8IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16510 of 2006
and WMP Nos.15984 & 15985 of 2006

Sowbhagya Co-Op. Housing Society Ltd.,
Chennai,
Tamilnadu
Rep.by its president
Smt.D.Sangapathi
W/o.Dharmalingam
Golden Villa,
1379, 6th Street
18th Main Road,Chennai-40. ... Petitioner

-Vs-

1.The Inspector General of Registration
Registration Department
Santhome High Road
Chennai.

2.District Registrar
Registration Department
Chengalpattu-603 003.

3.The State of Tamilnadu
Rep.by its Secretary to Government
Commercial Taxes & Religious Endowment Dept.,
Fort.St.George
Chennai-9.

4.Union of India
Rep.by its Secretary to Government
Ministry & Agriculture and Co-operative
New Delhi. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for records relating to the proceedings of the 1st respondent dated 25-4-2006 made in No.73778/P(1)/2005 and quash the same and direct the 1st respondent to allow remission and reduction in payment of stamp duty in respect of instrument of conveyance submitted for registration before the respondents 1 and 2 and their subordinate as provided under Section 28 of the Co-operative Societies Act, 1912 read with notification issued by 4th respondent in their notification dated 23-10-1919.

For Petitioner : Mr.A.V.Bharathi

For Respondents: Mr.A.Kumaravel
Additional Government Pleader
for R1 to R3

O R D E R

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 25.4.2006 and for a consequential direction to the 1st and 2nd respondents to allow remission and reduction in payment of stamp duty.

2.Heard Mr.A.V.Bharathi, learned counsel for the petitioner and Mr.A.Kumaravel, learned Additional Government Pleader for R1 to R3.

3.In this case, the petitioner is a Society registered under Section 7 of the Multi State Co-operative Societies Act, 2002. According to the petitioner, they are entitled for exemption from stamp duty as per Section 28 of the Co-operative Societies Act and the relevant notifications.

4.This Court had an occasion to deal with the very same issue in WP.Nos.35146 and 30733 of 2013. While disposing of the writ petitions by an order dated 6.7.2018, this Court held as follows:

> 5.The learned counsel for the writ petitioner is of an opinion that when an exemption is granted in respect of the Co-operative Societies registered under the Tamil Nadu Co-operative Societies Act, 1983 and then, the same benefit is to be extended to the co-operative societies, registered under the Multi-State Co-operative Societies Act also. Such an argument cannot be accepted in view of the fact that exemptions, if any, granted by the State Government must be specific and the persons, who all are exempted also must be unambiguously stated in the notification. As far as the Government of Tamil Nadu is concerned, they have issued notification under the provisions of the Tamil Nadu Act, granting exemption to the co-operative societies registered only under

the provision of the Tamil Nadu Co-operative Societies Act, 1983. Thus, it is made clear that the exemption notification from payment of stamp duty is applicable to the Cooperative Societies, registered under the Tamil Nadu Cooperative Societies Act, 1983. Thus, in respect of the co-operative societies, registered under the Multi-State Co-operative Societies Act, 2002, there must be a separate exemption to be granted by the Government of Tamil Nadu.

6.Admittedly, no such exemption was granted in respect of the cooperative societies, registered under the Multi-State Co-operative Societies Act, 2002. The Multi-State Co-operative Societies Act, 2002 was enacted by Parliament(Act 39 of 2002). A Co-operative Society, which is registered under the Multi-State Co-operative Societies Act, is not confined to one State and it is applicable to all the States across the country. The Central Registrar is the controller of the Multi-State Co-operative Societies. Thus, the Constitution of the Multi-State Co-operative societies is under the provisions of the said Act and cannot be under the provisions of the Tamil Nadu Co-operative Societies Act, 1983.

7.This being the factum of the case, the benefit of exemption from payment of stamp duty granted to the co-operative societies registered under the Tamil Nadu Co-operative Societies Act, 1983, cannot be granted to the co-operative Societies registered under the Multi-State Co-operative Societies Act, 2002, in the absence of any specific notification issued by the Government of Tamil Nadu under the provisions of the Act.

8.In this view of the matter, the relief as claimed in these writ petitions cannot be considered and it is left open to the writ petitioners to submit an application to the Government of Tamil Nadu for the purpose of granting exemption from the payment of stamp duty on par with other co-operative societies registered under the Tamil Nadu co-operative Societies Act, 1983. In the event of submitting any such application, it is left open to the Government to consider the same and take a decision, pass orders on merits and in accordance with law.

5.The above order squarely covers the issue raised in the present writ petition. In view of the same, the benefit of exemption from payment of stamp duty granted to the Co-operative Societies registered under the Tamilnadu Co-operative Societies Act, 1983 cannot be extended to those Societies registered under the Multi State Co-operative Societies Act, in the absence of any specific notification issued by the Government of Tamilnadu under the provisions of the Act.

6.As a result of the above discussion, this Court need not go into the various grounds raised in this writ petition and it will suffice if this writ petition is disposed of with an observation that it is left open to the writ petitioner to submit an application to the Government of Tamil Nadu for the purpose of granting exemption from the payment of stamp duty on par with other co-operative societies registered under the Tamil Nadu Co-operative Societies Act,1983. On receipt of the application, it is left open to the Government to consider the same and take a decision, and pass orders strictly in accordance with law.

7.This writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

KP

To

1.The Inspector General of Registration
Registration Department
Santhome High Road
Chennai.

2.District Registrar
Registration Department
Chengalpattu-603 003.

3.The Secretary to Government
Commercial Taxes & Religious Endowment Dept.,
Fort.St.George
Chennai-9.

4.The Secretary to Government
Ministry & Agriculture and Co-operative
New Delhi.

PA(CO)
GMY(27/06/2022)