BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.1281 of 2023

K.Arumugasamy ... Petitioner

Vs

1. The State of Tamil Nadu,
   Represented by its Secretary to Government,
   Commercial Taxes and Registration Department,
   Secretariat, Fort St. George,
   Chennai - 600 005.

2. The Inspector General of Registration,
   Office of the Inspector General of Registration,
   100, Santhome High Road,
   Santhome, Chennai - 600 004.

3. The Sub Registrar,
   Sub Registrar's Office,
   Vadipatti, Madurai District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to refund the excess 2% stamp duty and 3% of registration fee paid by the petitioner on 13.07.2022 for registration of Document No. 2780/2022 on the file of the 3rd respondent, with appropriate interest, within the period as stipulated by this Court based on the petitioner's representation, dated 24.12.2022.

For Petitioner : Mr.R.Shankar Ganesh
For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Mandamus, to direct the respondents to refund the excess 2% stamp duty and 3% of registration fee paid by the petitioner on 13.07.2022 for registration of Document No. 2780/2022 on the file of the 3rd respondent, with appropriate interest, within the period as stipulated by this Court based on the petitioner's representation, dated 24.12.2022.

2. The brief facts are that the Corporate Insolvency Resolution process against M/S. Lakshmi Subbaiaah Tex Private Limited (In Liquidation) was initiated on September 22, 2020 and one Mr.S.Prabhu was appointed as the Resolution Professional by the Committee of Creditors in the National Company Law Tribunal Division Bench-I, Chennai Vide IA/1049/IB/2020 in IBA/363/2019 dated 06.01.2020. Subsequently, upon an application made by the Resolution Professional, the Adjudicating Authority, the National Company Law Tribunal Division Bench-1, Chennai had passed an order on May 5, 2020 in IBA/363/2019 allowing M/s. Lakshmi Subbaiaah Tex Private Limited (In Liquidation) to be liquidated in the manner specified in the Insolvency and Bankruptcy Code, 2016 ("IBC") read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations). Vide the same

order, the Resolution Professional was confirmed as Liquidator. In accordance with the Liquidation Process Regulations, the Liquidator had issued an auction sale process memorandum on 31.03.2022 in relation to the sale of the asset lots located at the manufacturing unit in Chinnamanayakanpatti of the above Company at Village, Vadipatti Taluk, Madurai, and Asset Sale Process Memorandum subsequently amended from time to time, inter alia specifying the mode of sale, terms and conditions of sale, including reserve price and the earnest money deposit. The Learned Adjudicating Authority, vide order dated 06.01.2021 had allowed the Liquidator to undertake the E-auction, pending receipt of relinquishment of security. The E-auction was conducted on 21.02.2022 and the petitioner was declared as the highest bidder at the price of Rs.7,21,00,000/- (Rupees Seven Crores and Twenty One Lakhs only) for the said Liquidating Asset pursuant to which a Letter of Interest was issued by the Liquidator on 31.03.2022 and the petitioner executed the same on 12.07.2022. In compliance with the terms and conditions stipulated in the Asset Sale Process Memorandum, the petitioner paid the entire sale consideration through the Account Number 552501010050554 of M/s. Lakshmi Subbaiaah Tex Private Limited (Liquidation Account) with Union Bank of India, Madurai Main Branch, Madurai. On payment of entire sale consideration, the Liquidator executed the sale certificate in the petitioner’s favour on an "as it where is" "as it what is" "whatever there is" and "no recourse" basis. In order to register the sale certificate, the petitioner presented the said document with the respondent vide Document No.2780/2022 dated 12.07.2022 and the same is pending registration. From the date of the sale, the petitioner is in peaceful possession and enjoyment of the above said property without any interruption. The Liquidated Asset of M/s. Lakshmi Subbaiaah Tex Private Limited's factory admeasuring 10 Acres 20 Cents comprised in survey Nos 7/1, 7/2A1, 7/2A2 and 7/2A3 co-relating to old Survey No.7/2A, 7/2B, 8/1A1 and 8/1A2 co-relating to old Survey No.8/1A, 8/1B, 8/2A1, 8/2A2A, 8/2?2?, 8/2? co-relating to old Survey No.8/2, 8/3A2 and 8/3B co-relating to old Survey No.8/3, 9/1B co-relating to old Survey No.9/1, 9/5A co-relating to old Survey No.9/5, 9/4, 9/6A, 9/6B, 9/7A1, 9/7A2, 9/7B1 and 9/7B2 punja lands along with 82000 square feet of industrial buildings built therein at Chinnamanayakanpatti Village, Vadipatti Taluk, Vadipatti Sub Registration District, Madurai North Registration District, Madurai District. When the petitioner presented the sale certificate, the petitioner had paid 7% of the market value along with registration fee at 4% of market value and relevant charges aggregating a sum of Rs.79,33,195/- (Rupees Seventy Nine Lakhs Thirty Three Thousands One Hundred and Ninety Five only) on 13.07.2022 and the 3rd respondent kept the document pending for spot verification.

