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Proceedings of the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai–600 028

Present: Thiru.Dinesh Ponraj Oliver, I.A.S.,

D.Dis.No. 5708/P1/2018 Date: 8.9.2023

Sub : Appeal–Document No.2685/2015, Joint 1 Sub Registrar Office, Chengleput–received under section 33A(3) of the Indian Stamp Act, 1899 against the order passed by District Registrar– order issued – regarding.

Ref : 1. District Registrar, Chengleput order. No. 5839/B1/2017 dated 10.7.2017
2.Appeal petition dated 5.2.2018 received from M/s.Bhaktavatsalam Educational Trust

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ORDER:

The appeal 2nd cited has been filed against the order 1st cited passed by the District Registrar, Chengleput under section 33A(1) of the Indian Stamp Act, 1899 wherein the registrant has been directed to pay the deficit stamp duty of Rs.6,99,000/–in respect of document number 2685/2015 on the file of Joint 1 Sub Registrar, Chengleput.

2) Facts and circumstances relating to the document in question and the appeal are as follows:

Document No/Sub Registrar Office	2685/2015, Joint 1 Sub Registrar, Chengleput.
Title of the document	SALE DEED
Date of execution of the document	09.09.2015

(P.T.O)

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Executant of the Document	Mr.Thiyagarajan S/o Mr.Kucheldass Reddiar represented by his Power Agent Mr.N.Raghunthan
Claimant under the document	M/s.Bhaktavatsalam Educational Trust Represented by its President Mr.Vamanan
Market value of the property as declared in the document	Rs.2,00,00,000/-
Stamp borne by the document	Rs.7,01,000/-
Nature of document as determined by the District Registrar	Conveyance on sale {Article 23 of Indian Stamp Act, 1899}
Deficit stamp duty as determined by the District Registrar	Rs.6,99,000/-

A land admeasuring 5202 square feet and a building existing thereon having an extent of 396 sq.ft have been sold by Mr.Thiyagarajan through his power agent Mr.Ragunathan to and in favour of M/s.Bhaktavatsalam Educational Trust for a consideration amount of Rs.13,69,755/-. Although the sale deed is liable to stamp duty at the rate of 7% on the market value of the immovable property, under the impression that the said deed is eligible for 50% stamp duty concession granted under item No.47 of the G.O.Ms.No.1224, Revenue, dated 25.4.1966, the parties to the document stamped the said document only to the tune of 50% of the stamp duty payable. After registration of the said document, upon finding that the stamp duty concession granted under the aforesaid G.O. is applicable only in respect of deeds of Gift or Settlement and not applicable to other documents including Sale deeds, necessary statutory action under section 33A of the Indian Stamp Act, 1899 was initiated by the District Registrar,

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Chengleput to recover the deficit stamp duty. After obtaining reply of the Registrant to the show cause notice, the District Registrar issued order under section 33A (1) of the Indian Stamp Act, 1899 holding that the document in question is not entitled for stamp duty concession under the aforesaid G.O and determined the deficit stamp duty as Rs.6,99,000/-. Aggrieved over the same, present Appeal has been preferred before this Authority.

3) On behalf of the petitioner, his Advocate was personally heard on 16.8.2023.

Main contentions advanced by the petitioner are as follows:

i) The Appellant is a registered public charitable and educational Trust and also registered under section 12AA of the Income Tax Act and also exempted from Income Tax Act and therefore it is entitled for concessional rate of stamp duty.

ii) In similar instances stamp duty concession has been granted.

iii) During the course of personal hearing held on 16.8.2023, the counsel of the Appellant submitted a Judgment dated 28.8.2007 rendered by the Hon'ble High Court of Madras in W.P.No.8616 of 2007 in support of Appellant's claim.

4) Contents of appeal petition, connected records received from District Registrar, arguments advanced by the petitioner's advocate have been carefully examined by me.

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G.O.Ms.No.1224, Revenue, dated 25.4.1966 read with G.O.Ms.No.224, C.T Department, dated 11.12.2003, provides for concession by way of levy of reduced stamp duty to the tune of one half of the duty leviable on **instruments of Gift or settlement** for charitable or religious purposes, provided that such concession will apply only in cases where the "Donee" society or Trust is approved under section 80-G of the Income Tax Act, 1961.

On a close reading of the said G.O, it would become abundantly clear that said concession is applicable only for the instruments of Gift or settlement and not applicable for any other genre of documents. In other words for a document to come into the ambit and threshold of the said G.O, firstly the document must be either a Gift deed or a Settlement deed. Only if the document is either a Gift or settlement, then only the question of examining fulfilment of next eligibility conditions imposed in the said G.O. (religious or charitable purposes and approval under section 80G of the Income Tax Act) would arise. While so, the document in question which is a deed of Sale does not come into the threshold of the said G.O. Therefore the claim of the appellant that the other eligibility condition imposed in the said G.O., viz., approval under Income Tax Act is fulfilled is of no consequence and makes no difference.

Curiously the judgment dated 28.8.2007 of the Hon'ble High Court of Madras in W.P.No.8616 of 2007 relied upon by the Appellant also relates to applicability of aforesaid G.O. to a Gift deed and hence the said judgment cannot be applied to the document in question which is a sale deed.

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At this juncture it would be pertinent to note that the Hon'ble Supreme Court in Union of India and Ors. Vs. Wood Papers Ltd. and Anr. (AIR 1991 SC 2049 also in AIR 2000 SC 66) held that "*It is settled position of law that exemption notification particularly in a fiscal matters has to be strictly construed and the person claiming its benefit is obliged to satisfy the court that his claim was covered by the exemption notification. The notification has to be read in its entirety and not in parts.*"

Further Hon'ble Supreme Court of India in Appeal (civil) 3556 of 1984, Novopan India Ltd., Hyderabad Vs Collector Of Central Excise, has held that '*The principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee – assuming that the said principle is good and sound – does not apply to the construction of an exception or an exempting provision; they have to be construed strictly. A person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision. In case of doubt or ambiguity, benefit of it must go to the State.*'

In view of the above legal position, the Appeal is hereby dismissed and the order of the District Registrar is upheld.

Sd/– Dinesh Ponraj oliver /–08.09.2023
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

District Registrar (Inspection)

12/9/23

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To

1. The President,
   M/s. Bhaktavatsalam Educational Trust,
   'Sarayu', 24, Alagesan Road,
   Vedachalam Nagar,
   Chengleput–603011.

2. M/s.Govind Ganesan, S.Vinoth Kumar & K.Yasar Arafat,
   Advocates,
   No.137, Additional Law Chambers, High Court,
   Chennai – 600 104.

3. District Registrar,
   Chengleput.
   (With Original file)

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