Proceedings of the Chief Controlling Revenue Authority & Inspector General of Registration, Chennai-600 028.

Present: Thiru.M.P.Sivanarul, I.A.S.,

D:Dis.No. 1508/P1/2022 Date: 24.1.2023

sub : Revision Petition – Pending document No.182/2021 –Joint II Sub Registrar Office, Chengalpattu – Revision Petition received under section 56(1) of the Indian Stamp Act, 1899 against the order passed by District Registrar Chengalpattu – order issued – regarding.

Ref : 1.District Registrar Chengalpattu order.I.No.3942/B4/2021 dated 30.12.2021.
2.Revision petition from M/S.SEZ Recycling chengalpattu dated:10.01.2022

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ORDER:

Revision petition 2nd cited has been preferred 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, chengalpattu, wherein it has been ordered to pay deficit stamp duty of Rs.28, 87,400/– and penalty of Rs.600/–in respect of pending document No.P182/2021 on the file of Joint II Sub Registrar office, chengalpattu.

2) Facts relating to the revision petition are as follows:–

Document No./SRO	P182/2021, Joint II Sub Registrar office, chengalpattu
Date of Execution	26.8.2021
Title	Deed of Assignment
Executants	1. Velankanni Information Systems Ltd, Bangalore (Assignor/First Part) 2. Mahindra World City Developers Ltd (Developer/Original Lessor/Third Part)

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Claimant	SEZ Recycling rep by Proprietress Ms.Chanchal S Mehta (Proprietorship Organisation) (Assignee/Second Part)
Consideration Amount	Rs.5,77,50,000/–
Stamp Borne by the deed	Rs.100/–
Nature of document, Deficit stamp duty, Penalty determined by the District Registrar	Rs.28,87,400/– and penalty of Rs.600/–

The aforesaid document has been impounded by the Joint II Sub Registrar, Chengleput and forwarded to the District Registrar, Chengleput for taking action under section 33 of the Indian Stamp Act, 1899 under the impression that the same is ineligible for stamp duty exemption under last proviso to section 3 of the Indian Stamp Act, 1899. The reason adduced by the Sub Registrar is that the 1st document executed in a SEZ alone is eligible for stamp duty exemption under the said proviso.

The District Registrar in his order dated 30.12.2021 passed under section 40(1)(b) of the said Act has held that for a document being eligible for stamp duty exemption under last proviso to section 3 of the Indian Stamp Act, 1899, the same should have been executed by a Developer or an Unit and while so the document in question has been executed by a company which acquired lease hold right over the property through an earlier lease deed bearing No.6005/2005 in favour of another company viz., SEZ Recycling.

Based on the above analogy, the District Registrar concluded that the document is ineligible for stamp duty exemption. Aggrieved over this decision present revision petition has been filed.

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3) The revision petitioners through their counsel were personally heard on 11.10.2022. The counsel of the Appellant filed written statements dated 17.10.2022 and 19.10.2022. The main grounds of appeal made by the appellant are as follows:

Main points put–forth by the Revision Petitioner:

i. Property is within SEZ notified area and hence the document is eligible for stamp duty and registration fee exemption under G.O.Ms.No.96, dated 20.5.2004.

ii. The District Registrar has failed to consider Hon'ble High Court order dated 22.7.2019 in W.A.No.1940 & 2058 of 2019.

iii. It is the geographical location of the property is relevant for grant of stamp duty exemption.

iv. As per section 3(3) of the Indian Stamp Act, 1899 the property developed by Developer/Co–developer is eligible for stamp duty exemption.

v. In the notice dated 15.9.2021 issued by the District Registrar it was stated that stamp duty exemption for SEZ units is available for 1st document only. But going beyond the scope of notice, the District Registrar in his order dated 30.12.2021, held that exemption is cannot be granted for lease deed executed between two individual concerns.

vi. Exemption G.O does not mention that exemption is available only for "sale deeds"

vii. IGR letter No.29216/C2/2005 dated 8.6.2005 clarifies that stamp duty & registration fee exemption is available to all land related transactions.

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viii. As required by the Appellate Authority during the personal hearing documentary evidences to the effect that appellant transact only with SEZ Units are enclosed.

ix. The Development Commissioner, the competent authority to monitor the SEZ units has verified and approved the transactions of the Appellant unit.

x. The previous lease is between the Developer and the Unit. The present document is between two units and also the Developer.

4) Contents of revision petition, written statements, connected records received from District Registrar, the argument advanced by the counsel of the petitioner have been carefully examined by me.

Initially 1.96 Acres of land comprised in 8 survey numbers of Thenmelpakkam Village has been leased out for 99 years by the Mahindra Industrial Park Ltd in favour of Velankani Information Systems Pvt Ltd through lease deed registered as No.6005/2005 on the file of Joint II SRO, Chengleput on 7.7.2005. It seems that the said document has been exempted from stamp duty and registration fee under G.O.Ms.No.96, CT Dept, dated 20.5.2004.

