IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1958 OF 2026

Universal Speciality Chemicals Private Limited,
A company registered under the
Companies Act, 1956, now deemed
to be registered under the Companies
Act, 2013, having its registered office at
502-A, Bezola Complex, Sion Trombay
Road, Chembur, Mumbai – 400 071. ... Petitioner

versus

1. State of Maharashtra,
through the Inspector General of
Registration & Controller of Stamps,
having its office at, Ground Floor,
Opposite Vidhan Bhavan,
(Council Hall), New Administrative
Building, Pune 411 001.

2. Joint District Registrar and Stamp
Collector, Raigad – Alibaug,
Charai MTNL Building,
7th floor, Mavali Mandal Road,
Charai, Thane – 1. … Respondents

Mr. Karl Tamboly with Ms. Anuja Jhunjhunwala, Ms. Shraddha Nagaonkar i/by M Mulla Associates, for Petitioner.
Smt. M.S.Srivastava, AGP for Respondents.

CORAM: N.J.JAMADAR, J.

RESERVED ON : 10 AUGUST 2026
PRONOUNCED ON : 13 OCTOBER 2026

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the

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learned Counsel for the parties, heard finally.

2. This Petition under Articles 226 and 227 of the Constitution of India, assails the orders passed by the Joint District Registrar and Collector of Stamps (R2), whereby the Respondent No.2 has determined the stamp duty on the sale certificate at the market value of the non-agricultural land bearing Survey No.31, Village Lohop, Taluka Khalapur, Dist. Raigad, (the subject property) instead of the consideration paid by the Petitioner at the auction sale in the recovery proceedings before the Debt Recovery Tribunal (DRT), Mumbai.

3. The Petition arises in the backdrop of the following facts :

3.1 The Petitioner is a private limited company registered under the Companies Act, 2013. The subject property was the secured asset of the SBI, the secured creditor. The latter had initiated measures under the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (the RDB Act, 1993). Eventually, in recovery proceeding No.41 of 2011, the subject property was put for sale. In the e-auction held on 16 November 2022, in execution of Recovery Certificate No.41 of 2011, the Petitioner was the successful bidder. The Petitioner, thus, acquired the subject property for a consideration of Rs.8,04,10,000/-, though the independent valuation report assessed the fair market value of the subject property at Rs.7,94,10,000/-. Accordingly, the sale certificate (Exh.B) came to be issued in favour of the Petitioner.

3.2 On 12 December 2024, the Petitioner submitted the sale certificate to Respondent No.2 for adjudication of the stamp duty. On 1 January 2025, Respondent No.2 issued a notice assessing the market value of the subject property at Rs.21,74,00,850/- and demanded a duty of Rs.1,08,70,100/-. The Petitioner raised objections to the demand contending, inter alia, that the stamp duty ought to have been levied on the consideration paid in the auction sale.

3.3 Vide the second notice dated 29 May 2025, Respondent No.2 assessed the market value of the subject property at Rs.17,94,96,525/- on the basis of Annual Statement of Rates (ASR). Eventually, without providing an effective opportunity of hearing, the Petitioner claims, Respondent No.2 informed the Petitioner that the assessment of stamp duty was final. The Petitioner was, therefore, constrained to invoke the appellate remedy before the Inspector General of Registration. However, the Appellate Authority declined to register the appeal on the ground that no final order was passed by the Respondent No.2. Thus, the Petitioner deposited an amount of Rs.89,74,900/- towards the stamp duty strictly under protest.

3.4 Upon deposit of the stamp duty, Respondent No.2, by a communication dated 19 September 2025, disposed the adjudication proceeding incorrectly observing that, the Petitioner had accepted the adjudication of the stamp duty and paid the amount towards the stamp duty on the basis of the market value

computed as per ASR. The Petitioner has invoked the writ jurisdiction of this Court asserting that the adjudication of stamp duty was illegal, arbitrary and in violation of the settled position in law. Since the DRT had followed a transparent mechanism to ascertain the market value of the subject property and sold the same by way of an e-auction, the price so discovered represented the market value of the subject property for the purpose of determination of the stamp duty.

