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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8028 OF 2006

Tata Consultancy Services Limited, a company duly registered under the Companies Act 1 of 1956, and having its corporate office at 11th Floor, Air India Building, Nariman Point, Mumbai – 400 021 ... **Petitioner**

Vs.

1. **The Chief Controlling Revenue Authority**, Maharashtra State, and having its office at Ground Floor, New Administrative Building, Near Vidhan Bhavan, Pune 411 001
2. **State of Maharashtra**, having their office at P.W.D. Building, High Court, Mumbai ... **Respondents**

WITH
WRIT PETITION NO.8042 OF 2006

Tata Consultancy Services Limited, a company duly registered under the Companies Act 1 of 1956, and having its corporate office at 11th Floor, Air India Building, Nariman Point, Mumbai – 400 021 ... **Petitioner**

Vs.

1. **The Chief Controlling Revenue Authority**, Maharashtra State, and having its office at Ground

Floor, New Administrative Building,
Near Vidhan Bhavan, Pune 411 001

2. **The Superintendent of Stamps**,
Mumbai Stamp Office, Town Hall,
Shahid Bhagat Singh Road,
Mumbai 400 001 … **Respondents**

Ms. Fereshte Sethna with Mr. Tarang Saraogi, and Ms. Sushmita Chauhan i/by DMD Advocates for the petitioner.

Mr. H.D. Mulla, AGP for the respondents-State in WP/8028/2006.

Smt. S.A. Prabhune, AGP for the respondents-State in WP/8042/2006.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 11, 2026.

PRONOUNCED ON : MARCH 13, 2026

JUDGMENT:

1. Since both the writ petitions involve substantially the same questions of law, as well as facts, they are being disposed of by this common judgment. For the sake of convenience and clarity, the facts as stated by petitioner arising in Writ Petition No.8042 of 2006 are taken as the lead case for consideration.

2. By the present writ petitions filed under Articles 226 and 227 of the Constitution of India, the petitioner has called in question the legality and correctness of the revisional order dated 16

September 2006 passed by respondent No.1 in exercise of powers under Section 53A of the Bombay Stamp Act, 1958. By the said order, respondent No.1 set aside the exemption to the extent of 90 and 75 percent of the stamp duty payable on the Deed of Assignment dated 15 January 2005 and 30 March 2004, which exemption had earlier been granted by respondent No.2 under Government Notification No. 2003/2093/CR-462/M-1 dated 29 December 2003 issued under Section 9(a) of the said Act. Consequent to the said revisional order, respondent No.2 issued a communication dated 3 October 2006 demanding payment of Rs.5,04,00,000/- towards alleged deficit stamp duty and confirmed demand of Rs.59,18,430/- made by chief Controlling revenue authority by order dated 15 September 2006.

3. The facts and circumstances giving rise to the present writ petitions may briefly be stated. The petitioners, and prior to April 2004 the Tata Consultancy Services Division of Tata Sons Limited, are engaged in the business of providing information technology services, development of computer software, computer consultancy services, and research related thereto. In order to expand the said business and to establish a new unit for carrying out the activity of computer software development and other information technology services, Tata Sons Limited purchased an immovable property situated at the corner of Hazarimal Somani Marg and Ravelin Street, Fort, Mumbai, bearing C.S. Nos. 1411 and 1412 of the Fort Division. The said property was purchased from M/s. Rallis India Limited for a total consideration of Rs.56 crore under a Deed of Assignment dated 15 January 2004. The deed itself records that

the assignment was being taken by Tata Sons Limited for the purpose of its Tata Consultancy Services Division which was engaged in providing consultancy services relating to information technology.

4. In exercise of powers under Section 9(a) of the Bombay Stamp Act, 1958, the Government of Maharashtra issued a notification bearing No. Mudrank 2003/2093/CR-462/M-1 dated 29 December 2003. By the said notification, remission to the extent of 90 percent of the stamp duty payable under the Act was made available in respect of instruments executed by Information Technology Units and Information Technology Enabled Service Units for the purpose of starting a new information technology unit. The notification further provided that such units must be certified as Information Technology Units by the Development Commissioner (Industries) or by any officer authorised by him for that purpose.

