PROCEEDINGS OF THE CHIEF CONTROLLING REVENUE AUTHORITY AND INSPECTOR GENERAL OF REGISTRATION
CHENNAI - 600 028.
Present: Thiru. J.Kumaragurubaran, I.A.S.,

D.Dis.No. 19458/P1/2018 Dated 30.08.2018

Sub: Revision Petition– Document No.P117/2017 – Sub Registrar Office, Sunguvarchatram, - Revision Petition filed under section 56(1) of the Indian Stamp Act, 1899 – final orders issued – regarding

Ref: 1. District Registrar, Chengleput Proceedings No.76/B2/2018 dated 05.04.2018.
2. Revision Petition dated 18.04.2018 from M/s. Saint Gobain India Private Ltd., Chennai.

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ORDER:

The Revision Petition 2nd cited has been filed before the Chief Controlling Revenue Authority, under section 56(1) of the Indian Stamp Act, 1899, against the order 1st cited, passed by the District Registrar, Chengleput, thereby demanding payment of deficit stamp duty of Rs. Rs.99,21,785/- together with penalty of Rs.1215/- in respect of the instrument in question.

2) Gist of the instrument: -

Document No.	P117/2017 SRO, Sunguvarchatram
Title of the Document	AFFIDAVIT
DOE/DOP	09.08.2017/10/08/2017
Executant	M/s.Saint Gobain India pvt Ltd., Chennai -8
Claimant	
Value set-forth in the document	Nil
Stamp borne by the document	Rs.100/-
Nature of document and deficit stamp duty determined by the District Registrar	Transfer of Lease (Article 63) Deficit Stamp Duty – Rs.99,21,785/- + Penalty Rs.1215/-

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3) Brief facts relating to revision petition are as follows:

The document in question styled as "AFFIDAVIT" has been executed by M/s. Saint Gobain India Pvt Ltd., narrating the following facts:

i) Entering into Lease deeds (dated 05.03.1999, 21.01.2000 and 30.03.2005) in favour of M/s. Saint-Gobain Glass India Ltd with M/s.SIPCOT in respect 181.47 acres of land in villages of Mambakkam and Pondur A for a period of 99 years.

ii) Conversion of M/s. Saint-Gobain Glass India Ltd, a public Limited company into a private ltd company viz., M/s. Saint-Gobain India Pvt. Ltd., which was approved by the Registrar of Companies (ROC) vide fresh certificate of incorporation dated 31.12.2014.

iii) Upon above conversion, M/s. Saint-Gobain India Pvt. Ltd., approached M/s.SIPCOT for approval of said conversion.

iv) M/s.SIPCOT directed M/s. Saint-Gobain India Pvt. Ltd., to register an affidavit deed with Sub Registrar Office, Sunguvarchatram, in order to take the same into the records of SIPCOT relating lease documents.

On presentation of the said document for registration, the Sub Registrar, Sunguvarchatram sought clarification from the District Registrar, Chengleput regarding the nature of the document and the stamp duty payable thereon. The District Registrar issued a clarification to the Sub Registrar stating that the said document has to be treated as 'Transfer of Lease' under Article 63 of the Indian Stamp Act, 1899. Accordingly the Sub Registrar impounded the document as the same was not stamped as per Article 63 and forwarded it to the District Registrar for further action. The District Registrar, Chengleput in his proceedings under section 40(1)(b) of the said Act held that the document is not duly stamped as a Transfer of Lease and ordered that deficit stamp duty of Rs.99,21,785/- and Penalty of

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Rs.1215/- has to be paid. Aggrieved over the same, the present Review petition has been preferred by M/s. Saint-Gobain India Pvt. Ltd.,

4) During the course of personal hearing held on 20.06.2018, the Appellant through their counsel reiterated the following arguments advanced in revision petition:

Following contentions have been put-forth by the Revision petitioner:

a) The change of name of M/s. Saint-Gobain Glass India Pvt. Ltd., as M/s. Saint-Gobain India Pvt. Ltd., has been erroneously considered by the District Registrar as transfer of lease hold rights.
b) There is no change of ownership or transfer of lease hold rights in this case so as to construe transfer of lease.

