NC: 2026:KHC:28339
WP No. 4691 of 2022

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 4691 OF 2022 (GM-ST/RN)

BETWEEN:

TATA CONSULTANCY SERVICES LIMITED
A COMPANY INCORPORATED UNDER THE INDIAN COMPANIES ACT, 1956
AND HAVING ITS CORPORATE OFFICE AT TCS HOUSE 21, D.S. MARG,FORT MUMBAI 400 001.

AND ITS BRANCH OFFICE AT SJM TOWERS 18, SHESHADRI ROAD, BANGLAORE -560 009, KARNATAKA , INDIA
REPRESENTED BY ITS GENERAL MANAGER AND AUTHORISED SIGNATORY
SRI SATISH P.

...PETITIONER

(BY SRI. GIRIDHAR S V.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY PRINCIPAL SECRETARY
DEPARTMENT OF REVENUE
VIDHANA SOUDHA
BENGALURU 560 001.

2. DISTRICT REGISTRAR AND
REGISTRAR OF FIRMS
SHIVAJINAGAR REGISTRATION DISTRICT
DEPARTMETN OF STAMPS
AND REGISTRATION
GOVERNMENT OF KARNATAKA
4TH FLOOR,

MONARCH CHAMBERS NO. 122/2
INFANTRY ROAD,
BENGALURU 560 001.

3. OFFICE OF THE SUB
REGISTRAR AND MARRIAGE
REGISTRAR, SHIVAJINAGAR
3RD FLOOR, FLOOR,
MONARCH CHAMBERS, NO. 122/2
INFANTRY ROAD,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. SRINIVAS KUMAR, HCGP FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE RECORDS ON THE FILE OF THE R-2 CULMINATING IN THE PASSING OF THE ORDER IMPUGNED IN THE PRESENT PROCEEDINGS VIDE ANNX-A. AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

This writ petition puts in question validity or otherwise of the order dated 21.12.2021, which was passed by the respondent No.2 herein, who, had impounded a deed of lease presented by the petitioner for registration and had directed the petitioner to pay a sum of Rs.5,52,400/- as Stamp Duty and penalty of Rs.1,000/- to the District Registrar, Shivajinagar, by way of demand draft in purported exercise of power under Section 39(1)(b) of the Karnataka Stamp Act, 1957 ('Act 1957' for short).

2. Learned counsel for the petitioner, apart from reiterating the facts of the case submits;

(a) that the impugned order to the extent considering the GST payable by the petitioner at 18% on the rentals to be the part of value of the rent is illegal and non-est in the eye of law, as no provision of the Act, 1957 or the notification issued by the Department of GST would indicate, GST amount to form part of the rental value of the subject instrument.

(b) He refers to Article 30(2) of the Act,1957 and submits for the purpose of determination of value it is the average annual rent, premium, fine and money advanced under the instrument alone, that has to be considered and nothing else.

(c) He also refers to a Notification dated 28.06.2017 issued by the Government of India, Ministry of Finance (Department of Revenue) issuing certain clarification of the items which are exempted from the purview of imposition of GST. In that, he refers to Sl.No.13(iii) of the said notification, wherein the GST charges in respect of renting of shops or other spaces for business or commerce where the charges are Rs.10,000/- or more per month alone subjected to imposition of tax.

(d) He also refers to the definition 'zz' appended to the said notification defining "renting in relation to immovable property" to mean allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.

(e) He also refers to a clarificatory notification dated 02.05.2018 issued by the Government of India, Ministry of Finance, Department of Revenue dealing with payment of GST on transfer of tenancy rights against the tenancy premium which is also known as *"pagadi system*".

(f) Thus, he submits, imposition of GST can under no circumstances be termed and construed as forming part of the rental value and it is the tax payable towards the revenue of the State, which the authorities in the instant case have failed to recognize and have erroneously called upon the petitioner to pay stamp duty on the said amount as well.

