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.4598/P1/2021-1 Dated 14.10.2024

Sub : Appeal – Document No.6322/2011, Sub Registrar Office, Tiruvottriyur–received under section 33A (3) of the Indian Stamp Act, 1899 against the order passed by District Registrar, Chennai (North) - order issued – regarding.

Ref : 1. District Registrar, order No.2087-15/B4/2013 dated 08.12.2020
2. Revision Petition dated 2.2.2021 received from Om Sakthi Kalikambal Multi State Cooperative Housing Society Ltd.,

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ORDER:

Appeal petition 2nd cited has been preferred under section 33(A) (3) of the Indian Stamp Act, 1899 before the Chief Controlling Revenue Authority against the order 1st cited passed by the District Registrar, Chennai (North), wherein it has been ordered for recovery of deficit stamp duty of Rs.1, 77,766/- in respect of document No.6322/2011 on the file of Sub Registrar, Tiruvottriyur.

2) The facts relating to the said appeal and the document in question are as follows:-

Document No/ Sub Registrar Office	No.6322/2011 Sub Registrar office, Tiruvotriyur
Date of Execution of Document	16.08.2011
Title of the document	SALE DEED
Executant	1. Mrs.Deivasigamani D/o.Arumugam 2. Mrs.Poongodi D/o. Arumugam 3. Mrs.Poosammal W/o.Kothandam

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	4. Mr.K.Prathaban S/o. Kothandam 5. Mr.K.Parthiban S/o. Kothandam 6. Mr.K.Jayaseelan S/o. Kothandam 7. Mr.K.Meganathan S/o. Kothandam (All Represented by their Power agent Mr.S.V.Manickam)
Claimant	Om Sakthi Kalikambal Multi-State Co-Operative Housing Society Ltd.
Market Value of the Property	Rs.22,22,080/-
Stamp Borne by the deed	Nil
Nature of document determined by the District Registrar	SALE DEED
Details of property transferred	Mathur Village Om Sakthi Kalikambal Cooperative Nagar Plot No.7, (1792 sq.ft)
Deficit stamp duty & penalty determined by the District Registrar	Rs.1,77,766/-

Whereas Mr.S.V.Manickam was appointed as the Power Agent of aforesaid Mr.Deivasigamani and 6 others in respect of land having total extent of 3 Acre and 6 ½ Cents and thereafter a lay-out in the above land was formed in the name of Om Sakthi Kalikambal Co-operative Nagar. While so, through the document in question, the Principals who are said to be members of the Om Sakthi Kalikambal Multi State Cooperative Housing Society Ltd through their power agent have sold the plot bearing No.7 comprised in the said layout in favour the Om Sakthi Kalikambal Multi State Co-operative Housing Society Ltd.

While registering the aforesaid document the Sub Registrar did not collect any stamp duty under the impression that stamp duty exemption

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provided under G.O.Ms.No.2179 dated 29.06.1966 is also applicable for the societies registered under the Multi State Co-Operative Societies Act, 2002 .

Later in the audit conducted by the Account General vide Report No.20-120/2012-13, dated 06.03.2013, Para 2/IIA it was observed that *"Since the society is not registered or deemed to be registered under Tamilnadu Co-Operative societies act, 1983; no remission of stamp duty is allowable in respect of the above sale deeds"*

Based on the above audit findings and a subsequent Government letter No.16495/J1/2012-5, dated 21.10.2013 which superseded the earlier letter of the Government dated 09.04.2009, the District Registrar initiated action under section 33A of Indian stamp Act, 1899 and issued certificate under section 33A (1) of Indian stamp Act, 1899 to recover deficit stamp duty of Rs.1, 77,766/- vide proceedings 1st cited.

