IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.13232 of 2007

M/s.Aishwarya Poly Pack (P) Ltd.,
Rep. By its Director Mr.S.Rakkappan,
No.3, Kasi Industrial Estate,
Pilliar Koil Street,
Jafferkhanpet, Chennai 600 083. ...Petitioner

Vs.

1.The Sub Collector (Stamps),
Collectorate,
Sathuvachery,
Vellore 632 009.

2.The Sub-Registrar,
Chetpet, Polur Taluk,
Tiruvannamalai District. ...Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the order of the first respondent in C.Pa.No.1805/04 CPT dated 23.09.2004 & C.Pa.No.1/2007 CPT 47A(3) dated 12.02.2007 and order of the second respondent in O.Ka.No.44/05 dated 02.03.2007 and quash the same.

For Petitioner : Ms.V.Anantha Natarajan

For Respondents : Mr.U.Bharanidharan, Addl. Government Pleader

O R D E R

This Writ Petition has been filed challenging the reference made under Section 47(A)(1) of the Indian Stamp Act 1899 on the ground that the petitioner has under valued the property and hence the petitioner is liable to pay the deficit stamp duty.

2. The case of the petitioner is that a Sale Deed was executed in his favour and the same was presented for registration before the second respondent and it was registered

as document No.604 of 2003. The petitioner paid a stamp duty of Rs.1,20,000/-. Immediately after the registration, the document was retained for the purpose of ascertaining the building value and an inspection was also conducted. Thereafter the petitioner was directed to pay the deficit stamp duty of Rs.36,323/- and the differential registration fees and the petitioner made the payment on 26.06.2003 which is borne out by the receipt given by the second respondent. On such payment, the document was also released by the second respondent.

3. The further case of the petitioner is that Form I Notice was issued by the first respondent under Section 47A(3) wherein the petitioner was directed to pay a differential stamp duty of Rs.1,23,600/-. The petitioner objected to the said notice and gave a written objection to the respondents on 21.10.2004.

4. It is stated that once again a notice was issued on 12.02.2007 after nearly 3½ years directing the petitioner to pay a differential stamp duty of Rs.1,95,577. Thereafter a demand was made by the second respondent directing the petitioner to pay a sum of Rs.2,11,872/- towards deficit stamp duty. The petitioner being aggrieved by the same, has challenged all these notices in this Writ Petition.

5. Heard Mr.M.Hidayathulla Khan, learned counsel appearing for the petitioner and Mr.U.Bharanidharan, learned Additional Government Pleader appearing for respondents 1 and 2.

6. The main ground that was urged by the learned counsel for the petitioner is that the reference itself is barred by limitation since it was made more than 15 months after the document was registered and released in favour of the petitioner. It was also urged that the second notice was issued after nearly 3½ years and even without conducting an enquiry and considering the objections of the petitioner, a demand was made from the petitioner for payment of the deficit stamp duty to the tune of Rs.2,11,872/- by the second respondent.

7. In the considered view of this Court, the issue involved in this Writ Petition is squarely covered by the judgment of this Court in S.Sivasubramaniam v. Chief Controlling Revenue Authority-cum-Inspector General of Registration, Santhome High Road, Chennai-600028 and others reported in 2014 (1) MLJ 500. This Court took into consideration the earlier judgment passed by this Court in District Collector, Erode District v. M.Ponnusamy, reported in 2001 (2) CTC 449 and it was held that a reference has to be made immediately after registration or soon after the registration is completed and at any rate within three weeks from the date of completion of registration of document failing which the reference itself will be barred by limitation.

In the present case, the reference had taken place after nearly 15 months after the petitioner paid the deficit stamp duty and the document was also released in favour of the petitioner. In view of the same, the impugned notice issued by the respondents requires the interference of this Court and accordingly the same is hereby quashed.

8. In the result, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

jv

To

1.The Sub Collector (Stamps),
Collectorate,
Sathuvachery,
Vellore 632 009.

2.The Sub-Registrar,
Chetpet, Polur Taluk,
Tiruvannamalai District.

+1cc to Mr.V.Anantha Natarajan, Advocate Sr.No.34383

+1cc to the Government Pleader Sr.No.34167

W.P.No.13232 of 2007

AJB(CO)
RVM(23/06/2022)