5. According to the petitioners, the Tata Consultancy Services Division constituted an Information Technology Unit or Information Technology Enabled Services Unit within the meaning of the said Government notification. The property in question was acquired under the Deed of Assignment dated 15 January 2004 for establishing a new Information Technology Unit of the said Division. The petitioners therefore claimed that they were entitled to remission of 90 percent of the stamp duty payable on the said instrument under the Government notification dated 29 December 2003. Consequently, the document was liable to be stamped only for an amount of Rs.56 lakh instead of the full stamp duty

calculated on the consideration of Rs.56 crore.

6. In support of their claim, the petitioners produced before the adjudicating authority a certificate dated 4 December 2001 issued by the Deputy General Manager, SECOM, certifying that Tata Consultancy Services, a division of Tata Sons Limited, bearing EOU No. NUM:APL:520:97/5188 dated 25 May 2001 issued by the office of the Development Commissioner, SEEPZ Special Economic Zone, Ministry of Industry and Commerce, Government of India, Andheri (East), Mumbai, was registered as an Information Technology Software Unit for software development. The petitioners also placed on record a certificate dated 13 January 2004 issued by the Development Commissioner (Industries) certifying that M/s. Rallis India Limited was a private sector Information Technology Park. Upon consideration of these documents, as well as the recitals contained in the Deed of Assignment, and being satisfied that the premises purchased by the petitioners were intended to be utilised for establishing a new Information Technology Unit, the adjudicating authority by order dated 14 January 2004 determined the stamp duty payable on the instrument at Rs.56 lakh and granted remission of 90 percent in terms of the Government notification dated 29 December 2003. The said instrument thereafter came to be registered under the provisions of the Indian Registration Act on 15 January 2004.

7. The petitioners further submitted to the stamp duty authorities a certificate dated 17 January 2004 issued by the Joint Director of Industries, Government of Maharashtra. By the said certificate it was confirmed that Tata Consultancy Services, a

division of Tata Sons Limited, had been issued a letter of intent for establishing its proposed Information Technology Software Unit for production and export of software at the said property which had been assigned in its favour.

8. It is the case of the petitioners that the premises in question were acquired specifically for the purposes of the business of the said division and for establishing a new Information Technology Unit, and that steps were being taken for setting up the said unit. Subsequently, with effect from 1 April 2004, the entire business of the Tata Consultancy Services Division of Tata Sons Limited stood transferred to the petitioners herein pursuant to a scheme of arrangement sanctioned by this Court by order dated 9 May 2003, which was thereafter amended by order dated 6 April 2004.

9. Thereafter, the petitioners received a notice dated 3 April 2006 issued by respondent No.1 and addressed to Tata Sons Limited, purporting to exercise revisional powers under Section 53A of the Bombay Stamp Act, 1958. In the said notice it was alleged that, on the basis of information available with the office of respondent No.1, it appeared that proper stamp duty had not been paid on the instrument in question. It was further stated that upon revision of the matter it was found that the stamp duty actually payable on the document was Rs.56 crore having regard to the valuation of the property, whereas stamp duty of only Rs.56 lakh had been paid. According to the said notice, there was therefore a deficit of Rs.5,04,00,000/- in payment of stamp duty.

10. Upon receipt of the said notice, the petitioners by their letter dated 17 April 2006 informed respondent No.1 that the notice had been received by them only on 10 April 2006, that is to say after the date fixed for hearing. As a result, they were unable to remain present on the scheduled date. The petitioners therefore requested that a fresh date of hearing be granted. Subsequently, another communication dated 25 May 2006 was issued by respondent No.1 reiterating the contents of the earlier notice and fixing the hearing on 5 June 2006 at 11.30 a.m. On the said date the representatives of the petitioners attended the office of respondent No.1 and sought time for submitting their response. The request was granted and the matter was adjourned to 19 June 2006.

