

## Rajasthan Tax Board, Ajmer

Revision (Stamp) No. 34/ 2017/ Jaipur  
Revision (Stamp) No. 35/ 2017/ Jaipur  
Revision (Stamp) No. 795/2017/Jaipur  
Revision (Stamp) No. 796/2017/Jaipur

M/s GSPL India Gasnet Ltd.  
Gandhi Nagar,  
Gujarat

...Petitioner

### **VERSUS**

State of Rajasthan  
through  
1. Sub-Registrar,  
Tehsil- Viratnagar, Distt.- Jaipur  
2. Sub-Registrar,  
Tehsil- Shahpura, Distt.- Jaipur

.....Respondents

D.B.

SHRI K.L. JAIN, MEMBER

SHRI OMKAR SINGH ASHIYA, MEMBER

Present :

~~Sh.~~ Hagamilal Choudhary, Advocate

for Appellant

Shri Jameel Zai,  
Dy. Govt. Advocate

for Respondents

Dated: 16.02.2018

### JUDGMENT

1. These Revision (Stamp) petitions have been filed by M/s GSPL India Gasnet Ltd. (hereinafter called the 'petitioner' or the 'company') against orders of the Collector (Stamps) Jaipur, Circle -III, passed under section 51 of the Rajasthan Stamp Act, 1998 (hereinafter called as the 'Act'). Detail of the same are as under:-

Revision Stamp No.	Details of the Reference			Sub Registrar Details: Name of the Jurisdiction SR Office	Disputed Amount
	Authority	Reference No	Order Date		
34/2017/ Jaipur	Collector (Stamps) Jaipur Circle III	453/16	23.11. 2016	Virat Nagar	3476110
35/2017/ Jaipur	Collector (Stamps) Jaipur Circle III	452/16	23.11.2016	Virat Nagar	4155820
795/2017/ Jaipur	Collector (Stamp) Jaipur Circle III	416/16	29.03.2017	Shahpura	507440
796/2017/ Jaipur	Collector (Stamp) Jaipur Circle III	417/16	23.02.2017	Shahpura	477370



As a common point is involved in all these revisions, therefore, the same are disposed off by a common order. Copy of the order be placed on each relevant file.

2. Brief facts leading to the present revisions are that the petitioner is a joint venture company between IOC, BPC, HPC & GSPC and implementing Mehsana-Bhatinda gas pipeline project as approved by the Petroleum & Natural Gas Regulatory Board, Gol. For the purpose of implementing this project several 'Intermediate Pigging Stations' (in short the 'IP stations') were required to be setup for smooth pumping and flow of the natural Gas. The Petroleum & Natural Gas Regulatory Board has granted authorization to the petitioner for carrying, building, operating or expanding Mehsana-Bhatinda Natural Gas Pipeline, vide its letter dated 07.07.2011.
3. For establishing such IP stations, the company purchased some agricultural land in Tehsils Viratnagar and Shahpura, district Jaipur and presented the documents for registration before the jurisdictional Sub-Registrars. The stamp duty and registration fees were paid on the basis of valuation of land which was higher than the prevailing DLC Rate for agricultural land.
4. Later, the Sub-Registrar while making a reference u/s 51(1) of the Act has requested the Collector (Stamp) that the Company has purchased the land for setting up of pumping stations, therefore, purpose of the purchase of this land is commercial hence the stamp duty as well as the registration fee alongwith interest and penalty be levied accordingly. It also appears from the impugned order that whole proceeding has been initiated in light of an audit objection by the AG team. The Collector (stamps), in turn, passed the orders under reference and imposed differential stamp duty, registration fee, surcharge and penalty vide his orders as mentioned in the table above.
5. Aggrieved of the orders passed under reference by the Collector (Stamps) Jaipur-Circle III, the petitioner has filed these revisions u/s 65 of the Rajasthan Stamps Act, 1998.
6. Learned Advocate appearing for the Company argues that the agriculture land purchased by it was intended to be used for setting up of IP stations (in common parlance called pumping stations) for the Mehsana-Bhatinda Natural Gas Pipeline, which is essentially an 'industrial activity'. He further highlighted





various definitions as given in " The Oil Industry (Development) Act, 1974" to prove his point that the activity of laying of Natural Gas Pipeline and setting up of IP Stations, squarely falls under the category of industrial activity. It was also submitted that as per the National Industrial Classification (of all economic activities) as issued by the Central Statistical Organization (CSO), Gol, the activity of Gas pipeline has been shown to be an industrial activity under the classification head "Land Transport and Transport via Pipeline". So, he stresses upon that the activity of Gas Pipeline can't be categorized as 'commercial activity' because it is essentially an industrial activity.

7. He also submitted that the State Government vide notification no F4(15) FD/Tax/2014-63 dated 14.07.2014 has notified the rate of registration for industrial use land @ double the rate of agricultural land. So as per stipulation of this notification the company was required to pay stamp duty at the rate of double of the duty so payable for agricultural land but instead it has already paid seven times of the base duty payable for agricultural land as the consideration for the land was much higher than the prevailing DLC rates. He also informed that the land in question was duly converted as 'industrial' one, by the SDO, Shahpura, District Jaipur and the company has deposited the conversion charges as prescribed.
8. He further submitted that the Hon'ble Supreme Court in the matter of State of U.P. Vs Ambrish Tandon & others (Civil Appeal no. 735/2012), Judgment dated 20.01.2012, has held that if the property is used for commercial purpose after a later point, that may not be a relevant criterion for assessing the value for the purpose of Stamp Duty. He also referred a Judgment of the Hon'ble Rajasthan High Court: State of Rajasthan Vs Rajasthan Tax Board & others (SB CWP No 392/2011) and the Rajasthan Tax Board Judgment in revision no. 3253/2005/Sikar, dated 04.06.2010. In light of these Judgments it was argued that valuation of the land has to be considered on the date of its sale and not on the basis of its future use.
9. Learned Deputy Government Advocate appearing for the respondents supported orders of the Collector (Stamps) and requested to disallow the revisions.
10. Heard the learned counsels for both the sides and perused the relevant record.