(g) He also places reliance upon the judgment of the High Court of Delhi in the case of ***GURDEV RAJ KUMAR VS. COLLECTOR OF STAMPS*** reported in ***2025 SCC Online Del 7119***, referring to paragraphs 9 and 10 of the said judgment, he submits though there is a complete exemption of payment of GST in respect of the dwelling places, yet the same cannot be subjected for payment of stamp duty. Hence, seeks for allowing of the petition.

3. Learned HCGP do not dispute the fact that the rental value for the purpose of payment of stamp duty under Article 30 of the Act,1957 would not include component of GST. He fairly submits impugned order to the extent calling upon the petitioner to pay the stamp duty on the value including on the GST cannot be sustained.

4. Heard. Perused the records.

5. Article 30 (iii) of the Karnataka Stamp Act, 1957, which is relevant for the purpose of the instant case reads as under;

Description of Instrument	Proper Stamp Duty
Art. 30. Lease of immovable property….	
(i)…	
(ii)…	
(iii) Where the lease purports to be for a term exceeding one year and not exceeding ten years.	One rupee for every one hundred rupees or part thereof on the total amount or value of; the average annual rent, premium, fine and money advanced.

6. Clearly, while determining the stamp duty payable on the instrument of lease of immovable property for a term exceeding one year and not exceeding ten years as that of the case at hand, the total amount or value; of the average annual rent, premium, fine and money advanced alone has to be taken into consideration and nothing else.

7. Relevant paragraph 7 and the operative portion of the impugned order dated 21.12.2021 at Annexure- A reads as under;

"7. ಪ್ರಕರಣದಲ್ಲಿ ಗೇಣಿದಾರರು (Lessee) 10 ವರ್ಷಗಳ ಗುತ್ತಿಗೆ ಅವಧಿ ಎಂದು ಲೀಸ್ ಡೀಡ್ ರಲ್ಲಿ ಒಕ್ಕಣಿ ಇದ್ದು, ದಿನಾಂಕಃ 01/01/2021 ರನ್ನು ಗುತ್ತಿಗೆ ಪ್ರಾರಂಭ ದಿನವಾಗಿ ಹಾಗೂ ದಿನಾಂಕ:31/12/2030 ರನ್ನು ಅಂತಿಮ ದಿನವಾಗಿ ಪರಿಗಣಿಸಬಹುದಾಗಿದ್ದು, ಗುತ್ತಿಗೆ ಕರಾರು ಪತ್ರದ ಪುಟ ಸಂಖ್ಯೆ: 8 ರಂತೆ ಗುತ್ತಿಗೆ ಅವಧಿಯನ್ನು 10 ವರ್ಷಗಳು ಎಂದು ಸ್ಪಷ್ಟವಾಗಿ ನಮೂದಿಸಿರುವುದರಿಂದ, ಸದರಿ 10 ವರ್ಷಗಳನ್ನು ಗುತ್ತಿಗೆ ಅವಧಿ ಎಂದು ಪರಿಗಣಿಸಲಾಗಿ, ಒಟ್ಟು ರೂ.572,92,86,834/– ಗಳ ಬಾಡಿಗೆ ಮತ್ತು ನಿರ್ವಹಣೆ ವೆಚ್ಚವನ್ನು ಪಾವತಿ ಮಾಡಬೇಕಾಗಿದ್ದು, ಅದರಂತೆ ಸರಾಸರಿ ವಾರ್ಷಿಕ ಬಾಡಿಗೆಯು ರೂ:61,38,52,161/– ಗಳಾಗಿರುತ್ತದೆ. ಸದರಿ ಸರಾಸರಿ ವಾರ್ಷಿಕ ಬಾಡಿಗೆ ಮತ್ತು GST ಶೇಕಡ 18 ರಂತೆ ರೂ.11,04,93,389/– ಗಳು ಹಾಗೂ ಸೆಕ್ಯೂರಿಟಿ ಡಿಪಾಸಿಟ್ ಆಗಿ ನೀಡಿರುವ ರೂ:33,24,74,058/– ಗಳು ಸೇರಿ ಒಟ್ಟು ರೂ. 105,68,19.608/– ಗಳಿಗೆ ಕರ್ನಾಟಕ ಮುದ್ರಾಂಕ ಕಾಯ್ದೆ 1957 ರ ಅನುಚ್ಛೇಧ 30 (1) (iii) ರಂತೆ ಶೇಕಡ 1 ರಂತೆ ರೂ. 1,05,68,200/–ಗಳ ಮುದ್ರಾಂಕ ಶುಲ್ಕವನ್ನು ಪಾವತಿ ಮಾಡಬೇಕಾಗಿರುತ್ತದೆ".