11. By a letter dated 15 June 2006 addressed through their Advocates, the petitioners pointed out to respondent No.1 that the notice issued to them did not disclose the reasons or grounds on the basis of which it was alleged that there was any deficit in payment of stamp duty. It was further contended that the notice failed to specify the basis on which action for recovery of the alleged deficit stamp duty was proposed to be taken. The petitioners also brought to the notice of respondent No.1 that the stamp duty had been paid strictly in accordance with the adjudication order passed by the competent stamp authority. The letter also recorded that, on the request of the petitioners, the hearing had been adjourned to 19 June 2006. Thereafter respondent No.1 supplied to the petitioners a copy of the relevant extract of the Current Inspection Report prepared by the audit department of the Government of Maharashtra. In the said report

it was observed that remission had been granted without documentary evidence showing that the assignee intended to establish a new Information Technology Park at the property in question or without the certificate contemplated by the Government notification issued by the Development Commissioner. On that basis the audit report suggested that remission in stamp duty amounting to Rs.5,04,00,000/- had been granted incorrectly.

12. Thereafter, the petitioners received a further communication dated 23 June 2006 issued in the name of Tata Sons Limited by respondent No.1. The said communication stated that upon scrutiny of the instrument and the certificates placed on record it appeared that the remission granted in the adjudication proceedings was not in accordance with law and was liable to be revoked under the provisions of Section 53A of the Bombay Stamp Act, 1958. By the said communication the petitioners were called upon to appear for hearing on 3 July 2006 at 11.00 a.m. and to show cause as to why the remission of stamp duty granted by the Collector of Stamps, Mumbai in Adjudication Proceedings No. 9560 of 2003 in respect of the said document should not be revoked under Section 53A of the Act and as to why the alleged deficit stamp duty together with penalty should not be recovered.

13. At the hearing held on 31 July 2006, a representative of the petitioners appeared before respondent No.1 and advanced legal submissions in support of the case of the petitioners. The substance of these submissions was thereafter recorded by the petitioners in their communications dated 31 July 2006 and 9 August 2006 addressed to respondent No.1.

14. Thereafter, the petitioners received the impugned order dated 16 September 2006. By the said order respondent No.1 held that the instrument in question was insufficiently stamped to the extent of Rs.5,04,00,000/- and directed the petitioners to pay the said amount. While passing the said order respondent No.1 recorded the submissions advanced by the petitioners and observed that in order to be eligible for remission of stamp duty under the Government notification four conditions were required to be satisfied. These conditions were identified as follows. First, the unit must be located in a non-public sector Information Technology Park in Group A or Group B areas. Second, the unit must qualify as an Information Technology Unit or Information Technology Enabled Services Unit. Third, the purpose of the instrument must be to establish a new Information Technology Unit. Fourth, the remission was available only in respect of instruments executed during the period from 4 June 2003 to 31 March 2006.

15. Upon examining the material on record, respondent No.1 observed that out of the four criteria prescribed under the Government notification dated 29 December 2003, conditions (a), (b) and (d) stood satisfied at the time of adjudication by the lower authority. However, according to respondent No.1, condition (c) had not been fulfilled. It was held that the petitioners had failed to produce the necessary certificate from the Development Commissioner showing that a new Information Technology Unit was proposed to be established at the assigned premises at the time of execution of the Deed of Assignment on 15 January 2004.

Respondent No.1 further held that the instrument itself did not disclose a clear intention to establish a new Information Technology Unit.

16. Consequent upon the said order, respondent No.3 issued a demand dated 3 October 2006 calling upon the petitioners to pay the amount of Rs.5,04,00,000/- within ten days from the date of the said communication. It was further stated that in the event of failure to make payment within the stipulated period, coercive action would be initiated against the petitioners in accordance with law. Being aggrieved by the said revisional order as well as the consequential demand, the petitioners have approached this Court by filing the present writ petitions.

