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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 4405 OF 2025**

Enerrgia Skyi Venture through its Partner Sushant M Jadhav … Petitioner

**V/s.**

The Chief Controlling Revenue Authority & Ors. … Respondents

Mr. Vivek V. Salunke for the Petitioner.
Ms. Dhruti Kapadia, AGP for Respondent Nos.1 to 3-State.

**CORAM : AMIT BORKAR, J.**

**DATED : APRIL 3, 2025**

**P.C.:**

**1.** Challenge in this petition is to the order dated 11th February 2025 passed by respondent No.1 in Revision Application No. 3 of 2025, whereby the petitioner has been held liable to pay additional stamp duty on the ground that the market value of the instrument in question ought to be considered as ₹37,37,75,500/- and consequently, the petitioner has been directed to pay additional stamp duty to the tune of ₹26,57,375/-. The said order is impugned in the present writ petition under Article 226 of the Constitution of India.

**2.** The facts and circumstances giving rise to the present petition, briefly stated, are as under:—

The subject matter of the dispute pertains to immovable property bearing Survey No. 68 admeasuring 80.34 R and Survey No. 69/1 admeasuring 90 R, both situated at village Baner, Taluka Haveli, District Pune. The said properties were originally owned by one Balkrishna Latkar. The petitioner, having acquired right, title, and interest in the said lands, entered into a development agreement in respect of the aforesaid properties.

**3.** On 29th June 2022, the petitioner submitted an application before respondent No.2, seeking adjudication of stamp duty under the provisions of the Maharashtra Stamp Act. Pursuant to the said application, the respondent No.2 adjudicated the market value of the subject properties at ₹30,53,53,000/- and accordingly, in exercise of powers under Sections 31 and 32 of the Maharashtra Stamp Act, determined the stamp duty payable on the development agreement at ₹1,60,31,400/-. Thereafter, the development agreement came to be executed on 19th January 2023 and was registered with the office of the Sub-Registrar on 3rd February 2023.

**4.** However, on 9th August 2024, respondent No.2 issued a notice to the petitioner, inter alia calling upon him to pay additional stamp duty amounting to ₹26,57,375/-. In response thereto, the petitioner appeared before the authority and submitted that the stamp duty had already been adjudicated and paid in accordance with law, and that the same had been verified by the audit department as well. Despite such submissions, by the impugned order dated 11th February 2025, respondent No.1 proceeded to hold that there is a deficit in stamp duty to the extent of ₹26,57,375/- and accordingly directed the petitioner to pay the said amount. Aggrieved thereby, the petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

**5.** I have heard the learned Advocate appearing on behalf of the petitioner as well as the learned Assistant Government Pleader appearing for the respondents. The learned AGP has sought to justify and support the impugned order by contending that the authority concerned has applied the correct formula for valuation of the instrument and has taken into account the relevant parameters as laid down in Instruction No. 32 of the Annual Statement of Rates (ASR) for the year 2022-2023. It is submitted that the impugned order is passed after due application of mind and is in consonance with the provisions of the Maharashtra Stamp Act and the instructions issued thereunder.

**6.** However, upon a meticulous perusal of the record, it becomes evident that the development agreement executed on 19th January 2023 pertains specifically to the constructed portion admeasuring 27,331.05 sq. ft. along with appurtenant parking spaces. At the time of adjudication of stamp duty under Sections 31 and 32 of the Maharashtra Stamp Act, 1958, the concerned authority appears to have correctly applied the formula prescribed under Instruction No. 32 of the Annual Statement of Rates (ASR) for the year 2022-2023. On such application, the authority arrived at the conclusion that the benefit accruing to the developer under the said development agreement, in the form of constructed area, was to the tune of ₹32,06,27,000/-.

**7.** However, it transpires that at a later stage, the audit department raised an objection to the effect that the owner had additionally received a monetary consideration of ₹9,00,30,000/- from the developer. It was contended by the audit department that the said monetary consideration ought to have been added to the market value as assessed under Section 31, and hence, additional stamp duty was leviable on the said amount. Acting upon the said audit objection, respondent No.1 proceeded to revise the assessment and by the impugned order dated 11th February 2025, directed payment of additional stamp duty amounting to ₹26,57,375/-, solely on the basis of the monetary consideration paid to the landowner.

**8.** A conjoint reading of Instruction No. 32 of the ASR 2022-2023 and Sections 31 and 32 of the Maharashtra Stamp Act reveals that the determination of stamp duty in case of development agreements is to be based either on the market value of the developer's share or on the consideration received by the owner, whichever is higher. It is evident that in the present case, at the time of adjudication, the authority had already taken into account the market value of the constructed portion being received by the developer, which was determined at ₹32,06,27,000/-. This figure is clearly higher than the consideration received by the landowner, which is stated to be ₹9,00,30,000/-.

**9.** Therefore, once the higher of the two values was already adopted for the purposes of stamp duty assessment at the initial stage of adjudication under Section 31, there was no warrant in law to once again add the owner's monetary consideration to the valuation and levy additional stamp duty thereon. Such a course of action amounts to duplication and is contrary to the very tenor and object of Instruction No. 32, which seeks to avoid double counting and ensures levy on the higher of the two components.

**10.** In the present case, the impugned order passed by respondent No.1 fails to appreciate this and instead proceeds on the erroneous assumption that the monetary consideration paid to the owner is required to be added afresh, even though the developer's share, which is demonstrably higher, had already formed the basis of the original adjudication. In my considered view, such an approach is legally untenable and unsupported by the statutory framework or the applicable instructions.

**11.** Accordingly, the impugned order dated 11th February 2025 passed by respondent No.1, directing the petitioner to pay additional stamp duty on the monetary consideration of ₹9,00,30,000/-, is liable to be quashed and set aside. The action of the respondent authority being beyond the scope of its jurisdiction and not supported by statutory prescriptions, cannot be sustained in law.

**12.** Rule is, therefore, made absolute in terms of prayer clause (a). No order as to costs.

**(AMIT BORKAR, J.)**