4. The Respondents have opposed the prayers in the Petition by filing an affidavit in reply. In view of the availability of an express statutory remedy of appeal under Sections 32B and 53(1A) of the Maharashtra Stamp Act, 1958, the Respondents have assailed the very tenability of the Petition. The Respondents have also contended that the sale of the subject property in an e-auction conducted by the DRT does not fall within the ambit of Rule 4(6) of the Maharashtra Stamp ((Determination of True Market Value of Property) Rules, 1995. It has been forcefully contended that, in conformity with the Circular dated 15 December 2021 issued by the Inspector General of Registration and Controller of Stamps, the stamp duty has been correctly determined on the market value of the property. Therefore, the determination of the market value and adjudication of the stamp duty of Rs.89,74,900/- thereon, cannot be faulted at.

5. I have heard Mr. Karl Tamboly, learned Counsel for the Petitioner and

Smt. S.K.Srivastava, learned AGP for the Respondents – State, at some legnth.

6. Mr. Tamboly, learned Counsel for the Petitioner submitted that, the challenge to the entertainability of the Petition on the ground of the availability of an alternate statutory remedy is not sustainable in the peculiar facts of the case at hand. In view of the legal position that has crystallized, this Court can legitimately exercise its writ jurisdiction as no investigation into the disputed questions of fact is warranted. In a sense, Respondent No.2 has refused to exercise jurisdiction in accordance with law.

7. On the merits of the matter, Mr. Tamboly would urge, the material on record indicated that the DRT had followed the prescribed procedure for sale of the subject property. The valuation report was obtained. E-auction sale was conducted in an utmost transparent manner. The consideration paid by the Petitioner, as a successful bidder, was more than the realizable value. If these facts are appraised, in the light of the consistent and settled law that, where a property is sold in a court-monitored auction, the stamp duty is to be determined on the basis of price discovered in such auction sale, the impugned action of the Respondent No.2 becomes plainly unsustainable, submitted Mr. Tamboly. Reliance was placed by Mr. Tamboly on a decision of this Court in the case of **Shweta Aditya Malhotra V/s. Collector of Stamps,**

Andheri Division[1].

8. In contrast to this, Ms. Srivastava, learned AGP would submit that, the adjudication of the duty was in consonance with Rule 4(6) of the Rules, 1995 and the circular dated 15 December 2011 issued by the Inspector General of Registration and Controller of Stamps. Since the impugned actions are in conformity with the statutory provisions, this Court in exercise of its extra ordinary writ jurisdiction need not entertain the Petition, especially when the Petitioner has a statutory remedy of appeal under Section 32B of the Act, 1958. An endeavour was made by Ms. Srivastava, learned AGP, to drive home the point that it cannot be laid down as an absolute proposition of law that in every case of an auction sale, there is discovery of the market value of the property.

9. To begin with, it is necessary to note that the availability of an alternative efficacious remedy is a self-imposed restraint on the exercise of writ jurisdiction. In case of availability of statutory remedy of appeal against the order impugned in a writ petition, ordinarily the aggrieved party must be relegated to exhaust that statutory remedy. However, this rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion rather than a "rule of law". (**Radha Krishnan Industries V/s. State of Himachal Pradesh**[2])

1 2026 SCC Online Bom 301
2 (2021) 6 SCC 771

10. In cases where the issue that warrants determination in a writ petition involves a pure question of law and does not warrant investigation into facts, the High Court may justifiably entertain the writ petition, despite the Petitioner not having exhausted the statutory remedy. A useful reference in this context can be made to a decision of the Supreme Court in the case of **Godrej Sara Lee Ltd. V/s. Excise and Taxation Officer – cum Assessing Authority**[3], wherein, while illuminatingly postulating the distinction between the maintainability and entertainability of a Petition, the Supreme Court exposited the law, as under :

> "8. That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of Uttar Pradesh V/s. Indian Hume Pipe Co. Ltd.); (2000) 10 SCC 482 (Union of India V/s. State of Haryana). What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the high court could entertain a writ petition in its discretion even though the alternative remedy was not availed of; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this Court found the issue raised by the appellant to be pristinely legal requiring determination by the high court without putting the appellant through the mill of statutory appeals in the hierarchy. What follows from the said decisions is that where the controversy is a purely legal one and it does

3 2023 SCC Online SC 95

> not involve disputed questions of fact but only questions of law, then it should be decided by the high court instead of dismissing the writ petition on the ground of an alternative remedy being available." (emphasis supplied)

11. On the aforesaid touchstone, reverting to the facts of the case at hand, the pivotal issue that arises for consideration is whether the Respondent No.2 has correctly applied the law in the matter of adjudication of the stamp duty, where the property is sold in a Court monitored auction-sale. Was the Respondent No.2 justified in adjudicating the stamp duty on the market value of the subject property or was Respondent No.2 enjoined to adjudicate the stamp duty on the consideration for which the subject property was sold in e-auction sale by the DRT, is the moot question.

