IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2023

CORAM :

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

W.P.Nos.15167 of 2017 & 37066 of 2016
and W.M.P.Nos.31866 of 2016 and 16442 of 2017

The Modern Metrocity Cooperative
Housing Society Ltd.
Rep. by its Director R.Subathra
No.38, Somasundaram 1st street
Ayanavaram, Chennai – 600 023. .. Petitioner in both W.Ps

vs

[W.P.No.15167 of 2017]
1. The Government of Tamil Nadu
Rep. by Secretary to Government
Commercial Taxes and Registration
Department, Fort St. George
Chennai – 600 009.

2. The Inspector General of Registration
100, Santhome, High Road
Mylapore, Chennai – 600 028. .. Respondents

[W.P.No.37066 of 2016]
1. The Government of Tamil Nadu
Rep. by Secretary to Government
Commercial Taxes and Registration
Department, Fort St. George
Chennai – 600 009.

2. The Inspector General of Registration
Chepauk, Chennai – 600 005. .. Respondents

Prayer in W.P.No.15167 of 2017: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus, directing the respondents to extend the exemption of stamp duty to the petitioner society and refund stamp duty which were already paid by the petitioner society for which the petitioner society sent representation to the respondents on 05.06.2017;

Prayer in W.P.No.37066 of 2016: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling the Letter No.16495/J1/2012-5, Commercial Taxes and Registration Department, dated 21.10.2013 passed by the first respondent and the consequential order of second respondent in O.Mu.3667/C2/2012 dated 28.10.2013 and quash the same and direct the respondents to continue the remission of stamp duty in respect of Multi State Co-operative Societies registered in Tamil Nadu including the petitioner's Co-operative Society.

For the Petitioner in both W.Ps	:	Mr.E.Vinoth Kumar
For the Respondents in both W.Ps	:	Mr.Abishek Murthy Government Advocate

COMMON ORDER

The relief sought for in W.P.No.15167 of 2017 is to direct the respondent to extend the exemption of stamp duty to the petitioner society and refund the stamp duty which were also paid by the petitioner Society.

2. The petitioner is Modern Metrocity Cooperative Society. Admittedly, the petitioner cooperative society is registered under the Multi State Cooperative Societies Act, which is a Central Act. The Government of Tamil Nadu, as per G.O.Ms.No.2179 dated 29.06.1996, granting exemption from the payment of stamp duty to the registered Societies under the Indian Stamp Act in respect of the institutions executed by or behalf of the Corporation Housing Societies.

3. The grievance of the writ petitioner is that the petitioner Society registered several documents and their demand to grant exemption from the payment of stamp duty was not considered based on the G.O.Ms.No.2179

dated 29.06.1996. Thus, they are constrained to move the present writ petition.

4. The exemption from the payment of stamp duty under the Indian Stamp Act given by the Government of Tamil Nadu is applicable only to the Cooperative Societies registered under the provisions of the Tamil Nadu Cooperative Societies Act, 1983. Multi-State Cooperative Societies Act is a Central Act and the Government of India has not passed any order from granting exemption from payment of stamp duty under the Indian Stamp Act. Without the Government of India giving exemption, the Society cannot claim exemption from the payment of stamp duty based on the Tamil Nadu Government order passed granting exemption only to the Cooperative Housing Societies registered under the provisions of the Tamil Nadu Cooperative Societies Act, 1983.

5. In the context of the Tamil Nadu Cooperative Societies Act,

Sub-section (22) of Section 2 of the Act defines "registered society" means a co-operative society registered or deemed to be registered under this Act. Therefore, a registered society under the Tamil Nadu Cooperative Societies Act means the cooperative societies registered under the Tamil Nadu Cooperative Societies Act ,1961 or 1983 alone is a society within the definition.

6. Section 51 of the Tamil Nadu Cooperative Societies Act, 1983, indicates "***Powers to exempt from stamp duty and registration fee***.-- The Government, by notification, may, in the case of any registered society or class of registered societies, remit-

(a) the stamp duty not being the stamp duty referred to in clause (a) of sub-section (2) of section 9 of the Indian Stamp Act, 1899 (Central Act II of 1899), with which, under any law for the time being in force, instruments executed by or on behalf of or in favour of a registered society or by an officer or member and relating to the business of such society or any class of such instruments or decisions, awards or orders of the Registrar or arbitrators under this Act are respectively chargeable; and

(b) any fee payable under the law of registration for the time being in force."

7. Let us now consider the provisions of the Multi-State Cooperative Societies Act, 2002. Section 3 provides definitions, Section 3(B) defines "multi state cooperative society" means a society registered or deemed to be registered under this Act and includes a national cooperative society and a federal cooperative. Therefore, a cooperative society registered under the Multi State Cooperative Societies Act, 2002, is a multi-state cooperative society within the provisions of the Act and thus, the said multi state cooperative societies cannot be construed as a cooperative society or deemed to be a cooperative society under the provisions of the Tamil Nadu Cooperative Societies Act, 1983.

8. Tamil Nadu Cooperative Societies Act is a state enactment, Multi-State Cooperative Societies Act is a central enactment. The procedure for registration and the competent authorities are different and therefore,

exemption from stamp duty is to be granted independently under the provisions of the acts concerned. Unlike Section 51 of the Tamil Nadu Cooperative Societies Act, wherein powers to exempt from stamp duty and registration fee is granted, there is no such specific provisions under the Multi-State Cooperative Societies Act, 2002 for grant of stamp duty exemption.

9. The petitioner is admittedly a cooperative society registered under the provisions of the Multi-State Cooperative Societies Act, 2002, which is a Central Act and therefore, they are not entitled to avail the benefit of the stamp duty exemption and registration fee granted by the Government of Tamil Nadu in exercise of the powers under Section 51 of the Tamil Nadu Cooperative Societies Act, 1983. The authorities have rightly rejected the claim of the writ petitioner for granting of exemption of stamp duty for documents registered by them.

10. Accordingly, the writ petitioner has not established any acceptable

ground for the purpose of considering the relief and the writ petitions stands dismissed. There will be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

Index : Yes/No 20.03.2023
Neutral Order:Yes/No

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To:

1. The Secretary to Government
   The Government of Tamil Nadu
   Commercial Taxes and Registration
   Department, Fort St. George
   Chennai – 600 009.

2. The Inspector General of Registration
   100, Santhome, High Road
   Mylapore, Chennai – 600 028.

3. The Inspector General of Registration
   Chepauk, Chennai – 600 005.

S.M.SUBRAMANIAM,J.

(drm)

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& 37066 of 2016

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