Further following judgements have been produced by the petitioner's counsel in support his arguments:

i) Hon'ble Supreme Court order in Prasad Technology Park (P) Ltd Vs Sub Registrar wherein it has been held that mere change of name will not amount to fresh transaction.

ii) Hon'ble Gujarat High Court order in Anup Industries Ltd., Vs State of Gujarat and another, wherein it has been held that declaration deeds executed by a company subsequent to change of a private ltd company into a public ltd company will not attract stamp duty as a conveyance.

5) The contents of the Revision Petition, connected records and arguments advanced by the Appellant have been carefully examined.

The main questions that require consideration for disposing of the revision petition are that whether conversion of a public limited company into a private limited company would result in change of status of the legal entity and whether any fresh rights are created in favour of that entity in the

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course of such conversion. For this purpose, referring to section 21 and 23 of the Companies Act, 1956 would be helpful:

21. CHANGE OF NAME BY COMPANY

A company may, by special resolution and with the approval of the Central Government signified in writing, change its name:
Provided that no such approval shall be required where the only change in the name of a company is the addition thereto or, as the case may be, the deletion there from, of the word "private", consequent on the conversion in accordance with the provisions of this Act of a public company into a private company or of a private company into a public company.

23. REGISTRATION OF CHANGE OF NAME AND EFFECT THEREOF
(1) Where a company changes its name in pursuance of section 21 or 22, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a fresh certificate of incorporation with the necessary alterations embodied therein; and the change of name shall be complete and effective only on the issue of such a certificate.
(2) The Registrar shall also make the necessary alteration in the memorandum of association of the company.
(3) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the company by its former name may be continued by or against the company by its new name.

On a careful reading of the aforesaid provisions, it becomes clear that change of name in pursuance of section 21 of the Companies Act will not affect the pre-existing rights and obligations of the company. This legal position has been emphasized in the judgment delivered in Anup Industries

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Ltd., Vs. State of Gujrat and Anr.(AIR2003 Guj112.) Relevant portions of the judgment are as follows;

The petitioner is a Public Limited Company registered under relevant provisions of the Companies Act, 1956. The petitioner was originally incorporated as a Private Limited Company under the name of Anup Industries Private Limited on 21st August, 1961. As required by the provisions of the Companies Act, the petitioner at its extraordinary general meeting held on 12th December, 1994 passed a Special Resolution to change its name from Anup Industries Private Limited to Anup Industries Limited. The Registrar of Companies, Gujarat and Dadra and Nagar Haveli issued certificate of change on 15th December, 1994 in pursuance of Section 23(1) of the Companies Act. One of the properties held by the Private Limited Company was a lease of two industrial plots from Gujarat Industrial Development Corporation (G.I.D.C.) and as required by them two declarations were made on 17th August, 1999 for the limited purpose of placing it on record of G.I.D.C. The said declarations came to be presented before the Sub-Registrar, Valsad. On 13th August, 2001 the respondent issued two notices stating why the authority should not recover deficit stamp duty and penalty in relation to the two declarations made for the purposes of records of G.I.D.C..... (Para 2)

.....Thus, the position in law is that by mere change of name from a Private Limited Company to Limited Company, there is no change of entity as such all actions of the Private Limited Company shall continue against the Public. (Para 6)

Further even after the notification of Companies Act, 2013, the relevant statutory provisions contained in new enactment remain analogous to section 21 and 23 of the Companies Act, 1956 and envisage a similar legal position in such arena.

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In the present case, a public Ltd company changed into a Private Ltd Company. In view of the aforesaid legal position, the document in question does not create any fresh rights or obligations in favour of the company and as such the same is duly stamped as an 'Affidavit'.

Based on the above decision, the order passed by the District Registrar, Chengleput, is set aside and revision petition is allowed.

(Sd)/- J.Kumaragurubaran /-30.08.2018
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

for Inspector General of Registration

To

1. M/s. Sain Gobain India Private Ltd.,
   Floor No.7, Sigapi Aatchi Buildings,
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2. M/s. Gupta & Ravi,
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3. District Registrar,
   Chengleput.

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