

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

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WRIT PETITION NO.1007 OF 2019

Anand I Power Ltd.

..... Petitioner

Vs.

The Chief Controlling Revenue
Authority & Ors.

..... Respondents

Mr. Abhishek Sawant a/w. Ms. Milli Murkudkar, Ms. Vaishali
Sanghavi I/b. Mr. Amit Mehta I/b. Solicis Lex for the Petitioner
Mr. Himanshu Takke, AGP for the State

**CORAM: S.V.GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : AUGUST 22, 2022

P.C.

1 The present Writ Petition is a classic illustration of the litigants
facing problems due to technical glitches.

2 The proceedings were initiated by the Chief Controlling
Revenue Authority, Maharashtra State, Pune, pursuant to the
directions of this Court to pass a fresh order on Minutes of Order, as
to chargeability of stamp duty as well as bank guarantee furnished
by the Appellant. The market value was assessed. Upon merger
scheme being approved by the High Court, the Appellate Authority,
under order dated 19th August 2014 passed the following order:

“5.10 Taking into consideration the willingness of Appellant to pay remaining stamp duty of Rs.40,00,000/- and Bank Guarantee furnished by him as per order of Hon’ble Court, the same needs to be cancelled if he deposits remaining stamp duty of Rs.40,00,000/-.

In the premise of above fact and circumstances of the case as mentioned above the following order is passed:

“ORDER

- 1. Appeal is rejected.*
- 2. Appellant to pay stamp duty of Rs.40,00,000/- (Forty Lakh Only) within 10 days of receipt of the order, or otherwise penalty as per Law.*
- 3. If remaining stamp duty of Rs.40,00,000/- is paid, Bank Guarantee stands cancelled and Collector of Stamps, Mumbai to certify document.*
- 4. Intimate concerned.*

Place : Pune

Sd/-

Date : 19/08/2014

*Chief Controlling Revenue Authority
Maharashtra State, Pune”*

3 Pursuant thereto, the Petitioner deposited an amount of Rs.40,00,000/- with the Finance Department, Government of Maharashtra under Challan dated 27th August 2014.

4 It is the case of the Respondent State that the Petitioner deposited the amount in the wrong account. The Petitioner, under communication dated 3rd September 2014 was directed to deposit the amount in the Department of Inspector of Registration, Non Judicial Stamps under the Scheme Code 00300508. It is the case of

the Petitioner that the said communication was not received by the Petitioner.

5 According to the learned AGP, as the amount was not deposited in the account as was directed, the Petitioner is liable to pay penalty @ 2% p.m. as per Section 46 of the Maharashtra Stamp Act 1958.

6 The Petitioner, contended that the Petitioner, at no material time received the alleged communication dated 3rd September 2014 relied upon by the State.

7 Be that as it may, it is not disputed that after the order was passed by the Chief Controlling Revenue Authority, Maharashtra State, Pune on 19th August 2014, the Petitioner, within a period of 10 days, as directed, deposited the amount of Rs.40,00,000/- under the Challan issued by the State i.e. with the Finance Department, Government of Maharashtra. The said deposit was a bona fide deposit and there does not appear to be any intention to flout the orders of the Chief Controlling Revenue Authority.

8 It would further appear that on or about 19th September 2014 the Petitioner communicated the factum of deposit of Rs.40,00,000/- vide challan No.CP09418029 dated 27th August 2014. A copy of the Challan was also forwarded to the Office of the Additional Collector of

Stamps, Mumbai. The act of the Petitioner, it appears was a bona fide one.

9 Under the order dated 19th August 2014 the Petitioner was not communicated as to the account in which the Petitioner was required to deposit Rs.40,00,000/-. The Petitioner, in good faith and bona fide deposited the said amount with the Finance Department, Government of Maharashtra within a period of 10 days i.e. on 27th August 2014 and also communicated the said fact to the Authority.

10 Even letter dated 3rd September 2014, which the State Authority has said, was issued to the Petitioner and which the Petitioner has contended same is not received by it is after lapse of 10 days of the order dated 19th August 2014 passed by the Chief Controlling Revenue Authority, Maharashtra State, Pune directing Petitioner to deposit Rs. 40,00,000/- within 10 days.

11 In view of the aforesaid facts and circumstances, it would be egregious to demand penalty from the Petitioner, more particularly, when the Petitioner has deposited the said amount with the State, as per the order of the Appellate Authority and within the stipulated time. The Respondents ought to have adjusted the said amount as the communication was made in the same financial year in which the amount was deposited. The amount was deposited on 27th August

2014. The Petitioner issued letter along with the copy of challan on 19th September 2014 to the Additional Collector of Stamps of the amount deposited.

12 If according to the Respondents the amount was not deposited in the proper account, it could have refunded the amount to the Petitioner so as to redeposit the same in the proper account or the said Authority itself would have transferred the same to the proper account, as the communication was in the same financial year.

13 In light of the above, we set aside the impugned notice. The authority shall take steps according to law to adjust the amount deposited by the Petitioner on 27th August 2014 with the Finance Department, State of Maharashtra under Challan No.CP 09418029 in the proper account. Further consequences shall follow.

14 The Writ Petition is disposed of. No costs.

(MADHAV J. JAMDAR,J.)

(S.V. GANGAPURWALA, J.)