12. For the determination of this question, in the backdrop of rather uncontroverted facts, an investigation into facts is not warranted, and the controversy can be resolved by applying the well settled principles of law. Therefore, this Court is inclined to entertain and decide the Petition despite the availability of a statutory remedy of appeal.

13. In the case of **Shweta Aditya Malhotra (supra),** this Court had considered the precise question that arises for consideration in this case. After adverting to the provisions contained in Article 16 of Schedule I appended to the Stamp Act, 1958; the Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995, framed in exercise of the powers

conferred by Sections 69 and 32A of the Stamp Act, 1958, and the Circular issued by the Chief Controlling Revenue Authority dated 15 December 2021, on which reliance has been placed by the Respondents in this case also, to justify the impugned order, this Court had observed as under :

> "25. Can a situation be countenanced, even where the Court or Tribunal sells the property, in accordance with the provisions governing the sale of the property and in a transparent manner with a view to achieve the optimum price, the stamp-duty on the sale certificate be determined by the Collector of Stamps, *de hors* the consideration at which the sale takes effect? If a property is sold in a Court auction, after following a rigorous process aimed at discovery of the optimum price, such price, in effect, represents the price of the property at which a willing buyer was prepared to purchase the subject property, with all its advantages and disadvantages, in a competitive bidding. Secondly, such a sale has the imprimatur of the Court. An order of acceptance of the bid implies that, in the given situation, the bid at which the property was sold, in the view of the Court, represented the true market value of the property. In such circumstances, can the Collector of Stamps be permitted to sit in judgment over the value of the property at which the sale takes effect, is the moot question.
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> 26. In a series of judgments, *albeit* in different facts-situations, the aforesaid question has been consistently answered in the negative. In the case of ***Registrar of Assurance and another vs. ASL Vyapar Private Ltd. and***

another[4], in the context of the provisions contained in Section 47A of the Indian Stamp (West Bengal Amendment) Act, 1919, which contains provisions for determination of the market value of the property, the Supreme Court enunciated that the said provisions cannot be said to have any application to a public auction carried out through Court process/Receiver as that is the most transparent manner of obtaining the correct market value of the property. The observations of the Supreme Court in paragraphs 24 to 26 are material and hence extracted below :

"24. On the conspectus of the matter, we have not the slightest hesitation in upholding the view that the provision of Section 47A of the Act cannot be said to have any application to a public auction carried out through court process/receiver as that is the most transparent manner of obtaining the correct market value of the property.

25. It is no doubt true that in a court auction, the price obtainable may be slightly less as any bidder has to take care of a scenario where the auction may be challenged which could result in passage of time in obtaining perfection of title, with also the possibility of it being overturned. But then that is a price obtainable as a result of the process by which the property has to be disposed of. We cannot lose sight of the very objective of the introduction of the Section whether under the West Bengal Amendment Act or in any other State, i.e., that in case of under valuation of property, an aspect not uncommon in our country, where consideration may be passing through two modes – one the declared price and the other undeclared component, the State should not be deprived

4 2022 SCC OnLine SC 1554.

of the revenue. Such transactions do not reflect the correct price in the document as something more has been paid through a different method. The objective is to take care of such a scenario so that the State revenue is not affected and the price actually obtainable in a free market should be capable of being stamped. If one may say, it is, in fact, a reflection on the manner in which the transfer of an immovable property takes place as the price obtainable in a transparent manner would be different. An auction of a property is possibly one of the most transparent methods by which the property can be sold. Thus, to say that even in a court monitored auction, the Registering Authority would have a say on what is the market price, would amount to the Registering Authority sitting in appeal over the decision of the Court permitting sale at a particular price.

26. It is not as if a public auction is carried out just like that. The necessary pre-requisites require fixation of a minimum price and other aspects to be taken care of so that the bidding process is transparent. Even after the bidding process is completed the court has a right to cancel the bid and such bids are subject to confirmation by the court. Once the court is satisfied that the bid price is the appropriate price on the basis of the material before it and gives its imprimatur to it, any interference by the Registering Authority on the aspect of price of transaction would be wholly unjustified."

(Italicized portion - emphasis in original)

27. The Supreme Court has, thus, in terms held that to concede the power to Registering Authority, even in a court monitored auction, to say what is the market price, would

amount to the Registering Authority sitting in appeal over the decision of the Court permitting sale at a particular price.