11. It is undisputed fact that the agricultural land has been purchased by the petitioner for laying of natural gas pipeline. The Oil Industry (Development) Act, 1974 has been enacted for establishment of a Board for the Development of Oil Industry and for that purpose to levy a duty of excise on crude oil and natural gas and for matters connected therewith. It would be useful to peruse some definitions, as given in section 2 of the said Act: -

*"(k) "oil industry" includes all activities by way of prospecting or exploring for or production of mineral oil, refining, processing, transportation, storage, handling and marketing of mineral oil, production and marketing of all products, down-stream of an oil refinery and the production of fertilisers and petrochemicals and all activities directly or indirectly connected therewith;*

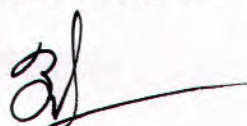
*(h) "mineral oil" includes petroleum and natural gas;*

*(i) "natural gas" means gas consisting primarily of hydrocarbons obtained from oil wells or gas wells;*

*(j) "oil industrial concern" means any company, corporation or co-operative society, which is engaged or which is to engage in any activity referred to in clause (k);"*

12. After carefully going through the Oil Industry (Development) Act, 1974, particularly the definitions given therein and scheme of said act as a whole, there can't be a second view on the activity of laying the pipeline for transportation of natural gas to be an industrial activity and not a commercial one as deemed by the lower authorities. So further use of the land is held to be industrial one.
13. Now, coming to the question of applicability of the rate of Stamp Duty in the present case. The Hon'ble Supreme Court in the case of Ambrish Tandon (supra) has categorically held that..."

*"It is also demonstrated that at the time of execution of the sale deed, the house in question was used for residential purpose and it is asserted that the stamp duty was paid based on the position and user of the building on the date of the purchase. The impugned order of the High Court*



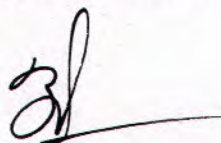


*shows that it was not seriously disputed about the nature and user of the building, namely, residential purpose on the date of the purchase. Merely because the property is being used for commercial purpose at the later point of time may not be a relevant criterion for assessing the value for the purpose of stamp duty. The nature of user is relatable to the date of purchase and it is relevant for the purpose of calculation of stamp duty."*

14. The Hon'ble Rajasthan High Court in S.B. Civil Writ Petition No. 392/2011 'State of Rajasthan V/s Rajasthan Tax Board and Others', judgment dated 09.01.2012 has held as under:-

*"The reasoning of the Rajasthan Tax Board is sterling. The market price of the land being transacted for the purposes of levy of stamp duty under the Act depends upon the nature and character of the land on the date of transaction. The potential use of the land is not a matter to be taken into consideration for determination of market value for the purposes of stamp duty. Even otherwise, from the facts on record it was apparent that the land apart from not being formally changed from agricultural to commercial or was situate in an area where there was no commercial activity at all. The Collector (Stamp) over-looking the aforesaid facts appears to have been burdened by the audit objections. The audit objections could not substitute the facts on record and the determination of valuation of the land transacted in accordance with the Act of 1998 and the rules made thereunder"*


15. In light of the above referred judgments and the material facts as mentioned in the foregoing paras, we arrive at a considered view that land use of the property in question, can in no way, be termed as 'Commercial', as determined by the lower authorities. Since the petitioner company purchased the agricultural land and on the day of registration of the sale deed it was being used as an agricultural one, the stamp duty would be applicable and payable as per the existing use that day. As held by the Hon'ble Apex Court as well the Hon'ble Rajasthan High Court, the market price of the land being transacted, for the purpose of levy of stamp duty under the Act, depends upon the nature and character of the land on the date of transaction. Therefore, in the fact and circumstances of the instant matter,





the transaction value as declared at the time of registration and accepted by the Sub-Registrar, was just and proper and there was no occasion to invoke proceeding under section 51 of the Act. The Collector (Stamps) has not disposed off the matter in a true spirit as the judicial pronouncements though clearly weighing against the proposed action, were overlooked and perhaps the audit objection remained paramount to his thought process.

16. One baffling aspect worth mentioning here is that despite numerous judicial pronouncements by the Hon'ble Supreme Court as well as the Hon'ble Rajasthan High Court and well followed by the Tax Board in many cases, the authorities below repeatedly and unabashedly keep on imposing the higher stamp duty on purported future use of the land, in utter disregard to the judgments of the Hon'ble Apex Court as well as the Hon'ble High Court.
17. In light of the discussion as mentioned in the foregoing paras, the impugned orders of the Collector (Stamps) are set aside and the revision petitions are allowed.
18. Order pronounced.



(Omkar Singh Ashiya)  
Member



(K. L. Jain)  
Member