3. When the petitioner was waiting for release of the said document, to his shock and surprise the 3rd respondent instead of releasing the registered Sale Certificate, issued notice dated 24.11.2022 to the petitioner directing the petitioner to pay a sum of Rs.32,64,616/- (Rupees Thirty Two Lakhs Sixty Four Thousands Six Hundred and Sixteen only). After spot inspection the respondents had taken the value of the building as Rs.5,26,76,484/- and had arrived the stamp duty as Rs.20,77,120/- and registration fees as Rs.11,87,496/- totally Rs. 32,64,616/. In fact, for the same amount earlier the respondent issued notice dated 12.07.2022 and the same was challenged in W.P.(MD)No.27688 of 2022 and the same was allowed on 23.12.2022 by setting aside the notice dated 12.07.2022 on the ground that the registration authority cannot sit over on the sale price of the property which was determined in Court Auction. The respondent cannot refix by substituting the market value.

4. In the meanwhile, the petitioner came to understand that the Sale Certificate is not a conveyance and the stamp duty has to be collected on sale certificate at 5% and registration fee at 1% only. The 3rd respondent without considering the above provisions of law, collected the stamp duty and registration fee as 7% and 4% respectively instead of 5% and 1% respectively. The act of the respondent is abuse of process of law. On coming to know the above legal

position, the petitioner made a representation to the respondents on 24.12.2022 seeking refund of 2% stamp duty and 3% of registration fee which the petitioner had paid on 13.07.2022 before the 3rd respondent with appropriate interest and the same is pending so far without any consideration. The petitioner purchased the above said property by mobilizing the funds through loan and other sources from relatives which creates heavy financial burden on family. Hence, the petitioner has filed the present writ petition.

5. After hearing the rival submissions of both sides, this Court has given it anxious consideration. It is seen the same issue was already considered by the Hon'ble Division Bench in W.A.No.1606 of 2021 in the case of the ***Inspector General of Registration, Mylapore and another Vs. Trinity Colour India (P) Limited*** reported in ***CDJ 2024 MHC 5842*** wherein it is held as under:

> *"5. The issue is no longer res-integra. A Division Bench of this Court in Bell Tower Enterprises LLP, Rep. by its Managing Partner Vs. State of Tamil Nadu, Rep. by its Secretary to Government, reported in 2022 (7) MLJ 549, to which one of us (Hon'ble Mr.Justice R.Subramanian) was a party has held that surcharge is not payable for registration of sale certificates. Recently, another single Judge of this Court in Sri Balaji Fibre Vs. Inspector General of Registration and Others made in W.P.Nos.415 of 2023 etc., batch has also taken the same view. The conclusions of this Court https://www.mhc.tn.gov.in/judisare based on the pronouncement of the Hon'ble Supreme Court in Esjaypee Impex Pvt Ltd v. Assistant General*

Manager and Authorised Officer, Canara Bank and the Inspector General of Registration v. K.K.Thirumurugan wherein, the Hon'ble Supreme Court clearly held that the sale certificate is not a conveyance.

6. Both in Bell Tower Enterprises and Sri Balaji Fibre referred to supra, it has been held that if a sale certificate was presented for registration, duty payable is 5% towards stamp duty and 1% towards registration charges. Therefore, the State is entitled to collect 6% of the bid amount. In the case on hand, we find that 7% has been collected. Therefore, the appellant would be liable to refund 1% of the stamp duty that has been collected from the respondent.

7.This Writ Appeal is allowed to that limited extent. The direction to refund 2% is modified as 1%. The said 1% will carry interest at 9% per annum from the date of collection till date of repayment. No costs. Consequently, connected miscellaneous petition is closed."

The issue is settled in aforesaid cases, wherein it is held that the surcharge is not payable for registration of sale certificates since sale certificate is not a conveyance. In the present case, the respondents are directed to refund the excess 2% stamp duty and 3% of registration fee paid by the petitioner on 13.07.2022 with 6% interest. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above observations, this Writ Petition is allowed. There shall be no order as to costs.

09.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

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To

1. The Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat,
Fort St. George,
Chennai - 600 005.

2. The Inspector General of Registration,
Office of the Inspector General of Registration,
100, Santhome High Road,
Santhome,
Chennai - 600 004.

3. The Sub Registrar,
Sub Registrars Office,
Vadipatti,
Madurai District.

S.SRIMATHY, J.

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ORDER MADE IN
W.P(MD)No.1281 of 2023

DATED : 09.07.2025