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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4000 OF 2025

Nyati Construction Pvt. Ltd.	… Petitioner
V/s.	
State of Maharashtra Through Dept. of Revenue & Ors.	… Respondents

Mr. Suraj Choudhary a/w. Mr. Pratik Kothari & Meet Vora i/b Mr. Pratik Kothari for the Petitioner.

Mr. O. A. Chandurkar, Addl. GP a/w. Smt. G. R. Raghuwanshi, AGP for Respondent-State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 7, 2025

P.C.:

1. Challenge in this petition is to the judgment and order dated 20th February 2025 passed by respondent No.2 in exercise of powers under Section 53(a) of the Maharashtra Stamp Act, 1958, thereby directing the petitioner to pay an additional amount of ₹2,45,58,345/- towards the alleged deficit stamp duty payable by the petitioner in respect of a Development Agreement executed on 12th August 2020.

2. It appears that based on an audit objection dated 26th April 2023, the authorities under the Maharashtra Stamp Act initiated the impugned proceedings resulting in the order under challenge.

3. The relevant objection raised by the audit department reads as under:

> *"As per the note below Guideline No.32 of the ASR 2020-21, Owner's and Developer's share in the constructed area should be calculated by taking into account Basic FSI, TDR and premium paid FSI."*

4. On a perusal of the aforesaid objection, it is evident that the audit objection pertains to the formula to be applied for determining the market value, as per Guideline No.32 of the Annual Statement of Rates (ASR) for the year 2020-21. It is an admitted position that the relevant ASR, along with the Guideline Note No.32, came into operation subsequent to the execution of the Development Agreement dated 12th August 2020.

5. In the context of fiscal statutes such as the Maharashtra Stamp Act, it is a settled principle of law that the liability to pay stamp duty and the quantum thereof is required to be determined with reference to the law and the applicable rates prevalent on the date of execution of the instrument. The chargeability of an instrument to stamp duty is not retrospective unless expressly provided by statute.

6. It is well recognized that fiscal enactments, being in the nature of taxing statutes, must be construed strictly, and any demand for additional duty must be founded strictly within the four corners of law applicable as on the relevant date. The authorities, while adjudicating the instrument, were therefore duty-bound to consider the ASR and the guidelines in force on the date of execution of the Development Agreement, and not to rely upon subsequently introduced instructions or guidelines.

7. On a perusal of the impugned order as well as the record, it is not demonstrated by the Revenue that on the date of execution of the Development Agreement, the market value as calculated by the department was erroneously understated or that there was any suppression of material facts by the petitioner. There is no finding recorded by the adjudicating authority that on the date of execution, the valuation was inconsistent with the then prevailing ASR. The attempt to apply the subsequent ASR for the year 2020-21 retrospectively to a document executed prior to its coming into force is wholly untenable in law.

8. It is also well settled that unless there is a specific legislative mandate, subsequent guidelines or policies cannot be given retrospective effect so as to impose additional financial liability upon parties who had acted in accordance with the law as it stood at the relevant time.

9. In the aforesaid premises, I am of the considered opinion that the impugned order dated 20th February 2025 passed by respondent No.2 in Revision Application No.39 of 2024, confirming the order dated 15th September 2024 issued by respondent No.3, cannot be sustained in law and is liable to be quashed and set aside.

10. Accordingly, the present petition stands allowed. The judgment and order dated 20th February 2025 passed by respondent No.2 and the order dated 15th September 2024 passed by respondent No.3 are quashed and set aside.

11. However, it is clarified that this order shall not preclude the revenue authorities from taking appropriate steps in accordance with law if it is found that the instrument in question is otherwise liable to payment of additional stamp duty under the provisions of the Maharashtra Stamp Act, 1958, as applicable on the date of execution of the document.

(AMIT BORKAR, J.)