

Determining the value of properties

If undervalued, the price of a unit can be determined by the collector for paying stamp duty

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LEGAL REMEDIES

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Buyers will often undervalue properties to avoid paying stamp duty. To stop this practice, state governments regularly fix and revise circle rates - the minimum rates for valuation of immovable properties for calculating stamp duty (The rates are also taken into account by registering authorities to work out how much stamp duty is to be paid).

The Delhi government revises the circle rates from time to time to help curtail the evasion of stamp duty in places where the market rates are high. However, it has been noticed that in areas where the actual market rate is lower than the circle rates, this revision has affected the sale and purchase of properties. The stamp duty payable there is higher, resulting in buyers and sellers paying a heavy amount for stamp duty, registration fee and applicable taxes.

The revisions of circle

rates in Delhi were challenged recently in the Delhi High Court (HC) through various writ petitions titled Manu Narang and another versus the Lt Governor, Government National Capital Territory of Delhi and others. The main question before the court was the Delhi government's order stating that when the consideration declared in the conveyance deed was less than the circle rate, stamp duty would be charged on the basis of minimum rates/circle rates. Under the Stamp Act, if the registering officer had reasons to believe that the value of the property as mentioned for registration was not correct or the property was undervalued, he would have to, after registering the document, refer the same to the collector for determination of the value of the consideration and the proper duty payable.

After hearing various arguments by the petitioners and the respondents, the HC held that the registrar/sub-registrar entrusted with the responsibility of registering the conveyance deed would have the power, in the event of the transaction money mentioned in the document being less than the valuation as per prescribed circle rates, to notify the parties pre-



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sending the document of the same. He should give the parties an opportunity to amend the document and mention the correct valuation for payment of stamp duty in consonance with the circle rates and make up the deficiency. However, if the parties do not revise such valuation and do not pay the stamp duty in terms of the circle rate prescribed, the registrar/sub-registrar can follow the procedure as prescribed in the Stamp Act, and register the instrument (instead returning the same to the parties) with endorsement

of registration and forward the same to the collector of stamps for determination of proper duty payable thereon. The collector on his part, in accordance with law, call upon the parties to produce any evidence which suggests that the valuation presented by the parties is correct. Subsequently, the collector shall determine the value of property and assess the amount of duty. If the duty paid is found to be deficient, the collector will call upon such person to pay the remaining sum.

The HC also dealt with the

issue of evaluating basements in residential properties. The valuation of a basement is usually lower than that of other floors in the same property. However, the basement in residential properties for payment of stamp duty, is in most cases evaluated at par with other floors as there can be no change in circle rates of an area. The HC therefore clarified that if the parties presenting the conveyance deed of basements of residential properties for registration, stated that the amount they were paying was lower than the circle rates, the registration

officer if not satisfied would have to refer it to the collector, and the parties would have to convince the collector that the valuation was correct. The collector would then have to determine the value of the basement and assess the amount of duty payable.

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