

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.29922 OF 2014

Modern Cotton Yarn Spinners Ltd.,
represented by Nagaraju Srirama,
Khivraj Complex - 11, 5th Floor,
No.480, Anna Salai, Nandanam,
Chennai - 600 035.

.. Petitioner

Vs

1. The Chief Controlling Revenue Authority &
The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2. The Sub Registrar,
Krishnarayapuram,
Karur District.

.. Respondents

* * *

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus call for the records relating to the impugned order issued under D.Dis.No.44969/P(1)/2008, dated 20.01.2010 by the first respondent, quash the same and consequently direct the first respondent to sanction the refund an amount of Rs.16,98,772/- to the petitioner as excess stamp duty paid.

* * *

For Petitioner : Mr.T.V.Suresh Kumar
for M/s.Genicon and Asso.

For Respondents: Mr.R.Vijayakumar,
Additional Govt. Pleader

O R D E R

Heard Mr.T.V.Suresh Kumar, learned counsel appearing for the petitioners and Mr.R.Vijayakumar, learned Additional Government Pleader for the respondents.

2. The petitioner has challenged the order passed by the first respondent dated 20.01.2010. The petitioner by the letter dated 04.06.2007 requested for refund of the Stamp duty of Rs.16,98,772/- paid by them under protest under Section 41 of the Indian Stamp Act, 1899 in respect of the Door No.1 of 2007 on the file of the Sub Registrar, Krishnarajapuram, Karur District.

3. The impugned order has been passed only on the ground that the document filed by the petitioners are Photostat copies of the Members register and the share certificates and on perusal of the share certificates, to establish share holdings of both the companies, it is found that adhesive labels were not cancelled, as required under Section 12(2) of the Indian Stamp Act. Further, by referring to Section 35 of the Indian Stamp Act along with Section 12 (2), the respondent would state that it seems that share certificates produced by the applicant cannot be admitted into evidence and they cannot prove the share holding pattern of the transferor as well as transferring companies. Therefore, it was held that the share certificates cannot be relied on.

4. The learned counsel for the petitioner, on instructions, submitted that if notice was issued to the petitioner calling upon them to produce the original, they would have produced the originals and they would have been able to establish the truth.

5. Heard the learned Additional Government Pleader on the above submissions.

6. On a perusal of the impugned order, it is seen that the impugned order has been passed without affording a reasonable opportunity to the petitioner. If the first respondent was of the view that the Photostat copies of the share certificate produced by the petitioner cannot be accepted or if he is of the opinion that the originals have to be produced, a notice could have been issued to the petitioner directing them to produce the original documents, thereafter, the order could have been passed. However, since such procedure was not adopted by the respondents, this Court is of the view that the impugned order has been passed in violation of principles of natural justice.

7. Accordingly, the writ petition is allowed and the impugned order is quashed and the matter is remanded back to the first respondent for fresh consideration. The respondent shall issue notice to the petitioner calling upon them to appear for hearing on the date fixed by the respondent, and on that date, the petitioner shall produce all the original documents, which shall be considered by the first respondent, after hearing the petitioner and the order

shall be passed within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

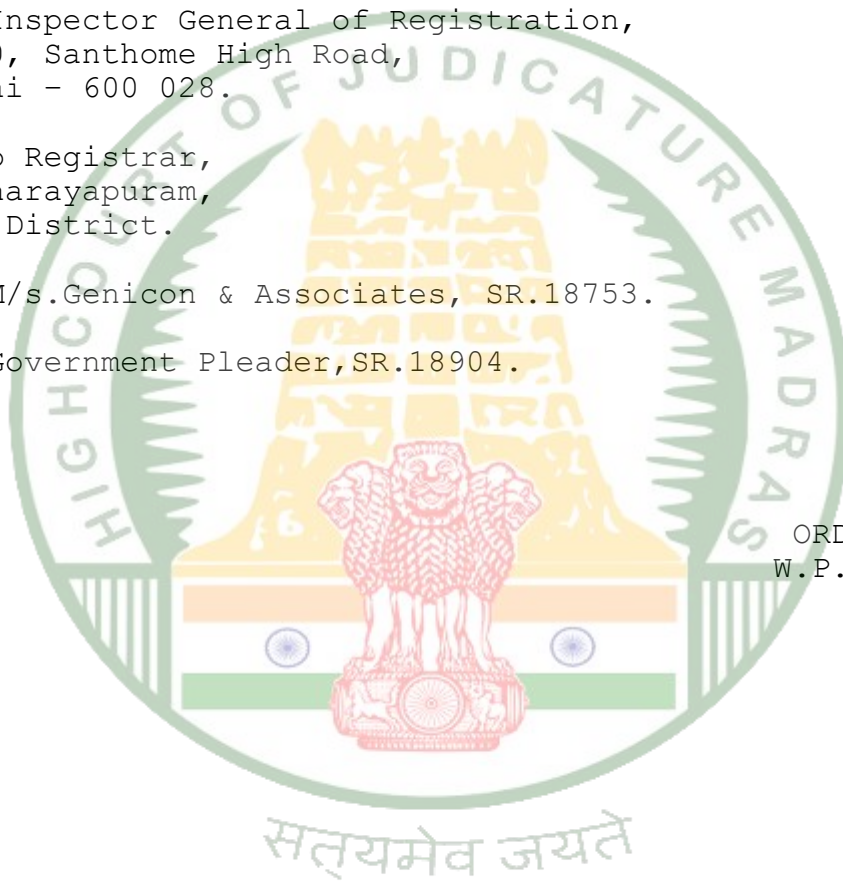
1. The Chief Controlling Revenue Authority &
The Inspector General of Registration,
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2. The Sub Registrar,
Krishnarayapuram,
Karur District.

+1 cc to M/s.Genicon & Associates, SR.18753.

+1 cc to Government Pleader, SR.18904.

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ORDER IN
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