17. Ms. Fereshte Sethna, learned Advocate appearing for the petitioner submitted that respondent No.1 committed a patent error in holding that the Government Notification dated 29 December 2003 required a certificate from the Development Commissioner in respect of the proposed new unit at the time of execution of the instrument. According to the petitioner, the reference to an “IT Unit” in the explanation to the said notification refers to the existing IT Unit which acquires the property and not to the new unit proposed to be established by such IT Unit in the property so acquired. It was urged that this position becomes evident when the notification is read in comparison with other related notifications issued by the Government. It was submitted that wherever the intention of the Government was to refer to a “new unit”, the same has been expressly stated. For instance, in the notifications relating to Group C, D and D+ areas, exemption was

granted to “any person”, and the explanation in those notifications specifically referred to “New IT Unit or IT Enabled Services Unit” and further required certification of such new unit by the Development Commissioner. In contrast, the explanation in the notification dated 29 December 2003 merely refers to an “IT Unit or IT Enabled Services Unit” and does not refer to a “New IT Unit or New IT Enabled Services Unit”. It was further submitted that a new IT Unit intended to be set up in premises yet to be acquired cannot practically obtain registration from the Development Commissioner before acquisition of the premises itself. According to the petitioner, if such a requirement were to be read into the notification, it would render the scheme unworkable and incapable of implementation. Such interpretation would defeat the very purpose for which the notification granting remission of stamp duty was issued.

18. It was further submitted on behalf of the petitioners that, in the present case, apart from the specific recital contained in the Deed of Assignment itself, the petitioners had also obtained and produced before the Stamp Authorities a certificate dated 17 January 2004 issued by the Government of Maharashtra. By the said certificate, the proposed software unit of the petitioners at the assigned premises was acknowledged for the purpose of production and export of information technology software.

19. The learned counsel for the petitioners further contended that the respondents have misconstrued the Government order granting remission of stamp duty as well as its underlying purpose and intent. According to the petitioner, the object of the

Government order dated 29 December 2003 was to provide incentive and encouragement to the development of the information technology industry and to facilitate the establishment of new IT units in the State. With this objective in view, the Government granted remission in stamp duty in respect of instruments executed for acquisition of property intended to be used for establishing a new IT unit. It was submitted that the petitioners had purchased the property precisely for the purpose of establishing a new IT unit and had already initiated steps for setting up such unit at the premises in question. It was further contended that documentary evidence had been placed before the stamp authorities demonstrating that the property was being acquired for establishing a new IT industry. According to the petitioners, there had been substantial compliance with all the requirements stipulated in the Government order granting remission and the petitioners were therefore entitled to the benefit of such remission.

20. Without prejudice to the above submissions, the learned counsel further contended that the necessary certificates relating to the transferor being a non-public sector IT Park and the transferee being an IT Unit were already available before the adjudicating authority at the relevant time. It was submitted that merely because the certificate issued by the Development Commissioner (Industries) was produced two days later, the same would not disentitle the petitioners from claiming remission under the notification, so long as the conditions prescribed therein had been substantially complied with. It was also submitted that

respondent No.1 erred in observing that the instrument did not disclose any intention to establish a new unit in a non public sector IT Park situated in Group A or Group B areas. According to the petitioners, this observation is contrary to the record. The Deed of Assignment itself contains a recital indicating that the property was being acquired by the IT Unit for the purposes of its own division, which was engaged in information technology services, and therefore clearly reflects the intention to establish a new unit.

21. It was further submitted that it is not the case of the respondents that the petitioners obtained the benefit of concessional stamp duty and thereafter utilised the property for any purpose other than establishing a new IT unit. On the contrary, the property was acquired for the purpose of establishing such a unit and is being used accordingly. It was emphasised that there was no allegation of fraud, misrepresentation, or misuse of the concession granted under the notification. The learned counsel contended that respondent No.1 committed an error in holding that the revisional authority was not required to take into consideration subsequent developments. It was argued that the authorities cited by the petitioners clearly indicate that a revisional authority is required to consider all relevant material placed on record. According to the petitioner, respondent No.1 was therefore in error in rejecting the submissions made on behalf of the petitioners with regard to the scope of the revisional jurisdiction exercised under Section 53A of the Act.

22. Inviting attention to Clause 30 of the instrument, the learned counsel submitted that the said clause specifically records that the

assignee desired to obtain the assignment rights in the property from the assignor for the purposes of its division, namely Tata Consultancy Services, which was engaged in providing consultancy services relating to information technology. It was further stated in the said clause that the said division would utilise the property for its business activities.

