सत्यमेव जयते

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
IN THE COURT OF COLLECTOR OF STAMPS (PATEL NAGAR)
PLOT N0.3, IInd FLOOR, SHIVAJI PLACE, RAJA GARDEN, DELHI-110027.

F.NO.COS/PN/2022-23/ 12485-12488 **Dated: 15.09.2023**

ORDER

Sub: **Impoundment u/s 33 of the Indian Stamp Act 1899.**

Whereas, e-SR-II, Basai Dara Pur vide letter SR-II/Impound/2022/No./2122 dated 25.07.2022 impounded 01 (one) Lease Deed u/s 33 of the Indian Stamp Act, 1899 presented in his office on 22/07/2022 vide Receipt No. 12465 in respect of immovable property situated at Plot No. 70 (40-B), Shivaji Marg, Najafgarh Road Industrial Area, New Delhi and sent to this office for adjudication of stamp duty u/s 33 of the Act as evasion of duty was found in the instrument presented before him.

2. The SR-II, Basai Darapur vide said letter dated 25/07/2022 informed that on scrutiny of the instruments, it was revealed that Lease Deed executed between the parties for property measuring 966.66 sq. yds. at Plot No. 70 (40-B), Shivaji Marg, Najafgarh Road Industrial Area, New Delhi. The party while presenting Lease Deed for registration has paid stamp duty only on rent and not paid GST of rent which was excluded with rent in the deed.

3. Notice was issued to parties to appear in this office on 04/08/2022, 04/10/2022, 18/05/2023 and finally on 19/05/2023 to explain their position in the matter. Mr. Vikas Goyal appeared on behalf of all Lessors and submitted that by applying stamp duty on the GST part would amount to be tax on tax and would lead to double taxation on us. Hence, no question arises of deficiency of stamp duty as sighted by the SR-II, Basai Darapur. The authorized representative, Mr. Vikas Goyal further stated that rent does not include the amount received for GST, therefore, there is no question of stamp duty being charged on GST portion. Also, consider the fact that the GST is already a TAX and I s not an income to the Lessor/Owner, hence no stamp duty should be charged on GST applicable on the lease money. Mr. Vikas Goyal has also submitted a copy of Circular No. 16125-C2-2019-GST dated 16.04.2019 with the following extracts:

> *'GST payable by the lessee cannot be treated as part of rent for the purpose of chargeability of stamp duty under the Indian stamp duty act, 1899. Hence all registering officers are directed to take this into consideration while registering the lease deeds of the future cases.'*

4. After going through the submission made by the representative of Lessor and documents on reocrd , I would like to draw attention towards the findings of the Hon'ble High Court, Delhi in case no. WP © No. 2872/2019, titled as ***Union Bank of India Vs. Collector of Stamps/SDM & Ors*** decided on 05.04.2019. In the said case, learned counsel for the petitioner readily accepts that the GST on lease rental is required to be included for calculation of the stamp duty. He also states that the petitioner is ready and willing to pay the deficient stamp duty. However, in this case, the Hon'ble High Court, Delhi has reduced the penalty amount from three times to an amount equal to the deficient stamp duty. It is also pertinent to mention here that the Circular No. 16125-C2-2019-GST dated 16.04.2019 was issued by the Office of Inspector General of Registration, Chennai, Tamil Nadu, which has no implication in Delhi. Therefore, the arguments and reliance placed by the Lessor does not hold any ground and the same is rejected.

N/c

Collector of Stamps Patel Nagar, Delhi

5. I have also gone through the contents of the letter dated 25/07/2022 of e-SR-II Basai Darapur impounding the instrument u/s 33 of the India Stamp Act, 1899 being deficient stamp duty. The parties have paid Rs. 3,66,900/- stamp duty which is deficient by Rs 65947/-. Further, Lessors are also liable to pay the penalty u/s 40 of Indian Stamp Act, 1899 in the interest of Government Revenue to the extent of amount equal to the deficient stamp duty. After considering all aspects Rs. 65947/- (Rupees Sixty Five Thousand Nine Hundred Forty Seven Only) penalty is imposed u/s 40 of the Indian Stamp Act, 1899. The Parties are, therefore, **directed to pay the total amount of Rs. 1,31,894/- (Rupees One Lakh Thirty One Thousand Eight Hundred Ninety Four Only)** [as duty Rs.65947/- and a penalty of Rs. 65947/-] within 07 days of this order failing which the amount shall be recovered as arrear of land revenue u/s 48 of the Indian Stamp Act, 1899.

Given under my hand and seal on this day of 15th September 2023. File be consigned to record room.

(ADITYA SANGOTRA)
SUB-DIVISIONAL MAGISTRATE/
COLLECTOR OF STAMPS (PATEL NAGAR)
DISTRICT WEST, DELHI.

Copy to:

1. M/s Adi Sports (India) Pvt. Ltd at 2, Community Centre, First Floor, Naraina, Phase-I, ND
2. e-Sub-Registrar (II), Basai Darapur.
3. District Information Officer (NIC) is requested to upload copy of this order upon the official website of District West for public domain.
4. P.A to Registrar/D.M (West), IIIrd Floor, DM Office Complex, Rajouri Garden, ND.

Collector of Stamps
Patel Nagar, Delhi

SUB-DIVISIONAL MAGISTRATE/
COLLECTOR OF STAMPS (PATEL NAGAR)
DISTRICT WEST, DELHI.