# IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## CIVIL APPELLATE JURISDICTION

## WRIT PETITION NO.8664 OF 2025

1. Truevalue Marketing Services Pvt. Ltd.
A Company incorporated under
the Provisions of
The Companies Act, 1956
and having its office at C-17,
Royal Industrial Estate, Naigaon
X Road, Wadala (West), Mumbai 400 031

2. Mr. Nitin Ashar
Of Mumbai India Inhabitant Director
of Petitioner No.1 and having its Office at
C-17, Royal Industrial Estate,
Naigaon X road, Wadala (West),
Mumbai – 400 031. .....Petitioners

Vs.

1. The Office of Joint District
Registrar-Class-I and Collector of Stamps,
Thane, (City)
having its office at Room No.406,
4th Floor, Collector's office building
Thane.

2. State of Maharashtra,
Through Revenue Department,
Mantralaya, Mumbai – 400 001.

3. Sub-Registrar of Assurances, Thane
Mahila Mandal Bldg.,
Talavpali, Thane (W)- 400 601 .....Respondents

Mr. Hasan Mushabber with Ms. Shreya Bhagnani & Ms. Divishada Desai i/b Negandhi Shah & Himayatullah, for the Petitioners.
Mr. B. V. Samant, Additional Government Pleader with Mr. Ketan Joshi, "B" panel counsel for Respondent-State.

**CORAM : REVATI MOHITE DERE &**
**DR. NEELA GOKHALE, JJ.**
**DATED : 11th AUGUST 2025.**

***JUDGMENT :- (Per Dr. Neela Gokhale, J.)***

1. By way of the present Petition, the Petitioners seek to quash and set aside a notice dated 30th May 2025 issued by the Joint District Registrar-Class-I and Collector of Stamps, Thane (City) and the order dated 14th July 2025 directing the Petitioners to deposit an amount of Rs.42,78,950/- as stamp duty on the sale certificate, along with a penalty of 2% on the amount of difference under Section 39 of the Maharashtra Stamp Act, 1958.

2. The facts giving rise to the Petition are that the Petitioners purchased property situated at A-408, MIDC, TTC Industrial Area, Mhape, Navi Mumbai admeasuring approximately 1785 sq. mtrs. in an auction sale pursuant to the orders of the Recovery Officer, Debt Recovery Tribunal-II, New Delhi in the recovery proceedings against M/s Golf Technologies (P) Ltd. The Petitioner No.1 deposited the entire sale consideration of Rs.4,36,00,000/- along with the requisite poundage fee with the certificate holder bank-Bank of India.

3. The Recovery Officer confirmed the sale and issued a sale certificate in favour of the Respondent No.1. The Debts Recovery Tribunal (DRT) by its order dated 21st January 2021 set aside the Recovery Officer's order of confirmation of sale. However, by order dated 29th April 2024, the Debts Recovery Appellate Tribunal, (DRAT) New Delhi set aside the 21st January 2021's order passed by the DRT and reinstated the sale certificate. The Petitioners submitted an application to the Respondent No.1-Joint District Registrar and Collector of Stamps requesting confirmation of stamp duty payable on the said sale certificate. The Respondent No.1 issued the notice dated 30th May 2025 alleging deficit stamp duty and passed an order dated 14th July 2025 directing the Petitioners to pay the deficit stamp duty. It is this notice and order passed by the Respondent No.1, that is impugned in the present Writ Petition.

4. Heard Mr. Hasan Mushabber, learned counsel for the Petitioners and Mr. B.V. Samant, learned AGP representing the State along with Mr. Ketan Joshi 'B' Panel counsel.

5. At the outset, Mr. Samant brought to our notice that the sale certificate stands impounded by the Competent Authority since

there was deficit stamp duty paid on the same. We are unable to understand as to how the document was impounded even before adjudication of the stamp value was determined by the Adjudicating Officer under the relevant rules of the Maharashtra Stamp Act, 1958. Be that as it may, Mr. Mushabber has placed reliance on a decision of the Apex Court in the matter of the ***State of Punjab & Anr. v. M/s Ferrous Alloy Forgings Private Limited*** in Special Leave Petition No.23347 of 2014[1].

6. The short question that fell for consideration before the Supreme Court was whether it is mandatory for the successful auction purchaser to deposit stamp duty for the sale certificate to be issued to it in terms of the provisions of the Stamp Act and the Registration Act. The issue in the present matter before us is identical.