23. It was further contended that when respondent No.1 exercised revisional powers under Section 53A of the Bombay Stamp Act, the scope of such revisional jurisdiction was not materially different from the powers exercised by any other revisional authority. According to the petitioner, the judicial precedents cited during the course of hearing, and as recorded in the communications dated 31 July 2006 and 9 August 2006 addressed by the petitioners, clearly establish that a revisional authority is required to take into consideration all documents available on record as on the date of hearing of the revision. It was submitted that by the time the revision came to be heard, the certificate issued by the Development Commissioner (Industries) was already placed on record. Consequently, all the conditions required to be fulfilled under the Government notification granting remission stood complied with. In these circumstances, it was urged that respondent No.1 ought to have held that the petitioners had satisfied the requirements of the Government order and that the revision was therefore liable to be rejected.

24. In support of the above submissions, the learned counsel for the petitioner relied upon the decisions of the Supreme Court in *State of Jharkhand and Others vs. Tata Cummins Limited and*

Another, (2006) 4 SCC 57; *Lloyd Electric and Engineering Limited vs. State of Himachal Pradesh and Others*, (2016) 1 SCC 560; *Union of India and Others vs. Indo Afghan Agencies Limited*, 1967 SCC OnLine SC 12; and *Century Spinning and Manufacturing Company Limited and Another vs. Ulhasnagar Municipal Council and Another*, (1970) 1 SCC 582. Reliance was also placed on the judgments of this Court in *Synechron Technologies Private Limited vs. Chief Controlling Revenue Authority and Others*, (2023) 1 HCC (Bom) 559 and *Nitor Infotech Private Limited vs. State of Maharashtra and Another*, Writ Petition No. 4234 of 2021 decided on 6 January 2026.

25. Per contra, Smt. S.A. Prabhune the learned Assistant Government Pleader appearing on behalf of the respondents submitted that the instrument in question does not contain any recital indicating the establishment of a new IT unit, nor does it disclose the location of such unit. It was further submitted that the certificate dated 13 January 2004 was issued to the assignor, namely M/s. Rallis India Limited, and not to the petitioner who is the purchaser of the property. According to the respondents, the petitioner has acquired the property from Rallis India Limited and therefore cannot rely upon a certificate issued in favour of the assignor. It was also pointed out that the instrument in question is dated 15 January 2004, whereas the certificate dated 17 January 2004 relied upon by the petitioner was issued subsequently by the Directorate of Industries, Government of Maharashtra, granting a Letter of Intent valid for three years for production and export of IT software. It was further submitted that the certificate itself

mentions the business address of the proposed new unit, while the office address mentioned therein is at Nariman Point, Mumbai.

26. The learned Assistant Government Pleader further submitted that the petitioner has challenged the office order dated 16 September 2006 passed under Section 53A of the Maharashtra Stamp Act. According to the respondents, the impugned order conclusively records that the Deed of Assignment dated 15 January 2004 was insufficiently stamped to the extent of Rs.5,04,00,000/- and that the petitioner is liable to pay the said deficit stamp duty together with statutory interest. It was submitted that the lower authority had erroneously granted remission of 90 percent stamp duty by relying upon the Government Resolution dated 29 December 2003, which, according to the respondents, was factually and legally unsustainable. These aspects have been elaborately discussed in the impugned order.

27. It was further submitted that the petitioner acquired the immovable property valued at Rs.56 crore under the Deed of Assignment dated 15 January 2004. However, stamp duty was paid only on Rs.5.6 crore by claiming remission of 90 percent under the Government Resolution dated 29 December 2003. The Sub Registrar registered the document on the same day and accepted stamp duty of Rs.56 lakh. During an audit conducted by the Accountant General, Nagpur, an objection was raised that remission had been granted without fulfillment of the mandatory documentary requirements. This audit objection is also referred to in the impugned order. According to the respondents, the Government Resolution dated 29 December 2003 provides

remission only if three essential conditions are satisfied. First, the instrument must relate to the establishment of a new Information Technology Unit. Second, the unit must be located in a non public sector IT Park. Third, the unit must be certified by the Development Commissioner (Industries) or by an authorised officer. According to the respondents, these conditions are mandatory and must exist prior to execution of the instrument.

