Commercial Taxes and
Registration (J1) Department,
Secretariat, Chennai-9.

**Letter (Ms) No.127, dated 04.08.2020**

From

Tmt. (Dr.) BEELA RAJESH, I.A.S.,
SECRETARY TO GOVERNMENT.

To

The Inspector General of Registration,
Chennai-28

Madam,

Sub: Registration Department – e-Stamping in demat form – issue of clarification – Regarding

Ref: 1. Representation from Tvl. National e-governance Services Limited, Chennai, letter dated 16.08.2019.

2. From the Inspector General of Registration letter No.49375/C2/2019, dated 20.05.2020.

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I am directed to state that Tvl. National e-governance Services Limited, Chennai in the reference first cited have requested the Government to allow 'Dematerialized e-stamping of certain class of lending documents which are not compulsorily registerable under the Registration Act, 1908, by affixing digital signatures and maintained in electronic media in order to further the objective of the Insolvency and Bankruptcy code, 2016 and help boost ease of doing business.

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2. In this connection, the Inspector General of Registration in the reference second cited has stated as follows:-

(i) On perusal of the list of documents appended to the proposal, it could be seen that except instruments of Mortgage, power of attorney and Deposit of title deed, all other instruments enumerated in the list are found to be optionally registerable.

(ii) As per the scheme of Registration Act, 1908 any document which is compulsorily registerable or which is opted to be registered have to be presented to the registering officer in person in physical format within 4 months from the date of execution. At the same time there is no prohibition in the Registration Act, 1908 to maintain a document in a dematerialized form which is not intended to be sought to be registered. As per the section 130 of the Transfer of Property Act, 1882 transfer of 'actionable claim' shall be effected only by execution of an instrument in writing and signed by the transferor. However, section 4 and 5 of the Information Technology Act, 2000 recognizes electronic documents and electronic signatures for the purpose of documenting any information.

(iii) From the aforesaid legal position, it is considered that maintenance of these optionally registerable documents in dematerialized form by affixing electronic signatures is permissible under law. Moreover, in respect of agreements relating to sale or purchase of stocks maintained in 'electronic form', stamp duty is being collected by M/s. BOISL for the State of Tamil Nadu. Hence, it is considered that collection of stamp duty for dematerialized documents enumerated in the proposal (which are not compulsorily registerable) as proposed by National e-Governance Services Ltd. seems to be viable. It is further stated that viability of dematerialized stamping of compulsorily registerable documents may be considered in due course after ascertaining whether amendment to Registration Act is necessary.

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3. The Rule 3(i) of the Indian Stamp Rules, 1925 provides as follows:-

Description of Stamps. Except as otherwise provided by the Act or by these rules,-

(i) That the stamp duty which any instrument is chargeable shall also be paid, by means stamping of instrument by use of franking machines or through electronically generated stamps and such stamp duty shall be deemed to be the payment of proper duty payable on the instrument for the purpose of Indian Stamp Act, 1899.

4. In as much as the said rule 3(i) provides for electronic generation of stamps, it is considered that the expression 'electronically generated stamps' includes e-stamp in physical form as well as e-stamp in digital form. Therefore, the Inspector General of Registration has requested the Government to issue suitable administrative orders regarding accepting the proposal of the NeSL for utilizing the services of M/s. SHCIL and to allow e-Stamping in digital form in respect of 17 instruments.

5. The Government with a view to boost ease of doing business and in order to further the objective of the Insolvency and Bankruptcy code, 2016 have decided to permit NeSL to utilize the services of M/s. SHCIL for the issue of e-Stamping in digital form in respect of the following instruments:-

| Sl. No. | Instruments |
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| 1. | Acknowledgement |
| 2. | Affidavit |
| 3. | Agreement or memorandum of agreement relating to secure the repayment of loan made by bank / Finance Company |
| 4. | Agreement or any other document (memorandum etc.) relating to the deposit of title deeds, pawn or pledge relating to movable property |
| 5. | Bank Guarantee / Letter of credit |
| 6. | Bond |
| 7. | Composition deed |

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| 8. | Further charge relating to movable property |
| 9. | Indemnity Bond |
| 10. | Letter of Licence |
| 11. | Mortgage deed without possession / Hypothecation on deed relating to movable property |
| 12. | Power of attorney relating to movable property |
| 13. | Re-conveyance of Mortgage relating to movable property |
| 14. | Respondentia Bond |
| 15. | Security Bond |
| 16. | Debenture |
| 17. | Lease less than one year |

6. I am also to state that considering the provisions available in sections 4 and 5 of the Information Technology Act, 2000 (Central Act 21 of 2000) and in rule 3(i) of the Indian Stamp Rules, 1925 amendment to the Indian Stamp Act, 1899 is not warranted to allow the storage of the above said instruments in demat form.

Yours faithfully,

For Secretary to Government

4.8.2020

Copy to:

The Chief Minister's Office, Chennai-9.
Tvl. National e-governance Services Limited, Chennai
The Finance (Revenue / BG-I / BG-II) Department, Chennai-9.
The Law Department, Chennai-9
Stock file / Spare Copies.