7. In ***State of Punjab (Supra)***, the Apex Court has reiterated a series of its earlier decisions to hold that when a property is sold by public auction in pursuance of an order of the Court and the bid is accepted and the sale is confirmed by the Court in favour of the purchaser, the sale becomes absolute and the title vests in the purchaser. A sale certificate

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is issued to the purchaser only when the sale becomes absolute and the sale certificate is merely an evidence of such title. It is well settled that when an auction purchaser derives title on confirmation of sale in his favour and the sale certificate is issued evidencing such sale and title, no further deed of transfer from the Court is contemplated or required.

8. The Apex Court in the ***State of Punjab's Case (Supra)*** held as follows:

> *"17. The position of law is thus settled that a sale certificate issued to the purchaser in pursuance of the confirmation of an auction sale is merely evidence of such title and does not require registration under Section 17(1) of the Registration Act. It is not the issuance of the sale certificate which transfers the title in favour of the auction purchaser. The title is transferred upon successful completion of the sale and its confirmation by the competent authority after all the objections against the sale have been disposed of.*
>
> ***xxxxxx***
>
> *20. The position of law discussed above makes it clear that sale certificate issued by the authorised officer is not compulsorily registrable. Mere filing under Section 89(4) of the Registration Act itself is sufficient when a copy of the*

> *sale certificate is forwarded by the authorised officer to the registering authority. However, a perusal of Articles 18 and 23 respectively of the first schedule to the Stamp Act respectively makes it clear that when the auction purchaser presents the original sale certificate for registration, it would attract stamp duty in accordance with the said Articles. As long as the sale certificate remains as it is, it is not compulsorily registrable. It is only when the auction purchaser uses the certificate for some other purpose that the requirement of payment of stamp duty, etc. would arise."*

9. The facts in the present case also pertain to an auction sale of the subject property in favour of the Petitioner, which has deposited entire sale consideration with the Bank of India. A sale certificate is issued in favour of the Petitioner thereby evidencing the transfer of title in its favour. In this view of the matter, the State of Punjab decision squarely applies to the facts in the present case. The sale certificate is not a compulsorily registrable document and as such, there is no requirement of any stamp duty to be paid on such a transfer. It is only when the auction purchaser uses the certificate for some other purpose that the requirement of payment of stamp duty will arise. It is only if the sale certificate is presented for registration, that the same will attract stamp duty. If the sale certificate remains as it is, it is not compulsorily registrable.

10. In view of the settled position of law, the act of the Respondents-Authorities of impounding the sale certificate is set aside. Similarly, the impugned notice dated 30th May 2025 and the subsequent order dated 14th July 2025 directing the Petitioner to pay an amount of Rs.42,78,950/- as stamp duty is quashed and set aside. The appropriate authorities are directed to mutate the name of the Petitioner on the revenue records, once the sale certificate is presented to the authority, requesting the same, since the legal consequences must follow.

11. The Petition is thus allowed.

12. Mr. Hasan Mushabber, on instructions, states that the Petitioner shall deposit an amount of Rs.5,00,000/- towards costs; Rs.3,00,000/- out of which shall be deposited with the Bar Council of Maharashtra & Goa and the balance Rs.2,00,000/- to Tata Memorial Centre, Mumbai within one week from the date of uploading of this order. The details of the accounts are as under:

Bank Name :- State Bank of India

Branch Name :- Mumbai Main Branch

Account Name :- BAR COUNCIL OF MAH. & GOA.

Account Number :- 00000010996711937

IFSC Code :- SBIN0000300

Bank Name :- Central Bank of India.
Branch Name :- TMH, Parel, Mumbai – 400 012.
Account Name :- Tata Memorial Centre
(Tata Memorial Hospital)
Account Number :- 1002449683
IFSC Code :- CBIN0284241

13. All parties to act on an authenticated copy of this order.

14. Stand over to **25th September 2025** for 'Reporting Compliance' of the present order.

**(DR. NEELA GOKHALE, J.)** **(REVATI MOHITE DERE, J.)**

SHAMBHAVI NILESH SHIVGAN
Digitally signed by SHAMBHAVI NILESH SHIVGAN
Date: 2025.09.04 16:15:49 +0530