28. The respondents further submitted that the documentary deficiencies recorded in the impugned order are substantial in nature. The Deed of Assignment itself does not contain any recital clearly indicating an intention to establish a new IT Unit, which is a mandatory requirement under the Government Resolution. The certificate dated 4 December 2001 issued by SICOM merely certifies the petitioner as an IT software unit and does not certify the establishment of a new unit or its location within an IT Park. Consequently, the said certificate is not relevant for the purpose of claiming remission. It was also submitted that the Letter of Intent dated 13 January 2004 was issued to Rallis India Limited and pertains only to IT Park infrastructure and therefore cannot be relied upon by the petitioner. The certificate dated 17 January 2004 relied upon by the petitioner was issued after execution of the Deed of Assignment dated 15 January 2004 and operates prospectively. According to the respondents, the said certificate cannot validate the transaction retrospectively for the purpose of claiming remission.

29. It was further submitted that under Section 17 of the Maharashtra Stamp Act an instrument is required to be duly

stamped at or before the time of its execution. In the present case, the certificates relied upon by the petitioner were not in existence at the time of execution of the instrument. Consequently, the remission granted by the lower authority was erroneous. According to the respondents, the deficit stamp duty amounting to Rs.5,04,00,000/- has, therefore. been correctly determined and is lawfully recoverable together with interest. On these grounds, the respondents prayed that the writ petition be dismissed.

REASONS AND ANALYSIS:

30. Two central legal questions arise for consideration in the present matter. The first question concerns the interpretation of the Government Notification dated 29 December 2003 issued under the Bombay Stamp Act. It is necessary to determine how this notification is to be applied. In particular, it must be examined whether the notification requires a certificate from the Development Commissioner certifying the proposed new Information Technology unit before or at the very moment when the instrument is executed. The second question relates to the scope of the revisional power exercised under Section 53A of the Bombay Stamp Act. These two questions lie at the centre of the controversy and therefore require careful examination.

31. To answer the first question, it becomes necessary to examine the text of the Government notification itself. The notification grants remission of stamp duty in favour of an “IT Unit” or an “IT Enabled Services Unit”. The explanation appended to the notification also employs the same expressions. It is

significant that the notification does not use the phrase "New IT Unit" in its operative part. The language used is specific. When one examines other companion notifications issued by the Government in relation to different geographical areas, it becomes apparent that those notifications expressly employ the phrase "New IT Unit" and further stipulate that such a unit must be certified by the Development Commissioner. This distinction indicates that wherever the Government intended to require certification of a new unit before granting the benefit, it clearly stated so in the notification itself. The absence of such language in the notification dated 29 December 2003 therefore assumes importance. A plain reading of the notification indicates that the expression "IT Unit" refers to an existing unit engaged in the field of information technology which proposes to acquire property for its activities. It does not necessarily mean that a separate new entity must already stand certified before the acquisition of the property.

32. The interpretation of the notification must also be guided by the object which the Government intended to achieve. The Government intended to create an environment in which IT companies could expand their operations and establish new facilities. Remission of stamp duty was therefore offered as an incentive. If the notification were interpreted to mean that certification of a new unit must necessarily be obtained before the acquisition of the property itself, the scheme would become impractical. The Court must therefore avoid reading the notification in a manner which makes compliance impossible or defeats the object of the policy.

33. Turning to the facts of the present case, the Deed of Assignment itself contains a clear recital explaining the purpose of the acquisition. The deed records that the property was being acquired for the Tata Consultancy Services division, which was engaged in providing services in the field of information technology. The document thus records the intention of the acquiring entity in clear terms. Such recitals in a document form an important part of the evidence available on record. They demonstrate the purpose for which the transaction was undertaken. In addition to the recital contained in the instrument, the petitioner also produced a certificate dated 17 January 2004 issued by the Joint Director of Industries of the Government of Maharashtra. By this certificate the authorities acknowledged the petitioner's proposal to establish a software unit at the premises in question and issued a Letter of Intent for production and export of information technology software. Although the certificate was issued two days after the execution of the deed, it confirms the purpose which was already recorded in the instrument itself.

