IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3102 OF 2024

WNS Global Services Private Limited ***...Petitioner***

V/s.

Chief Controlling Revenue Authority,
Maharashtra State, Pune and Ors. ***...Respondents***

Mr. Ajit Anekar *with Ms. Alshesha Modak for the Petitioner.*

Ms. Dhruti Kapadia*, AGP for Respondent Nos.1 to 3-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 3 January 2025.

P.C. :

1) Petition challenges order dated 29 June 2019 passed by the Chief Controlling Revenue Authority, Maharashtra State, Pune, (**CCRA)** exercising power under Section 53A of the Maharashtra Stamps Act, 1958 (**Stamp Act**) and adjudicating deficit stamp duty of Rs.1,06,99,937/- on Lease Deed registered in favour of the Petitioner on 19 June 2024. The order directs Petitioner to deposit amount of Rs.1,06,99,937/- within 10 days, failing which interest is directed to be levied on the said amount.

2) I have heard Mr. Anekar, the learned counsel appearing for the Petitioner and Ms. Kapadia, the learned AGP appearing for Respondent -State.

3) After having considered the submissions canvassed by the learned counsel appearing for the respective parties, there appears to be no dispute to the position that Petitioner is Information Technology Enabled Services unit (**ITES**) and is covered by order dated 1 November 2011 issued by Revenue and Forest Department for being eligible for remission of prescribed percentage of stamp duty. Petitioner entered into Lease Deed with M/s. Magarpatta Township Development and Construction Company Ltd. on 3 June 2014. At the time of registration of the Lease Deed, exercise of adjudication of stamp duty was carried out when Petitioner presented certificate dated 15 October 2012 issued by Directorate of Industries, Government of Maharashtra certifying that Petitioner is ITES unit and granting 75% remission in the stamp duty. However, the certificate dated 15 October 2012 was erroneously issued for execution of 'Conveyance' under Article 25 of the Schedule-I of the Stamp Act when in fact, what was sought to be executed in favour of Petitioner was Lease Deed. The adjudicating authority however, rightly took into consideration the fact that the Lease Deed was being executed between the parties and that 75% remission was permissible even in respect of a lease deed. The Authority accordingly permitted 75% remission in the stamp duty and permitted registration of the Lease Deed after payment of stamp duty of Rs.36,52,300/-.

4) It appears that during the course of audit in the office of the concerned Sub Registrar of Assurances, the internal audit team raised objection for grant of 75% remission in the stamp duty on the ground that the certificate dated 15 October 2012 was in respect of the 'conveyance' and not in respect of the 'lease'. Based on the report of the internal audit unit, CCRA proceeded to exercise powers under provisions of Section 53A of the Stamp Act and after hearing the

Petitioner, impugned order dated 29 June 2019 is passed holding the Petitioner ineligible for grant of 75% remission in the stamp duty. Petitioner is accordingly directed to pay deficit stamp duty of Rs.1,06,99,937/-.

5) It appears that after the Internal Audit Team raised objection about Certificate dated 15 October 2012 being issued in respect of 'conveyance', Petitioner applied to Directorate of Industries and secured Corrigendum dated 7 March 2018 and the original certificate was modified by reflecting the nature of transaction as 'lease' under Article 36 of the Schedule I of the Stamp Act. Though attention of the CCRA was invited to Corrigendum dated 7 March 2018, CCRA proceeded to ignore the same on the ground that adjudication of stamp duty cannot be done on subsequently issued Corrigendum. In my view, learned CCRA has grossly erred in adopting hyper technical approach in the present case. From the application preferred by the Petitioner to Directorate of Industries for issuance of certificates it is seen that Petitioner had correctly mentioned the word 'lease' in column No. 20 of the said application. Thus the application was preferred for grant of remission in stamp duty for execution of lease. The mistake was committed by the Directorate while issuing certificate issued on 15 October 2012 by reflecting nature of transaction as 'conveyance' under Article 25 to Schedule-I of the Stamps Act when the nature of the transaction ought to have been described as 'lease' under Article 36 to Schedule -I of the Stamp Act. What is actually executed between the parties is also Lease Deed. There is no dispute to the position that under order dated 1 November 2011, 75% remission in stamp duty is admissible even in respect of transaction of Lease. In that view of the matter, the learned CCRA ought not to have adopted hyper technical approach in the present

case by concentrating only on erroneous nature of transaction reflecting in Certificate dated 15 October 2012 by ignoring the exact document executed between the parties. If any further clarification was required by the learned CCRA, the same was provided by the Petitioner in the form of Corrigendum dated 7 March 2018, in which nature of transaction was corrected as Lease under Article 36 to Schedule I of the Stamps Act.

6) In my view, therefore, the order passed by the learned CCRA is clearly unsustainable and liable to be set aside. Since Petitioner fulfills all the conditions for grant of 75% remission in the stamp duty as per order dated 1 November 2011, there was no warrant for the CCRA to issue direction for payment Rs. 1,06,99,937/- towards deficit stamp duty. It appears that by order dated 10 October 2019, this Court had directed Petitioner to deposit amount of 25% of deficit duty, which is deposited by the Petitioner. The said amount is required to be refunded to Petitioner.

7) The impugned order passed by the learned CCRA is thus, clearly indefensible. Petition accordingly succeeds. Order dated 29 June 2019 passed by the learned Chief Controlling Revenue Authority, Maharashtra State, Pune, is set aside. Respondents shall refund the amount of 25% stamp duty directed to be deposited by this Court by order dated 10 October 2019 to the Petitioner within a period of six weeks.

8) With the above directions, Writ Petition is **allowed** with no order as to costs.

[SANDEEP V. MARNE, J.]