The said Government letter dated 21.10.2013 clarified that *"The Stamp Duty exemption granted to cooperative societies by the Government in G.O. (Ms).No.2179 (Cooperation), dated 29.06.1966 in exercise of the powers conferred by subsection (1) of section 43 of the erstwhile Tamil Nadu Cooperative Societies Act. 1961 (which corresponds to section 51 of the existing Tamil Nadu Cooperative Societies Act. 1983) is not applicable to cooperative societies registered under the Multi State Cooperative Societies Act, 2002."*

Aggrieved over the order of the District Registrar, present appeal petition has been preferred before Chief Controlling Revenue Authority cum Inspector General of Registration.

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3) The petitioner was heard by the Inspector General of Registration on 11.7.2024 and a written statement was submitted on that day. The main contentions put-forth by the Revision petitioner are as follows:

i) As per Government (Commercial Taxes and Registration) letter No.18639/J1/08-5 dated 09.04.2009 the Multi State Co-Operative Society is also eligible for stamp duty exemption granted under G.O.Ms.2179, Co-operation, dated 29.06.1996.

ii) The District Registrar North Chennai has failed to note that the document was registered before issuance of Government letter 16495/11/2012-5 dated 21.10.2013 which states that the Stamp duty exemption is not applicable to co-operative societies registered under the Multi State Cooperative Societies Act, 2002. The document was presented for registration in the year 2011. Hence they have no right to recover stamp duty from the society and its members.

4) Contents of the Appeal petition, connected records received from the District Registrar, arguments advanced on behalf of the petitioner have been carefully examined by me.

i) In respect of the contention of the Appellant that the document in question has been registered prior to the issuance of Government letter dated 21.10.2013, the Judgment dated 19.02.2024 rendered by the Division Bench of Madras High Court in W.A.No.758 of 2022 is noteworthy. In the said Judgment while discussing the question whether a clarification letter of the department in respect of existing provisions would have retrospective operation, it has been held as follows:

"10. Firstly we have held that the instrument of amalgamation is already liable to duty under the existing provisions and the impugned circular

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is only clarificatory in nature. Therefore any clarification would automatically be retrospective."

Hence the above contention of the Appellant is devoid of merits.

ii) As far as other contentions of the Appellant Society it would be worth to refer Judgment dated 12.8.2022 rendered by the Division Bench of the Hon'ble High Court of Madras in W.A.No.246 of 2022 which deals with the very same question of grant of stamp duty exemption to a multi state cooperative society. Pertinently the aforesaid writ appeal was filed by the very same Appellant Society. The said Judgment holds as follows:

10. If any Government Order is issued by invoking the powers given under Section 51 of the Act of 1983, it would apply only to the Cooperative Society registered under the Act of 1983 and cannot operate on a Multi-State Cooperative Society registered under the Central Act of 2002. Any Cooperative Society registered under the Central Act of 2002 can operate in more than one State while a Cooperative Society registered under the State Act can operate only in the State concerned. Merely for the reason that the writ appellant Cooperative Society is operating even in the State of Tamil Nadu only, it would not lose its character of a Multi-State Cooperative Society registered under the Central Act of 2002. In view of the above, we do not find any error in the judgment of the learned Single Judge holding that the Cooperative Society registered under the Central Act of 2002 not entitled to any exemption granted to a Cooperative Society registered under the State Act of 1983.

Aforesaid Judgment rendered by the Division Bench of Hon'ble High Court of Madras makes it abundantly clear that the document in question is not eligible for stamp duty exemption under G.O.Ms.No.2179 dated 29.06.1966.

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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 legal position discussed above, the Appeal 2nd cited is hereby dismissed and the order of the District Registrar 1st cited is upheld.

Sd/-Dinesh Ponraj oliver /- 14.10.2024
Chief Controlling Revenue Authority &
Inspector General of Registration

/By Order/

District Registrar (Inspection)

To

1) M/s. Om Sakthi Kalikambal Multi-State
Co-operative Housing Society Ltd.,
No.194/7, Basement, STS Complex,
Annapillai Street, Chennai – 600 001.

2) District Registrar,
Chennai (North).
(With original file)

Copy to: Stock File.

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