Subsequently on 26.8.2021 Velankani Information Systems Pvt Ltd assigned the leasehold rights over the aforesaid 1.96 acres for the unexpired portion of 99 years (along with the buildings standing thereon) through a Deed of Assignment executed in favour of M/s.SEZ RECYCLING. In the said Deed of Assignment, Mahindra World City Developers Ltd has also joined in execution. For the said Assignment, a consideration amount of Rs.5,50,00,000/– has been received by the Assignor Velankani Information Systems Pvt Ltd and an amount of Rs.27,50,000/–

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has been received by the Mahindra World City Developers Ltd as transfer charges from the Assignee viz., M/s.SEZ RECYCLING.

The said document has been stamped with a stamp duty of Rs.100/–.

As the registering officer was of the opinion that the same is ineligible for stamp duty exemption, impounded it and forwarded to the District Registrar, Chengleput. After sending show cause notice to the registrant, the District Registrar in his proceedings dated 30.12.2021 issued under section 40(1) (b) of the Indian Stamp Act, 1899 classified the document under Article 63 of the Indian Stamp Act, 1899 viz., Transfer of Lease and determined the deficit stamp duty as Rs.28,87,400/– and imposed a penalty of Rs.600/–

The main question that arises for consideration is whether the document in question is eligible for stamp duty exemption under sub proviso (3) of last proviso to section 3 of the Indian Stamp Act, 1899. For answering the above question it has to be ascertained whether the document in question qualifies to be an instrument executed by or in favour of a SEZ Developer or a SEZ Unit or in connection with the carrying out of purposes of the SEZ as stipulated in sub proviso (3) of last proviso to section 3 of the Indian Stamp Act, 1899.

On perusal of the copy of two letters dated 23.8.2021 issued by the Assistant Development Commissioner of the SEZ, Government of India, one addressed to M/s.Velankani Information Systems Ltd and another addressed to M/s.SEZ Recycling submitted by the petitioner, it seems that the letter of Approval granted to M/s.Velankani Information Systems Ltd vide LOA No.8/50/2019 –MWC IT

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SEZ dated 2.3.2020 has been cancelled based on the NOC granted by Mahindra World City Developers Ltd and the 2 Acres of land (with 20,000 sq.ft building) surrendered by the M/s.Velankani Information Systems Ltd has been agreed to be allotted to M/s.SEZ Recycling. Accordingly the document in question viz., Deed of Assignment has been executed between the three parties, viz., Assignor (Original Lessee), Assignee (New Lessee) and the Developer cum Original Lessor)

In the backdrop of aforesaid facts it is not apparent whether M/s.Velankani Information Systems Ltd has lost the status of a 'UNIT'. Hence it could not be ascertained whether the document in question can be construed as a document executed by a Unit.

Nevertheless M/s. M/s.SEZ Recycling seems to be an approved Unit within the Mahindra World City SEZ since 7.4.2006 and its approval is valid till 22.3.2023 (As seen from the copy of letters of Assistant Development Commissioner of the SEZ, Government of India dated 27.12.2009 and 3.5.2018)

Moreover the document has also been executed by the Developer of the SEZ, the document. In view of these facts the document in question seems to be qualified to be an instrument executed by the Developer as well as a document executed in favour of a UNIT as stipulated in sub proviso (3) of last proviso to section 3 of the Indian Stamp Act, 1899 thereby becoming eligible for stamp duty exemption.

On the other hand it is seen that registration fee of Rs.100/– has been paid for the document in question under the impression that registration fee is exempted under

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G.O.Ms.No.96, CT Dept, dated 20.5.2004. However a careful reading of G.O.Ms.No.96, CT Dept, dated 20.5.2004 would make it clear that the scope of registration fee exemption granted there under has been restricted only to land transactions. While so in the document in question the underlying transaction is not confined to land only, i.e., the transaction involves building also. Hence registration fee exemption is not available to the case on hand and 1% registration fee becomes leviable.

In view of aforesaid legal position document in question is eligible for stamp duty exemption under sub proviso (3) of last proviso to section 3 of Indian stamp act 1899. Based on the above decision the order of the District Registrar is set aside and the revision petition is allowed. However it is made clear that registration fee of 1% is to be collected for the document in question.

Sd)/– M.P.Sivanarul /–24.01.2023
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

25/1/2023

For Inspector General of Registration

To

1) Ms.SEZ RECYCLING
Plot No.TP-7, 4th Avenue,
IT-SEZ Area,
Mahindra World City
Chengalpattu-603 002.

2) District Registrar,
Chengalpattu
(With original File)

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