ಆದೇಶ

"ಕರ್ನಾಟಕ ಮುದ್ರಾಂಕ ಕಾಯ್ದೆ 1957ರ ಕಲಂ 39 ರಡಿಯಲ್ಲಿನ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದ ಮೇರೆಗೆ ಮುದ್ರಾಂಕಗಳ ಉಪ ಆಯುಕ್ತರು ಹಾಗೂ ಜಿಲ್ಲಾ ನೋಂದಣಾಧಿಕಾರಿ ಶ್ರೀ ಬಿ.ಹೆಚ್.ಶಂಕರೇಗೌಡ ಆದ ನಾನು, ಈ ಮೇಲ್ಕಾಣಿಸಿದ ವಿಚಾರ ವಿಮರ್ಶೆಯ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಶಿವಾಜಿನಗರದ ಉಪ ನೋಂದಣಿ ಕಛೇರಿಯಲ್ಲಿ ದಿನಾಂಕ:28/04/2021 ರಂದು ನೋಂದಣಿಯಾಗಿರುವ ಪ್ರಶ್ನಿತ ಪಿ.2058/2021-22 ರ LEASE DEED ಪತ್ರಕ್ಕೆ ಸಂಬಂದಿಸಿದಂತೆ ಕರ್ನಾಟಕ ಮುದ್ರಾಂಕ ಕಾಯ್ದೆ 1957ರ ಅನುಚ್ಛೇದ 30 (I)(iii) ರ ಪ್ರಕಾರ, ಪ್ಯಾರ ನಂ:7 ರಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ ರೂ:1,05,68,200/-ಗಳ ಮುದ್ರಾಂಕ ಶುಲ್ಕವನ್ನು ಪಾವತಿ ಮಾಡಬೇಕಾಗಿರುತ್ತದೆ. Directorate of Industries and Commerce No:VTPC/AD-1/SEZ/ITPL-TCS/545/SED/2020-21, ದಿನಾಂಕ:22/03/2021 ರಲ್ಲಿ ಸದರಿ Lease Deed ಗೆ ಪಾವತಿಸಬೇಕಾಗಿರುವ ಮುದ್ರಾಂಕ ಶುಲ್ಕ ಹಾಗೂ ನೋಂದಣಿ ಫೀಗಳ ಪೈಕಿ ಶೇಕಡ 50 ರಷ್ಟು ವಿನಾಯತಿಯನ್ನು ನೀಡಿರುವುದನ್ನು ಪರಿಗಣಿಸಿ, ಪಾವತಿ ಮಾಡಬೇಕಾಗಿರುವ ಮುದ್ರಾಂಕ ಶುಲ್ಕಗಳ ಪೈಕಿ ಶೇಕಡ 50 ರಷ್ಟು ರಿಯಾಯಿತಿ ನೀಡಿ ಉಳಿಕೆ ರೂ: 52,84,100/- ಗಳ ಮುದ್ರಾಂಕ ಶುಲ್ಕವನ್ನು ಪಾವತಿಸಬೇಕಾಗಿರುತ್ತದೆ. ಈ ಪೈಕಿ ಈಗಾಗಲೇ ದಸ್ತಾವೇಜು ನೋಂದಣಿಗೆ ಹಾಜರು ಪಡಿಸಿದ ವೇಳೆ ರೂ:47,31,700/-ಗಳ ಮುದ್ರಾಂಕ ಶುಲ್ಕ ಪಾವತಿಸಲಾಗಿರುವುದನ್ನು ಕಳೆದು ಕೊರತೆ ಇರುವ ಮುದ್ರಾಂಕ ಶುಲ್ಕ ರೂ.5,52,400/-ಗಳನ್ನು ' ಹಾಗೂ ಕರ್ನಾಟಕ ಮುದ್ರಾಂಕ ಕಾಯ್ದೆ 1957 ರ ಕಲಂ 39(1)(b) ರಡಿ ದಂಡ ರೂ 1,000/-ಗಳನ್ನು ಪಾವತಿಸಲು ಆದೇಶಿಸಲಾಯಿತು.

