IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 04.09.2025**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**
**and**
**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.No.2540 of 2023**
**and C.M.P.No.21295 of 2023**

1. The District Revenue Officer (Stamps),
   District Collector's Office,
   Fifth Floor, Singaravelar Building,
   Rajaji Salai, Chennai – 600 001.

2. The Sub-Registrar,
   Thiruvottiyur, Chennai – 600 019. … Appellant(s)

Vs.

Bharat Petroleum Corporation Limited,
Rep. by its Territory Manager (Retail), Chennai,
No.1, Ranganathan Gardens,
Opposite to 11th Main Road, Anna Nagar (West),
Chennai – 600 040 ... Respondent(s)

**Prayer:** Appeal filed under Clause 15 of the Letters Patent against the order dated 08.09.2022 in W.P.No.16834 of 2017.

For Appellant(s) : Mr.R.Ramanlaal,
Additional Advocate General
assisted by
Mr.U.Baranidharan,
Special Government Pleader

For Respondent(s) : Mr.M.Vijayan
for M/s.King & Partridge

**J U D G M E N T**

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The intra court appeal on hand has been instituted to assail the writ order dated 08.09.2022 passed in W.P.No.16834 of 2017.

2. The first respondent in the writ petition is the appellant before this court. The first respondent in the present writ appeal had instituted the writ proceedings challenging the Form-I notice dated 22.08.2016 and the final notice issued by the District Revenue Officer (Stamps).

3. The learned Additional Advocate General appearing on behalf of the appellant would mainly contend that the Form-I notice was issued under Rule 4 of the Prevention of Undervaluation of Instruments Rules and in a prescribed format. Instead of submitting his explanation, the first respondent has chosen to challenge the said notice issued in Form-I. The learned Single Judge has adjudicated the merits relating to the alleged undervaluation, which is uncalled for. Therefore, it is contended that the writ court has exceeded its jurisdiction by adjudicating the disputed facts,

which are to be adjudicated by the competent authority based on the documents and evidences available on record.

4. The learned counsel for the first respondent would oppose by stating that the element of "reason to believe" in the impugned show cause notice is missing. In the absence of any "reason to believe", the notice cannot be sustained. Therefore, the writ court has gone into the merits, adjudicated the issues, and allowed the writ petition. In support, he relied on the judgment of the Division Bench of this court in the case of "***Government of Tamil Nadu -vs- Jayalakshmi and others***" reported in **(2009) 1 Law Weekly 811** and the judgement of the Hon'ble Supreme Court of India in the case of "***V.N.Devadoss -vs- Chief Revenue Control Officer***" reported in **(2009) 7 SCC 438.** It is further contended that the Form-I notice is infirm and there is no reference about the reason for initiation of proceedings under the Rules. Thus, the writ court is right in allowing the present writ petition and the appeal is to be rejected.

5. This court has considered the rival submissions made between the parties.

6. Admittedly, the Form-I notice issued under Rule 4 of the Prevention of Undervaluation of Instruments Rules was under challenge in the writ proceedings. The question arises as to whether the writ proceedings against such a show cause notice is entertainable or not. The legal position has been settled that no writ against a show-cause notice is ordinarily entertainable unless such notice has been issued by an incompetent authority having no jurisdiction or tainted with the allegations of mala fides. However, in the present case, none of the above grounds are available. Contrarily, the first respondent would contend that the authority issued the Form-I notice had not formed any reason to believe, and therefore, the writ court has gone into the merits.

7. Let us consider the scheme of the Stamps Act. Once the Sub-Registrar found undervaluation in respect of an instrument, he is empowered to refer the matter under Section 47-A for adjudication. Adjudication will be undertaken by the Deputy Collector (Stamps). Sub-Section (2) to Section 47-A denotes that "on receipt of reference under Sub-Section (1), the Collector shall, after giving the parties a reasonable

opportunity of being heard and after holding an enquiry in such manner, as may be prescribed by rules, made under this Act, determine the market value or consideration and the duty, as aforesaid, and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty".

8. Sub-Section (5) to Section 47-A contemplates that "any person, aggrieved by an order of the Collector, under Sub-Section (2) or Sub-Section (3), may, within thirty days from the date of the order, prefer an appeal before the District Judge and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act**".** The Appellate Authority has also been contemplated under the Rule 9 of the Prevention of Undervaluation of the Instruments Rules, and accordingly, the Inspector General of Registration (Chief Controlling Revenue Authority) is the Appellate Authority.

9. Sub-Section (10) to Section 47-A proceeds by stating that "any person aggrieved by an order of the authority prescribed under Sub-Section (5) or the Chief Controlling Revenue Authority under Sub-Section (6) may, within such time and in such manner as may be prescribed by rules made under this Act, appeal to the High Court".

10. The scheme of the Act, as narrated above, is crystal clear that all references by the registering authority under Section 47-A require an enquiry to be conducted by the Collector. In the present case, the power of the Collector has been delegated to the Deputy Collector (Stamps). An aggrieved person, against the order of the Collector, may prefer an appeal to the Inspector General of Registration (Chief Controlling Revenue Authority), and Sub-Section (10) contemplates an appeal to the High Court. Such appeal will be treated as a Civil Miscellaneous Appeal before the High Court under the Indian Stamps Act.

11. In the present case, the first respondent has not participated in the process of enquiry. He has chosen to challenge the very show cause notice issued under Form-I. A writ against such notice is not maintainable. Disputed facts cannot be adjudicated by the High Court in a writ proceedings under Article 226 of the Constitution of India. The High Court is not expected to conduct a roving enquiry into the merits involved in a matter. Usurping the powers of the enquiring authority may cause prejudice to either of the parties. Original adjudication, in all circumstances, must be

undertaken by the authority competent based on the original records and evidences, and if necessary, by taking oral evidence. That apart, when a statutory enquiry is contemplated, the prescribed authority must be allowed to conduct an enquiry in the manner contemplated under the Act and Rules.

12. In the present case, the Form-I notice has been issued by the competent authority. Therefore, the first respondent ought to have participated in the process of enquiry by filing a defence statement along with documents, if any. The writ court is not expected to adjudicate the merits of the show-cause notice, which would derail the procedures contemplated under the scheme of the Indian Stamps Act.

13. Exhausting the alternate remedy contemplated under the Act is of paramount importance. The factual findings of the original authority and the appellate authority would be of greater assistance to the High Court to exercise the powers of judicial review. In the present case, under the Indian Stamps Act, a regular appeal has been contemplated before the High Court

under Sub-Section (10) to Section 47-A of the Act. That being so, writ petition under Article 226 of the Constitution of India is not maintainable. Therefore, the writ order impugned deserves to be interfered with. It is left open to the first respondent to submit its defence statement along with the documents, if any, to the competent authority for adjudication of issues on merits and in accordance with law.

14. Accordingly, the writ order dated 08.09.2022 passed in W.P.No.16834 of 2017 is set aside and the writ appeal stands allowed. No costs. MP closed.

**(S.M.S.,J.)** **(C.S.N.,J.)**
**04.09.2025**

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

To

Territory Manager (Retail), Bharat Petroleum Corporation Limited,
Chennai, No.1, Ranganathan Gardens,
Opposite to $11^{th}$ Main Road, Anna Nagar (West),
Chennai – 600 040

**S.M.SUBRAMANIAM, J.**
**and**

**C.SARAVANAN, J.**

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