34. The respondents, however, rely upon Section 17 of the Stamp Act. That provision requires that instruments chargeable with duty must be duly stamped at or before the time of execution. Based on this provision, the respondents argue that any certificate required by the notification must exist prior to the execution of the instrument itself. The argument cannot be dismissed entirely, because Section 17 does emphasise the importance of stamping at the stage of execution. However, the requirement contained in Section 17 cannot be read in isolation. It must be read together

with the special scheme created by the notification granting remission. The question therefore is whether the notification requires strict compliance in the sense that certification must necessarily precede execution, or whether the benefit can still be granted where the essential conditions are satisfied and the certificate is produced within a reasonable time after execution. This question has to be answered by examining the purpose of the notification and the surrounding circumstances of the transaction.

35. In the present case, the revisional authority concluded that the remission was wrongly granted because the certificate from the Development Commissioner was not available on the date of execution. The authority further held that the instrument did not disclose any intention to establish a new IT unit. On this basis the earlier adjudication granting remission was set aside. After examining the record, I find that both these conclusions cannot be sustained.

36. The first aspect concerns the recital contained in the deed itself. Clause 30 and the relevant recitals in the instrument clearly state that the assignee acquired the property for the purposes of the Tata Consultancy Services division which was engaged in providing services relating to information technology. The intention behind the acquisition is recorded in the document itself. When a written instrument contains a clear statement of the purpose of the transaction, it cannot be ignored by the authority while examining the question of remission. The observation made by the revisional authority that the instrument does not disclose the intention to establish a new unit is inconsistent with the

material available on record.

37. The second aspect concerns the certificate dated 17 January 2004. The respondents seek to treat this certificate as irrelevant merely because it was issued two days after the execution of the instrument. Such a approach is not justified in the facts of the present case. The record shows that the adjudicating authority had before it the relevant material while determining the stamp duty payable on the instrument. The remission was granted after the authorities examined the documents produced by the petitioner. The Sub Registrar also recorded the endorsement before registering the document. It further appears that an audit note prepared by the office of the Accountant General had been placed before the registering authority. Thus, the process of adjudication took place in the presence of the relevant documents.

38. Another significant factor in the present case is the absence of any allegation of fraud or misrepresentation. The respondents have not alleged that the petitioner misled the authorities or concealed any material fact while obtaining remission. There is no suggestion that the petitioner acquired the property by taking advantage of the concessional stamp duty and thereafter diverted the property for some unrelated use. On the contrary, the material on record indicates that the premises were acquired for the purpose of establishing the IT unit and that the petitioner proceeded to utilise the property for that purpose.

39. It was also argued on behalf of the respondents that the certificate dated 13 January 2004 was issued in the name of the

assignor, namely M/s. Rallis India Limited, and not in the name of the petitioner who ultimately purchased the property. According to the respondents, the petitioner therefore cannot rely upon that certificate for claiming the benefit of remission. I am unable to accept this submission for more than one reason.

40. In the first place, the certificate dated 13 January 2004 was issued by the competent authority certifying that M/s. Rallis India Limited was a private sector Information Technology Park. The purpose of this certificate was to establish the character of the property and the premises where the transaction was taking place. The notification granting remission requires that the IT unit should be located in a non public sector IT Park in Group A or Group B areas. The certificate issued to the assignor therefore relates to the nature of the property and the status of the IT Park in which the premises are situated. That fact does not change merely because the ownership of the premises has been transferred from the assignor to the assignee.

41. Secondly, the transaction in question is a deed of assignment whereby the property situated in an existing IT Park was transferred to the petitioner. When a certificate is issued by the competent authority recognising a particular area or establishment as a private IT Park, the certification attaches to the property and the project itself. It cannot be said that the certification becomes irrelevant merely because the property is transferred to another entity.

42. Thirdly, the record shows that the petitioner had separately produced documents to establish that it is itself an IT unit engaged in the business of software development and information technology services. Therefore, two distinct aspects stand satisfied. One concerns the nature of the property, which is located in a private sector IT Park. The other concerns the status of the petitioner as an IT unit. The certificate issued to the assignor addresses the first aspect, while the documents produced by the petitioner address the second.