ಕೊರತೆ ಇರುವ ಮುದ್ರಾಂಕ ಶುಲ್ಕ ಮತ್ತು ದಂಡ ರೂ.5,52,400/-ಗಳು ಹಾಗೂ ದಂಡ ರೂ.1,000/-ಗಳನ್ನು ಜಿಲ್ಲಾ ನೋಂದಣಾಧಿಕಾರಿ, ಶಿವಾಜಿನಗರ, (DISTRICT REGISTRAR, SHIVAJINAGAR) ಇವರ ಹೆಸರಿಗೆ ಪಾವತಿಯಾಗುವಂತೆ ರಾಷ್ಟ್ರೀಕೃತ

ಬ್ಯಾಂಕಿನಲ್ಲಿ K2 ಚಲನ್ ಮೂಲಕ ಪಾವತಿಸಿ, ಪಾವತಿಸಿದ ಚಲನ್ ಅನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದಲ್ಲಿ ಕರ್ನಾಟಕ ಮುದ್ರಾಂಕ ಕಾಯ್ದೆ 1957ರ ಕಲಂ 32 ರನ್ವಯ ಧೃಡೀಕರಿಸಲಾಗುವುದು".

(ಬಿ.ಹೆಚ್.ಶಂಕರೇಗೌಡ)
ಮುದ್ರಾಂಕಗಳ ಉಪ ಆಯುಕ್ತರು ಹಾಗೂ
ಜಿಲ್ಲಾ ನೋಂದಣಾಧಿಕಾರಿಗಳು,
ಶಿವಾಜಿನಗರ ನೋಂದಣಿ ಜಿಲ್ಲೆ.

8. Perusal of the aforesaid contents of the impugned order indicate that apart from the annual rental, and the maintenance charges, the respondent-authorities have also calculated 18% of the GST payable thereon at Rs.11,04,93,389/- and after giving 50% of rebate in terms of Circular dated 22.03.2021 have called upon the petitioner to pay the stamp duty of Rs.52,84,100/-.

9. In the light of the components of value to be taken into consideration for the purpose and determination of stamp duty under Article 30(iii) of the Act, 1957 as noted above, which do not even remotely suggest inclusion of payment of GST as sought to be done in the impugned order, there is considerable force in the submission being made by the counsel for the petitioner to the said extent being unsustainable.

10. Needless to reiterate, the notification and the clarificatory notification issued by the Government of India, Ministry of Finance, Department of Revenue on 28.06.2017 and 02.05.2018 respectively, specifying the items which are exempted from payment of GST and the items which are liable for payment of GST only indicate that payment of GST cannot be termed and construed to include and form part of consideration for allowing, permitting or granting access, entry, occupation, use of any such facility only or partly in an immovable property. Further, there is no provision or authority vested under the Act, 1957 to include GST as part of the value of the instrument. Therefore, the imposition of stamp duty and penalty to the extent including GST amount is clearly unsustainable.

11. Though learned counsel for the petitioner stated to have paid the amount as demanded under protest, after filing of this petition, there is specific relief sought for refund of stamp duty to the extent of GST in a sum of Rs.5,52,400/- and the proportionate registration fee thereon.

12. This Court having held the demand and imposition of stamp duty on the GST being unsustainable, petitioner is also entitled for refund of the proportionate stamp duty and the registration fee thereon. Respondent No.2 shall ensure that the stamp duty to the extent noted above be refunded to the petitioner within an outer limit of 3 months from the date of receipt of certified copy of this order.

With the above observation, petition is ***disposed of.***

Sd/-
(M.G.S. KAMAL)
JUDGE

RU
List No.: 1 Sl No.: 27