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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

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THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.1319 of 2017

and

WMP Nos.1253 & 1254 of 2017

M/s Edelweiss Asset Reconstruction
Company Limited,
Off C.S.T.Road, Kalina,
Mumbai 400098

Acting in its capacity as the Trustee of
EARC Trust - SC 231

represented by Mr.Karan Arora

... Petitioner

Vs

1. The Hon'ble Chief Secretary,
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry 605 001

2. The Sub Registrar,
Office of the sub Registrar,
Government of Puducherry,
Neravy, T.R.Pattinam 609 604

3. The Deputy Registrar,
Office of the Deputy Registrar,
Government of Puducherry,
Neravy, T.R.Pattinam, 609 604

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relatin to the letter dated 8th November 2016 bearing reference NO.95/SRO/NVY-TRP/2016 (impugned letter) addressed to the petitioner by the 2nd respondent rejectingthe registration of the Assignment Agreement dated 28th September 2016 executed between the petitioner and Syndicate Bank (Ässignor) and quash the same and consequently direct the first respondent to register the said Assignment Agreement dated executed between the petitioner and the Assignor without any payment of stamp duty as exempted under Section 8F of the Indian Stamp Act, 1899 (Indian Stamp Act).



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For petitioner ... Mr. Satish Parasaram,
Senior Counsel,
for Mr. Jhabakh

For respondents ... Mr. J. Kumaran,
AGP (Pondy)

ORDER

This writ petition has been filed challenging the order of refusal passed by the Sub-Registrar, Neravy, T.R.Pattinam, to register the Assignment Agreement presented by the petitioner on 08.11.2016.

2. The grievance of the petitioner is that the petitioner is an Asset Reconstruction Company. Earlier, the Syndicate Bank assigned a loan in favour of the petitioner and also executed Assignment Agreement. When the petitioner presented the Assignment Agreement for registration, the 2nd respondent demanded stamp duty payable on the Assignment Agreement and refused to register the same. Hence, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that under Section 5(1)(A) of the SARFAESI Act r/w. Section 8F of the Indian Stamp Act, no stamp duty is required to be paid on the Assignment Agreement. Section 5(1)(A) of the SARFAESI Act reads as follows :-

"Any document executed by any bank or financial institution under sub-section (1) in favour of the asset reconstruction company acquiring financial assets for the purposes of asset reconstruction or securitisation shall be exempted from stamp duty in accordance with the provisions of Section 8F of the Indian Stamp Act, 1899(2 of 1989):

Provided that the provisions of this sub-section shall not apply where the acquisition of the financial assets by the asset reconstruction company is for the purposes other than asset reconstruction or securitisation"

However, without considering the same, the Sub-Registrar demanded Stamp Duty and refused to register the document.

4. The learned counsel appearing for the respondents, on instructions, submitted that now the District Registrar agreed to comply with the provision of Section 8(f) of the Indian Stamp Act and to register the Assignment Agreement with stamp duty exemption and also produced the copy of the letter sent by the



District Registrar, dated 21.02.2022.

5. Today, the District Registrar Puducherry, also appear before this Court through video conferencing and submitted that he will issue suitable instructions to all the Sub-Registrars to follow Section 5(1)(A) of the SARFAESI Act and Section 8(f) of the Indian Stamp Act and also will direct the Registrar to register with stamp duty exemption.

6. Recording the above submission, the 2nd respondent is directed to register the Assignment Agreement, dated 28.09.2016 with stamp duty exemption within a period of two weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

mrp

To

1. The Hon'ble Chief Secretary,
Government of Puducherry,
Chief Secretariat, Goubert Avenue,
Puducherry 605 001

2. The Sub Registrar,
Office of the sub Registrar,
Government of Puducherry,
Neravy, T.R.Pattinam 609 604

3. The Deputy Registrar,
Office of the Deputy Registrar,
Government of Puducherry,
Neravy, T.R.Pattinam, 609 604

+1cc to Mr.Raj Kumar Jhabakh, Advocate SR.No.11428

W.P. No.1319 of 2017

MT (CO)
GMY (25/03/2022)