IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.40762 & 40764 of 2016 and
W.M.P.Nos.34734 & 34733 of 2016

M/s.KTV Oil Mills Private Limited Rep. by its Director Mr.K.T.V.Narayanan Registered Office at No.48/310, Thambu Chetty Street Chennai – 600 001.	..	Petitioner in both W.Ps

vs

1. The Chief Controlling Revenue Authority -cum-Inspector General of Registration 100, Santhome High Road Chennai – 600 028. 2. The District Registrar Chennai North 1, Murthygal Lane Chennai – 600 001. 3. The Sub-Registrar Office of Sub-Registrar No.21/8, Market Lane Thiruvottiyur , Chennai – 600 019. 4. The Deputy Registrar (Stamps) O/o. The Collectorate, 5th Floor Rajaji Salai Chennai – 600 001.	..	Respondents in both W.Ps

Prayer in W.P.No.40762 of 2016: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records culminating in Letter No.181/2016, dated 20.07.2016, issued by the third respondent and quash the same and consequently directing the respondents herein to levy the stamp duty on the sale value mentioned in the sale certificate dated 14.03.2016 as per Article 18, Schedule 1-B of the Indian Stamp Act and as per order passed by Hon'ble Allahabad High Court in W.P.No.20685 of 2005 dated 24.09.2012 and other Courts instead of the market value / guide line value, with respect to Document No.1866/2016, dated 14.03.2016 on the file of the SRO, Thiruvottiyur, Chennai / 3rd respondent herein;

Prayer in W.P.No.40764 of 2016: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records culminating in Letter No.181/2016, dated 20.07.2016, issued by the third respondent and quash the same and consequently directing the respondents herein to levy the stamp duty on the sale value mentioned in the sale certificate dated 14.03.2016 as per Article 18, Schedule 1-B of the Indian Stamp Act and as per order passed by Hon'ble Allahabad High Court in W.P.No.20685 of 2005 dated 24.09.2012 and other Courts instead of the market value / guide line value, with respect to Document No.1867/2016, dated 14.03.2016 on the file of the SRO, Thiruvottiyur, Chennai / 3rd respondent herein;

For the Petitioner in all W.Ps	:	Mr.M.Deepan for Mr.S.Vediappan
For the Respondents in all W.Ps	:	Mr.T.Arun Kumar Additional Government Pleader

COMMON ORDER

The writs on hand has been instituted to quash the order dated 20.07.2016 rejecting the claim of the writ petitioner for refund of stamp duty paid in excess by the petitioner.

2. The petitioner is M/s.K.T.V. Oil Mills Private Limited. The State Bank of India, through its Stressed Assets Management Branch, Egmore, Chennai has conducted an e-auction sale on 18.11.2015 for the land and building (including Plant and Machinery) of Indhumathi Refineries Private Limited, who was their default borrower under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act). The petitioner was a successful bidder in the e-auction held on 18.11.2015. The petitioner bided totally for a sum of

Rs.41,07,00,000/-. The sale was confirmed in favour of the petitioner. The petitioner states that the actual valuation of the entire property was valued at Rs.65,00,00,000/- only and there was no bidder, thus, the value was reduced to Rs.41,05,00,000/-. As the original valuation was hiked up and subsequently reduced and therefore, the stamp duty paid by the petitioner on the original value is to be refunded with reference to the reduced value of Rs.41,05,00,000/-.

3. The learned Additional Government Pleader opposed the said claim by stating that the registration of documents are done based on the guideline value issued by the Government. In the present case, the sale deed certificate was issued pursuant to the e-auction conducted on behalf of the State Bank of India. While so, the petitioner is not entitled to get refund of stamp duty paid on the actual value of the subject property. The reduced value is not a criteria for the purpose of registering the document and in the present case, the guideline value as per the Government notification were collected and thus, the petitioner is not entitled for relief.

4. The issue raised by the petitioner is no more *res integra*. A Division Bench of this Court considered this issue in W.A.1017 of 2012 dated 28.07.2021 and the relevant portion of the said judgment are hereunder:

> *3. In this regard, learned Government Advocate appearing for the respondent placed before us an unreported Full Bench Decision of our High Court in the case of Dr.R.Thiagarajan vs. The Inspector General of Registration, Santhome, Chennai-4 and two others in W.P.(MD) No.3989/2017 dated 05.08.2019 wherein it has been held that the sale certificate issued by the authorized officer of the bank is liable for stamp duty under Article 18-C r/w. Article 23 of Schedule 1 of the Indian Stamp Act and in the event of under valuation of the property, the Registering Authority is entitled to proceed in accordance with Section 47-A of the Indian Stamps Act.*
>
> *4. Now coming to the case on hand, since the sale certificate has been issued by the Official Liquidator of our High Court, the appellant is liable to pay the stamp*

duty. In this regard, it is relevant to extract paragraph 58 of the decision reported in 2010 (2) CTC 113 (In Re., The Official Liquidator, High Court Madras) here under:

"58. Similarly, the term "Civil Officer" is defined in "Advanced Law Lexicon by P.Ramanatha Iyer" as "any Officer holding appointment under the Government except in the Military or Naval Service, whether the duties are Executive or Judicial or in the highest or the lowest departments". The term "Civil Officer" has to be understood only in the context of "civilians" as opposed to persons in Military service. It is doubtful, if an Official Liquidator can be equated to a Civil Officer or a Revenue Officer, so as to make the certificate of sale issued by him come within the purview of Section 17(2) (xii) of the Registration Act, 1908. I do not think that an Official Liquidator can be considered to be a "Revenue Officer" within the meaning of Section 89 (4) since he is not collecting revenue for the Government. Even assuming for the sake of argument that he can be equated, Article 18 under Schedule-I of the Indian Stamp Act makes a certificate of sale issued by a Revenue Officer also liable to stamp duty. The term "Revenue

Officer" appearing both in Article 18 under Schedule-I of the Indian Stamp Act and also in Sections 17(2)(xii) and 89(4) of the Registration Act, are to be given the same meaning and to be construed to indicate the same person."

5. In view of the above, since the issue-in-question has already been decided and squarely covered by the decision of the Full Bench of Our High Court cited supra, we are of the considered view that the sale certificate issued by the Official Liquidator on behalf of the company-in-Liquidation, in favour of the appellant herein, cannot get exempted from payment of stamp duty at the time of registration as only a sale or transfer made by the revenue or civil court can be exempted from payment of registration charges. Therefore, we find no merit in the present Writ Appeal

5. In view of the above judgment of the Division Bench of this Court, the petitioner is not entitled for the relief as such sought for in the present writ petition.

6. With these observations, the writ petitiond stands dismissed. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes/No 23.03.2023
Neutral Order:Yes/No

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To:

1. The Chief Controlling Revenue Authority
   -cum-Inspector General of Registration
   100, Santhome High Road
   Chennai – 600 028.

2. The District Registrar
   Chennai North
   1, Murthygal Lane
   Chennai – 600 001.

3. The Sub-Registrar
   Office of Sub-Registrar
   No.21/8, Market Lane
   Thiruvottiyur , Chennai – 600 019.

4. The Deputy Registrar (Stamps)
   O/o. The Collectorate, 5th Floor
   Rajaji Salai
   Chennai – 600 001.

S.M.SUBRAMANIAM,J.

(drm)

W.P.Nos.40762 &
40764 of 2016

23.03.2023