(emphasis supplied)

28. Following the aforesaid pronouncement, in the case of ***Collector of Stamps, Mumbai City, Government of Maharashtra vs. Pinak Bharat & Company and others***[5], the Division Bench of this Court held that due deference and sanctity has to be attached to a Court monitored auction as such an auction of a property is possibly one of the most transparent methods by which the property can be sold. In the facts of the said case, it was held, it would not be permissible for the Registering Authority to sit in appeal over the price fixed by the court. Such a course in no manner has the effect of making the powers of the Registering Authority under the Act or the Rules redundant as, in all other cases, the authority can always determine the market value in accordance with the provisions of the Act and the Rules.

29. In the case of ***Spectrum Constructions and Developers LLP vs. State of Maharashtra, through Joint District Registrar***[6]**,** the question arose in the context of sale of the property in an auction which was accepted by Justice Lodha Committee, which was appointed by the Supreme Court for disposal of the property of a defaulting company. In that context, the Division Bench held that there was no question of the Stamp Authorities determining any other value as the market value of the property. The only value to be accepted was the bid amount accepted by the Committee.

5 2025 SCC OnLine Bom 656.

6 2022 SCC OnLine Bom 3693.

> 30. In the case of ***Dr. Prince John Edavazhikai vs. Collector of Stamps and Joint District Registrar and others***[7], the sale by public auction conducted by Bank of India, the secured creditor. When the Authorities under the Stamp Act, 1958 disputed the consideration being the true market value of the property, a Division Bench of this Court repelled the objection on two counts. First, Bank of India being a Government undertaking, the sale was covered by the first proviso to Rule 4(6). Second, the sale of the property in a SARFAESI auction is one of the most transparent methods by which the property can be sold. It was, *inter alia,* observed that, in fact, the SARFAESI Act, 2002 puts strict rules into place on price discovery and ensures that the secured creditor follows those rules scrupulously. In such a scenario, without anything more being brought on record, it can hardly be contended that the declared price in the sale certificate issued under the provisions of SARFAESI Act, 2002 is not the correct market value. Support was sought to be drawn from the decision of the Supreme Court in the case of ***ASL Vyapar*** (supra)." (emphasis supplied)

14. The aforesaid being the position in law; which has been consistently followed, I find it rather difficult to accede to the submission of the learned AGP that the price discovered in the auction sale conducted by the DRT did not represent the true market value of the subject property. As it emerges from the record, the DRT had followed a transparent process. The sale was

7 2025 SCC OnLine Bom 3872.

conducted under an e-auction process. It was not a private sale. There was adequate notice of the e-auction for prospective bidders. A valuation report was obtained. This Court also finds that the proclamation of sale was issued by the DRT on 7 October 2022. The subject property was sold on an “As is where is basis” and “As is what is basis”. Reserve price was fixed at Rs.7,94,10,000/-.

15. Moreover, the valuation report indicates that the valuer had assessed the fair market value at Rs.7,94,10,000/- only. In the opinion of the valuer, the realizable value was Rs.7,14,69,000/- only. The Petitioner’s successful bid was Rs.8,04,10,000/-. Thus, it would be impermissible to contend that, despite such a transparent auction sale through online electronic mode, the price fetched therein did not represent the market value of the subject property and the authorities could still determine the market value in accordance with the provisions contained in Rule 4(6) of the Rules, 1995.

16. The conspectus of the aforesaid consideration is that, the procedure of sale adopted by the DRT to sell the subject property was conducive to the discovery of the fair market value of the property. Therefore, the impugned order determining the stamp duty on the sale certificate on the basis of the market value as per ASR and not on the basis of the consideration, for which the subject property was purchased by the Petitioner, cannot be legally sustained. The Writ Petition, therefore, deserves to be allowed.

17. Hence, the following order :

ORDER

(i) The Writ Petition stands allowed.

(ii) The impugned demand notice dated 24 June 2025 , the order dated 14 July 2025 adjudicating the stamp duty and the consequential order dated 19 September 2025 stand quashed and set aside.

(iii) Respondent No.2 is directed to adjudicate the stamp duty on the Sale Certificate on the basis of the sale consideration of Rs.8,04,10,000/- within a period of four weeks from the date of communication of this order.

(iv) After the adjudication of the stamp duty on the aforesaid sale consideration, the Respondent No.2 shall refund the excess amount of stamp duty, paid by the Petitioner under protest, within a period of four weeks thereafter.

(iv) Rule made absolute in the aforesaid terms.

(v) No costs.

(N.J.JAMADAR, J.)