43. It must also be noted that the respondents have not disputed that the premises in question are located in a private IT Park. The only objection raised is that the certificate was issued in the name of the assignor. In my view, the certificate establishes the nature and location of the property. For this reason, the certificate dated 13 January 2004 cannot be disregarded merely because it was issued in the name of the assignor.

44. The decisions relied upon by the petitioner also support this approach. In the case of *Synechron Technologies Private Limited*, the Court held that where a certificate granting remission exists and has been considered by the registering authority at the time of registration, the benefit of remission cannot subsequently be denied unless the certificate itself is revoked or found to be invalid. Similarly, in *Nitor Infotech Private Limited*, the Court recognised that the policy governing IT and ITES units is intended to encourage both the establishment of new units and the expansion of existing units in private IT parks and Special Economic Zones.

45. The respondents have relied upon general principles which emphasise that instruments must be duly stamped at the time of execution and that statutory requirements must be strictly followed. These principles are well established. However, their application depends upon the facts of each case. In the present case, however, the certificate issued by the Government of Maharashtra is genuine and its existence is not disputed. The adjudicating authority had granted remission after considering the documents produced by the petitioner. The audit objection subsequently raised by the Accountant General does not automatically invalidate the adjudication order. In the present case, the revisional authority did not demonstrate that the certificate was invalid or that the petitioner had acted dishonestly.

46. The respondents also argued that the certificate dated 17 January 2004 operates only prospectively and cannot cure any alleged defect in the transaction which occurred on 15 January 2004. This argument would have merit if the instrument itself contained no indication of the purpose of the acquisition. However, the deed of assignment clearly records the intention of the assignee to use the property for the activities of its IT division. The subsequent certificate issued by the Government merely confirms the intention which was already stated in the instrument. In such circumstances, it would be unjust to deny the benefit of remission solely on the basis of a strict chronological sequence of dates.

47. For these reasons, the order dated 16 September 2006 passed by the revisional authority cannot be sustained in law. The consequential demand dated 3 October 2006 issued for recovery of

Rs.5,04,00,000/- is, therefore, set aside.

48. The respondents shall withdraw the demand and refrain from taking any coercive steps for its recovery. The stamp authorities shall treat the remission granted under the notification dated 29 December 2003 as valid in the circumstances of the present case. No order as to costs.

49. In view of the discussion and reasons recorded in the foregoing paragraphs, both the writ petitions deserve to be allowed.

(i) The revisional order dated 16 September 2006 passed by respondent No.1 in exercise of powers under Section 53A of the Bombay Stamp Act, 1958 is quashed and set aside.

(ii) Consequently, the communication dated 3 October 2006 issued by respondent No.2 demanding payment of Rs.5,04,00,000/- towards alleged deficit stamp duty in Writ Petition No.8042 of 2006 is quashed and set aside.

(iii) The order dated 15 September 2006 passed by the Chief Controlling Revenue Authority making the demand of Rs.59,18,430/-, which is the subject matter of challenge in Writ Petition No.8028 of 2006, is also quashed and set aside.

(iv) It is declared that the petitioner was entitled to the remission of stamp duty granted under Government Notification No.2003/2093/CR-462/M-1 dated 29 December 2003 issued under Section 9(a) of the Bombay Stamp Act, 1958 in respect of the instruments in question.

(v) The respondents are directed to refund to the petitioner the amounts recovered pursuant to the aforesaid impugned orders, namely Rs.5,04,00,000/- in Writ Petition No.8042 of 2006 and Rs.59,18,430/- in Writ Petition No.8028 of 2006.

(vi) The said amounts shall be refunded to the petitioner together with interest at the rate of 8 percent per annum, as directed in the order of admission dated 8 December 2006, calculated from the date of recovery till the date of actual refund.

(vii) The aforesaid exercise shall be completed by the respondents within a period of twelve weeks from the date of this judgment.

50. Both the writ petitions are accordingly allowed in the above terms. No order as to costs.

(AMIT BORKAR, J.)