IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 2687 OF 2020

Smit Hotels Private Limited Thr. Director S. S. Dalvi	.... Petitioner
Versus	
State of Maharashtra Thr. Collector of Stamps Ratnagiri and Anr.	.... Respondents

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Mr. Harshad Inamdar i/b Mr. Yogesh B. Dandekar a/w Ms. Harshita B. Jangid, Advocate for the Petitioner.
Ms. V. S. Nimbalkar, AGP, for the Respondent No.1 - State.

CORAM : R. M. JOSHI, J.

DATE : 9th AUGUST, 2024.

<u>P.C. :</u>

1. This petition takes exception to order dated 23rd February, 2017 passed by the Chief Controlling Revenue Authority, Maharashtra State in Revision Case No.1 of 2017 whereby, agreement executed by the Petitioner submitted in Adjudication Case No.Adj/233/2010 in the office of Collector of Stamps, Ratnagiri, is found short levied with Stamp Duty of Rs.7,50,000/-. It was directed by that order to the Petitioner to pay Rs.7,50,000/- against the

Stamp Duty within 10 days, otherwise to apply penalty as per Law.

2. The facts which led to filing of this petition can be narrated in brief as under:

The Petitioner claims to be engaged in the hospitality business. Petitioner with an intention to execute agreement for sale to purchase the land in question has scribed the draft documents and has filed an application for adjudication of the said agreement under Section 31 of the Maharashtra Stamps Act, 1958 (for short "the Act"). The market value of the property was determined at Rs.29,53,200/- against the consideration of Rs.1,50,00,000/- towards land component. Further an amount of Rs.2,16,98,278/- against the value of Rs.3,00,00,000/- for building structure. The Petitioner was directed to deposit Rs.19,50,000/- under Article 25(b) of the Act. The Petitioner deposited the said amount of Stamp Duty and certificate was introduced to that effect under Section 32(1)(b) of the Act. On 20th January 2011, Petitioner executed the document and presented it for registration with Sub-Registrar of Assurance, Ratnagiri. This document came to be registered at Sr. RNG 459/2011. Audit Team of Accountant General (II), Nagpur in its inspection report has raised objection with regard to the document of

Adjudication Case No. Adj/233/2010 and subsequent document at registered Sr. No. RNG 459/2011, about Short Levy of Stamp Duty due to the incorrect application of Rate of Stamp Duty.

3. Respondent No.2 - Authority was informed about the Audit objection and the proceedings were initiated in exercise of powers under Section 53A of the Act. By passing impugned order the Authority has directed to the Petitioner to pay the Stamp Duty of Rs.7,50,000/- within 10 days.

4. Learned counsel for the Petitioner submits that the document in question was adjudicated upon and the Stamp Duty has directed by the Adjudicating Authority was paid by the Petitioner. It is his further submissions that his case is covered by Government Resolution dated 1st October, 2007. It is his contention that MTDC has certified the case of the Petitioner to be a project under the scheme and hence order impugned cannot sustain and calls for interference.

5. This submission is opposed on behalf of the State by learned AGP by contending that the order impugned takes into consideration the entire facts and circumstances of the case which also indicate that the G.R. dated 1st October, 2007 is not applicable

to the present case.

6. Perusal of the record indicates that the Petitioner has purchased the hotel under the document in question. It is not a case of the Petitioner that the said hotel is purchased for the purpose of expansion of business. Similarly, it is not a case that the document pertains to the first conveyance of the land for starting a New Tourism Unit. Moreover, there is no dispute about the facts that in order to get exemption of Stamp Duty under the incentive scheme, the executant of the document has to register himself with the District Industries Centre and the said project has to be certified by the District Industries Centre to the effect that it was eligible for exemption of Stamp Duty. There is no evidence on record to indicate that the Petitioner is covered under the incentive scheme. In order to be eligible for benefits under such scheme there ought to have been a document relating to the first conveyance of the land for starting a New Tourism Unit Government Resolution dated 1st October, 2007 is issued with an intention to encourage Tourism Industries within the State and exemption is intended to be granted on an instrument of first conveyance of the land executed in relation to starting of the New Tourism Unit has defined and certified under the Government

Resolution, Tourism and Cultural Affairs Department No. MTC-2005/2/CR-172/Tourism, dated 16th December, 2006. The certificate issued by MTDC to the Petitioner dated 24/09/2010 does not indicate the compliance of afore-stated requirements.

7. The Authority under the Maharashtra Stamp Act, 1958. The Authority is competent to decide the correct valuation of the property, as well as the application of provisions of the Act including exemption, if any, to be granted in respect of any document. Mere certification by MTDC will not entitle the Petitioner to take benefits of exemption from Stamp Duty as contemplated by G.R. dated 1st October, 2007. Having regard to the afore-stated facts and considering process of the Authority under the Act, no error is found in the order passed by the Chief Controlling Revenue Authority, Maharashtra State, Pune in directing the Petitioner to pay Short Levy of Stamp Duty of Rs.7,50,000/-. The petition therefore must fail.

8. Learned counsel for the Petitioner submits that in case of any Amnesty Scheme being made applicable to the Petitioner, this order shall not come in way of the Petitioner from taking benefits thereof. Needless to clarify that by dismissal of the petition, this Court has only confirmed the order passed by the Authority under

the Act. If, inspite of impugned order, Petitioner is entitled to claim any Amnesty Scheme, it would be open for the Petitioner to do so, in accordance with law.

9. The petition shall stand dismissed, in above terms.

(R. M. JOSHI, J.)