IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WA No. 2576 of 2025 AND

CMP NO. 20579 OF 2025

1.The Chief Controlling Revenue Authority-cum-
Inspector General Of Registration
Santhome High Road, Mylapore, Chennai - 600 004.

2.The District Registrar
Registration Department, Chengalpet.

3.The Joint II Sub-registrar
Office of Sub Registrar, Chengalpet.

..Appellants

Vs

1. Stephen Raj Kumar
S/o Jaganathan, No.3, Natesan Nagar (East)
First Cross - Nellithope Post, Puducherry-605 005.

2. M/s. Mahindra Residential
Developers Ltd, having off. at Administrative Block,
Central Avenue, Mahindra World City, Natham
Sub(PO), Chengalpet Tk, Kancheepuram - 603004

..Respondents

Prayer : Writ Appeal under Clause 15 of Letters Patent to set aside the order dated 03.07.2024 passed in WP No.20946 of 2018.

For Appellants : Mr.P.S.Raman, Advocate General

For Mr.U.Baranidharan
Special Government Pleader

For Respondents : Ms.J.Swetha for M/s.Govi Ganesan-for R1

Ms.Aishwarya S Nathan - for R2

Order
(Order of the Court was made by R.Suresh Kumar J.)

This intra court appeal has been directed against the order passed by the Writ Court dated 03.07.2024 made in W.P.No.20946 of 2018.

2. The issue that has arisen for consideration in this appeal is as to whether stamp duty is payable for the lease executed in respect of residential unit in a non-processing area of a Special Economic Zone (SEZ) executed by the Developer / Co-Developer in view of the amendment made in the Indian Stamp Act by virtue of Section 57 of the SEZ Act.

3. Similar issue had already come up before us in W.A.2505 of 2025, where also a similar order as that of the present impugned order passed by the Writ Court dated 03.07.2024 made in W.P.No.20950 of 2018 was questioned. We have considered the said writ appeal and we have passed the following orders while disposing the W.A.No.2505 of 2025 by order dated 11.08.2025.

" 3. The issue raised in this lis is as to whether stamp duty is payable for the lease executed in respect of a residential unit in a non-processing area of Special Economic Zone (hereinafter referred to as SEZ) executed by the Developer / Co-Developer in view of the amendment having been made in Indian Stamp Act by virtue of Section 57 of the SEZ Act.

4. The third respondent is a duly approved SEZ Co-Developer vide Letter of Approval dated 25.04.2008 issued by the Board of Approval, Ministry of Commerce and Industry, Department of Commerce (SEZ Section), Government of India for developing residential units in non-processing area of the Special Economic Zone, Mahindra World City, Chengalpet. Out of those residential apartments, the respondents 1 and 2 had entered into a lease agreement to take a 3 BHK type residential unit admeasuring about 1060 sq.ft of carpet area corresponding to 1190 sq.ft of built up area. At the time of registration of the lease deed dated 23.06.2016, objection has been raised by the Registration Department to pay stamp duty in full. Due to urgency, under protest the stamp duty has been paid to the extent of Rs.4,18,918/- with an express undertaking that they would be entitled to seek refund of stamp duty from the department. Subsequently, a request had been made to refund the excess stamp duty, as such huge stamp duty ought not to have been received from the persons who were given leasehold rights in view of the amendments made in Indian Stamp Act especially under Section 57 of the SEZ Act. The said representation was not considered. Therefore, a writ petition had been filed seeking for a writ of Mandamus directing the registering authority to refund the sum of Rs.4,18,918/- paid towards stamp duty for the lease deed dated 26.02.2016.

5. When the said writ petition came up for consideration before the Writ Court, it was brought to the knowledge of the Writ Court that already similar issue had been considered in W.P.No.211 of 2016 and it was disposed of by an order dated 20.07.2016, where, a view has been taken by the Writ Court that such an excess stamp duty ought not to have been received by the registering authority for the lease deed because of the provisions made by way of amendment as stated supra insofar as the SEZ is concerned.

6. The said order passed in the writ petition in W.P.No.211 of 2016 dated 20.07.2016 was assailed in W.A.Nos.1940 and 2058 of 2019, which *was also dismissed by this Court confirming the order of the writ Court. The said order passed by the Division Bench of this Court has been followed by the learned Judge in the order impugned, whereby the writ petition has been allowed.*

7. As against the said order the present writ appeal has been preferred and an attempt has been made by the learned Additional Government Pleader appearing for the appellants to assail the order.

8. Learned counsel appearing for the respondents 1 and 2 and the 3rd respondent brought to our notice that as against the order passed by the Division Bench dated 22.7.2019 made in W.A.Nos.1940 and 2058 of 2019, a Special Leave Petition with huge delay had been filed by the appellants herein and the said S.L.P.(Diary) No.29664 of 2022 was dismissed at the condone delay stage itself by the order of the Hon'ble Supreme Court dated 18.11.2022 and a copy of the same has been produced before us, which reads as follows:

> *" There is an inordinate delay of 1065 days in filing this petition for which no satisfactory explanation has been furnished. Consequently, the special leave petition stands dismissed on the ground of delay. However, the question of law is kept open."*

9. In view of the said orders having been passed by the Writ Court as confirmed by the Division Bench, as against which unsuccessful attempt has been made by the appellants herein before the Hon'ble Supreme Court, whereby at least for the present the issue has been concluded as against the appellant and in favour of the respondents, we do not find any reason to interfere with the impugned order passed by the Writ Court. Resultantly, the writ appeal fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed."

4. This is one such appeal filed by the Controlling authority ie., the Registration Department.

5. Today, when this writ appeal is taken up for hearing, the learned Advocate General appearing for the appellants would contend that, insofar as the legal position that has been underlined in the order of the learned Single Judge as has been confirmed by the order of the Division Bench especially in W.A.No.2505 of 2025 is concerned, the appellant may not have any grievance. At the same time, learned Advocate General would contend that, insofar as the claim made by the allottees or lessees to claim exemption of stamp duty in the name of being an employee or person connected with the SEZ is concerned, whether such a claim made by those kind of allottees / lessees are genuine or not can very well be verified by the registering authority so as to enable the real beneficiaries viz., the employees as well as the persons connected with the SEZ alone would get the benefit of exemption of stamp duty.

6. Only if that limited protection is given by this Court, that will be suffice for the appellants to rest with the case and to go ahead with the verification process in respect of any future such claim being made by any individual seeking for such exemption of stamp duty.

7. The said submission made by the learned Advocate General is appealing to us and in view of the same, apart from the order that has been passed in

W.A.No.2505 of 2025, we want to add one more paragraph by way of clarification to the following effect. Accordingly, the following clarification is made.

8. It is open to the appellants to verify the genuinity of the claim to be made by individual lessee / allottee for getting the allotment of residential flat in the non-processing zone of the SEZ concerned, here in this case M/s.Mahindra Residential Developers Ltd. On such verification, after confirming the genuinity of such claim made by such allottee / lessee, the exemption sought for by them can be granted. To that extent, those eligible persons are entitled to get the refund of the stamp duty already been collected from them.

9. With the above clarification, we are inclined to dispose of this writ appeal to the extent indicated in our dated 11.08.2025 made in W.A.No.2505 of 2025. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) **(H.C.,J.)**
01-09-2025

KST

To

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Registration Department, Chengalpet.

3.The Joint II Sub-registrar
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