IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.01.2020
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.21161 of 2016
and
WMP.No.18098 of 2016

M/s.Jay Jay Mills
Rep.by Managing Director
Plot No.K-32, 4th Cross,
Sipcot Industrial Growth Centre
Perundurai - 638 052
Erode District, Tamil Nadu. ... Petitioner

Vs

Sub Registrar,
Office of the Sub Registrar
Perundurai - 638 052. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for an issuance of a writ of Certiorarified Mandamus calling for the records of the Respondent in his proceedings dated 18.02.2016 followed by the notice dated 27.04.2016 in respect of Document No.P33/2015 and quash the same and direct the Respondent to register and release the lease deed dated 15.07.2015 executed by SIPCOT in favour of the petitioner company.

For Petitioner : Mr.K.Venkatasubban for M/s.Sarvabhauman Associates

For Respondent : Mr.B.Kannan (for Registration)

ORDER

This Writ petition has been filed challenging the demand made by the respondent on 27.04.2016 towards deficit stamp duty under Section 33-A of the Stamp Act on the ground that the petitioner has not included water charges and service tax component in the lease deed dated 15.07.2015, which was registered with the respondent and is pending as Document No.P33/15.

2.The learned counsel for the petitioner drew the attention of this Court to the Circular dated 24.05.2019 bearing letter

No.3759/J1/2015-2, issued by The Inspector General of Registration, Chennai - 600 028 and in particular, he referred to the following paragraph in the said circular which reads as follows:

> "It is therefore instructed that in respect of lease deeds and modified lease deeds executed by the SIPCOT, the Registering Officers should not treat the water as an immovable property for the purpose of levy of stamp duty and also the GST payable by the lessee cannot be treated as part of the rent for the purpose of chargeability of stamp duty and the deed has to be classified under Section 6 and Article 35 of Indian Stamp Act, 1899."

3.According to him, as seen from the aforesaid Circular, the Inspector General of Registration, Chennai - 600 028, has made it clear that in respect of lease deeds and modified lease deeds executed by SIPCOT, the Registering Officers should not treat the water as an immovable property for the levy of stamp duty and also GST payable by the lessee cannot be treated as part of the rent for the purpose of chargeability of stamp duty and the deed has to be classified only under Section 6 read with Article 35 of Indian Stamp Act, 1899.

4.In the case on hand, the lease deed has been executed by SIPCOT in favour of the petitioner. The impugned demand made by the respondent is only towards payment of deficit stamp duty for water charges and service tax, which, according to the respondent, was not included in the rent under the lease deed by the petitioner for the purpose of calculation of stamp duty. In view of the clarification issued by the Inspector General of Registration by the aforesaid Circular, the impugned demand dated 18.02.2016 for the deficit stamp duty from the petitioner is not in accordance with the said Circular and it has to be quashed.

5.Accordingly, the impugned demand dated 18.02.2016 issued by the respondent is quashed and the writ petition is allowed. In view of quashing the impugned demand, the respondent is directed to release the lease deed dated 15.07.2015, which was registered with the respondent as pending Document No.P33/15, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sms

To

Sub Registrar,
Office of the Sub Registrar
Perundurai - 638 052.

+1 cc to M/s.Sarvabhauman Associates Advocate sr6268
+1 cc to the Government Pleader High Court Madras
sr 7697

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