IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-03-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 4971 of 2025
AND
WMP NO. 5525 OF 2025

1. M/s.Apm Terminals India Private Limited
Urimi Estate, 11th Floor, Tower -A,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai- 400 013, Rep By its Power Of
Attorney, Ms. Isha Vishwakarma.

Petitioner(s)

Vs

1. Inspector General Of Registration
No.100, Santhome High Road,
Chennai- 28.

2.District Registrar
Integrated Registration Office
Campus, Near New Bus Stand,
Polpettai, Thoothukudi- 628 002.

3.Sub Registrar
Melur Sub Registration Office,
Integrated Registration Office
Campus, Near New Bus Stand,
Polpettai, Thoothukudi- 628 002.

Respondent(s)

PRAYER

Writ petition has been filed under Article 226 of Constitution of India to call for the records that let to order bearing No. 55829/ P2 / 2016, dated 27.11.2024 passed by the 1st Respondent and quash the same to the extent of refund of the deficit Stamp duty and consequently direct the respondents herein to refund the deficit stamp duty of the sum of Rs.50,00,000 /- (Rupees Fifty Lakhs only) and pass such further or other orders.

For Petitioner(s): P.Giridharan
For Respondent(s): Mr.R.Sasikumar, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 27.11.2024 passed by the 1st respondent and for a consequential direction to the respondents to refund the deficit stamp duty of Rs.50,00,000/- within the time frame fixed by this Court.

2. Heard Mr.V.Karthikeyan, learned counsel for the petitioner and Mr.B.Vijay, learned Additional Government Pleader for 1st respondent and Mr.A.Selvendran, learned Special Government Pleader for 2nd respondent.

3. The case of the petitioner is that they entered into a memorandum of understanding titled as Agreement of lease dated 07.04.2016. The document was presented for registration on 07.04.2016. Though the agreement is only in the nature of an understanding between the petitioner and the other party, the applicable duty for registering the same was advised to be paid by the 3rd respondent to the tune of Rs.94,34,000/- at the time of submission of the agreement.

4. The petitioner was subsequently directed to pay the stamp duty for the entire period mentioned in the draft lease deed annexed to the agreement and accordingly, a notice was received from the 3rd respondent for a sum of Rs.94,88,880/- towards deficit stamp duty and Rs.30,000/- towards registration fees and Rs.80,000/- towards Bank guarantees totalling to a sum of Rs.94,23,760/-. This demand was made only on the premise that the draft lease deed was also annexed along with the agreement of lease under the MOU. The 2nd respondent passed an order dated 29.09.2016 confirming the demand that was made by the 3rd respondent. Aggrieved by the same, an appeal was filed before the 1st respondent and the 1st respondent dismissed the appeal by an order dated 08.11.2016. This order was put to challenge before this Court in WP No.40067 of 2016. This writ petition was heard finally and the judgement was passed on 14.11.2022 in the following terms :-

23. The fact that the petitioner has advanced a sum of Rs.94,50,000/- itself makes it clear that the agreement was

intended to be a lease initially for a period of 12 months to be extended by the petitioner for a longer period at its option. However, the demand of stamp duty on the security deposit appears to be in correct. The income that would inure under the Agreement to the fourth respondent would be the interest of its equivalent on the Security deposit given by the petitioner as no rent was being charged separately.

24. That apart, certain upgradation works were under the agreement. Therefore, the value of the upgradation would also form part of the lease rendered which remains hidden under the Agreement. Therefore, there has to be a proper valuation for payment of stamp duty by treating the Agreement as a Lease Deed.

25. For the above reasons, I am inclined to quash the impugned order and remit the case back to the third respondent to pass a fresh order on merits and in accordance with law by re-quantifying the stamp duty, if any, payable by the petitioner, within a period of three months from the date of receipt of a copy of this order.

5. The above order passed by the learned Single Judge was also subsequently confirmed by the Division Bench in WA No.2706 of 2023 and the Writ appeal was dismissed on 06.10.2023.

6. Pursuant to the above, the petitioner made a representation dated 10.01.2024 seeking for the refund of the sum of Rs.50,00,000/- paid towards deficit stamp duty for the security deposit and also the Bank guarantee that was issued for Rs.46,30,000/- in favour of the 3rd respondent. On receipt of the representation, the 1st respondent through the impugned order dated 27.11.2024 had merely directed to release the Bank guarantee of Rs.46,30,000/- and the entire order was silent with respect to the refund of a sum of Rs.50,00,000/- which was paid towards the deficit stamp duty. Aggrieved by the same, the present writ petition has been filed before this Court.

7. In the considered view of this Court, the 1st respondent cannot be allowed to read the order of this Court to suit the convenience of the Registration department. As per the order passed by the learned Single Judge which was subsequently confirmed in appeal, the petitioner will not only be entitled for the release of the bank guarantee of Rs.46,30,000/- but also for the refund of the sum of Rs.50,00,000/- paid as deficit stamp duty. The 1st respondent conveniently remained silent regarding this refund and there is not even a mention about the same in the impugned order.

8. In the light of the above discussion, there shall be a direction to the respondents to refund the deficit stamp duty of Rs.50,00,000/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order. If

there is any delay in refunding the deficit stamp duty beyond the time frame fixed by this Court, it will carry an interest of 6% from 27.11.2024 till the date of actual payment.

9. In the result, this writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

05-03-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

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N.ANAND VENKATESH J.
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