a family member for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;</td>
<td>a) (i) (Five rupees)</td>
</tr>
<tr>
<td>(ii) When executed in favour of non family member</td>
<td>(ii) (Fifty rupees)</td>
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<tr>
<td></td>
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<tr>
<td>b) 1) When authorising one or more persons within the family to act in single transaction other than the case mentioned in clause(a);</td>
<td>b) (i) (Fifteen rupees)</td>
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<td>(ii) When authorising one or more persons outside the family</td>
<td>(ii) (One hundred and fifty rupees)</td>
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<tr>
<td>c) (i) When authenticating not more than five persons within the family to act jointly and severally in more than one transaction or generally;</td>
<td>c) (i) (One hundred rupees)</td>
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<td></td>
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<tr>
<td>(ii) When authenticating not more than five persons outside the family to act jointly and severally in more than one transaction or generally;</td>
<td>(ii) (Three hundred rupees)</td>
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<tr>
<td>d) (i) When authorising more than five but not more than ten persons within the family to act jointly and severally in more than one transaction or generally;</td>
<td>d) (i) (One hundred and seventy five rupees)</td>
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<tr>
<td>(ii) When authorising more than five but not more than ten persons outside the family to act jointly and severally</td>
<td>(ii) (One thousand seven hundred and fifty)</td>
</tr>
</tbody>
</table>
in more than one transaction or generally;
e) When given for consideration and authorising the attorney to sell any immovable property;
f) in any other case

e) (The same duty as a Conveyance (No:23) for the market value equal to the amount of the consideration,
f) (Two hundred rupees) for each person authorised,

P.S:- The aforesaid amendment will have the desire effect only if the definition of “family” includes brothers and sisters.

Article 55:

Article 55 presupposes a pre-existing right of the releasor/s and releasee/s in the property concerned. Hence it will amount to a double levy if a stamp duty equal to the rate for conveyancing is levied on relinquishment of one co-owner in favour of another co-owner. Therefore even if the co-owners are not related to each other, levy of more than four percent will be unjustified. When co-ownership under Article 45(B) merits a concessional duty of four percent there is no reason why a release between two co-owners should suffer the levy of a conveyance. To check abuse of this provision, the Article may qualify that this concessional duty will apply only to
cases where the property concerned has been jointly acquired under a single instrument.

Articles 52 of the Schedule to Bombay Stamp Act 1958 and Article 45 of the Schedule to Karnataka Stamp Act dealing with Release Deeds are devoid of any confusion. The enforcing authorities do not perpetrate arbitrariness by insisting upon co-parcenary relationship for classifying deeds of release under these articles. They only ensure that it is a relinquishment of a pre-existing right of the Releasor. (*Ramdas vs Prahlad*¹). While the Bombay Stamp Act has prescribed just a fixed duty of Rupees Two Hundred as stamp duty under its Article 52, the Karnataka Stamp Act 1957 has prescribed a fixed duty of only Rupees One Thousand for family members under Article 45 (b). The Karnataka Stamp Act 1957 has drawn a distinction between non family members and family members. However even for non family members the duty is only the levy prescribed for a bond on just the amount as set forth in the instrument (Article 45a (i)). Only where there is passing of consideration among non family members the release deed would suffer a duty equal to conveyance.

¹AIR 1976 GUJ 158 (F.B)
The chief good about Article 45 of the Schedule to the Karnataka Stamp Act 1957 is that the definition of family includes brother and sister. In Tamil Nadu particularly as amended recently w.e.f 16-12-2004, Article 55 is confusion worst confounded. Family does not include brothers and sisters.

**Article 58:**

The definition of “family” should include brothers and sisters. This will promote social harmony and eliminate disputes. Relinquishment or Gifts in favour of brothers and sisters are being avoided mainly because of the harsh levy of an amount equal to conveyance. The Income Tax Act 1961 and The Bombay Stamp Act 1958 recognise this relationship for concession in tax and stamp duty. Gifts between brothers and sisters are accepted for exemption from taxation as “deemed income”.

**Article 64:**

Declaration of Trust concerning any property made in writing, not being a will, may be charged one percent of the market value of the property subject to a maximum of Rs.10,000/-. This increase in duty is proposed to check against abuse of the Article by persons seeking to launder and use their ill gotten money for their own progress. The Government may exempt certain classes of trust from this Article by way of notification in a gazette.
B) 1) **Double levy:**

In the case of Article 32 as it is in force at present, it inflicts a double levy for a second mortgage on the same property.

2) **Multi point levy:**

In cases of dissolution of partnership charging allotments of properties among non-family members at the rate of conveyance would result in multi point levy. Firstly, the purchaser of the property would suffer eight percent. Secondly the dissolution will suffer eight percent and thirdly there will be a levy of capital gains tax if it is treated as a conveyance by the stamp authorities.

C) **PROPOSAL FOR REDUCTION INTRODUCTION AND MODIFICATION OF LEVY:**

This has been done as aforesaid after discussion under each Article.

D) **AMENDMENTS AND REMEDIES PROPOSED:**

This also has been done as aforesaid after discussion under each Article.