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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on: 10.09.2026*
Judgment pronounced on: 19.11.2026
Judgment uploaded on: 19.11.2026

CNR No. DLHC010429712026

\+ **W.P.(C) 13257/2026 & & CM APPL. 61638/2026**

AM MINING INDIA PRIVATE LIMITED .....Petitioner

Through: Mr. Ashim Sood, Ms. Anannya Ghosh, Ms. Doel Bose, Mr. Karan Singh, Ms. Amani Ahuja, Mr. Srijesh Kumar Singh, Mr. Randhir Kumar, Ms.Chelchi Chahar and Ms. Seenu Nizar, Advocates

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Dhananjaya Mishra, Mr. Navneet Dogra, Mr. Bhargav Verma and Ms. M. Drushika Reddy, Advs. for R-1.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J.

1. By way of the present writ petition filed under Article 226 of the Constitution of India, the petitioner seeks the following reliefs:

> "a. quash the Order dated 02.07.2026 passed by Respondent No. 1 imposing a penalty of INR 50 Lakhs upon the Petitioner for a delay

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18:00:29

of four (4) days in approaching the authorities under the Stamp Act;

b. Direct that the stamp duty of Rs. 89,97,218 already paid by the Petitioner on 23.04.2026 be treated as full and final discharge of the Petitioner's liability towards principal stamp duty, and be duly given credit for/adjusted against any demand that may be found payable;

c. Award costs of the present proceedings in favour of the Petitioner and against the Respondents; and

d. Issue any other appropriate writ, order or direction as the nature and circumstances of the case may require that this Hon'ble Court may deem fit."

2. Briefly stated, the facts of the case are that the petitioner company had passed a board resolution on 03.05.2023 for the issuance of 21,22,00,000 Class A Compulsory Convertible Preference Shares (CCPS) of face value of ₹10/- per share at a premium of ₹32.40/- per share, aggregating to ₹ 899,72,80,000/-, in favour of ArcelorMittal Nippon Steel India Limited. On 04.05.2023, the petitioner filed its Form PAS-3 with the Ministry of Corporate Affairs to report the said allotment. Pursuant thereto, the petitioner, on its own, filed an application on 05.06.2023 under Section 31(1) read with Section 32(3)(a) of the Indian Stamp Act, 1899 [hereafter '**Stamp Act**'] before the Collector of Stamps at Delhi, i.e. respondent no. 1, seeking adjudication of the stamp duty payable thereon. Since the statutory period for doing so had expired on 02.06.2023, there was a delay of four days in filing the said application.

3. Respondent no. 1, after conducting multiple hearings, passed an order dated 17.03.2026 imposing a penalty of ₹50,00,000/- upon the petitioner under Section 40(1)(b) of the Stamp Act, wherein it was observed as under:

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18:00:29

> "After considering the period of delay of 04 days and time value for money, a penalty of Rs.50,00,000/- is imposed as per Section 40(1)(b) of the Indian Stamp Act, 1899"

4. Aggrieved thereby, the petitioner had approached this Court by way of W.P.(C) 4172/2026. *Vide* order dated 01.04.2026, this Court had set aside the order dated 17.03.2026 and granted an additional opportunity to the petitioner to satisfy respondent no. 1 that the penalty was not warranted, subject to the petitioner depositing the admitted principal stamp duty of ₹89,97,218/- within a period of 15 days. Pursuant thereto, the petitioner deposited the said amount on 23.04.2026. The relevant portion of the order dated 01.04.2026 reads as under:

> "5. A perusal of the impugned order, though, contains brief reasons. However, it does not seem to explain the overall facts and circumstances as to why the imposition of the penalty to the tune of Rs. 50,00,000/- (Rupees Fifty Lakh only) is the only option. The concerned authority, however, submits that despite various opportunities, the petitioner did not appear. This position is disputed by the petitioner.
>
> 6. Having considered the overall facts and circumstances, the Court finds that an additional opportunity can be granted to the petitioner to satisfy the concerned authority that the penalty to the tune of Rs. 50,00,000/- (Rupees Fifty Lakh only) is not warranted. The same, however, shall be subject to payment of the admitted stamp duty to the tune of Rs.89,97,218/- (Rupees Eighty-Nine Lakh Ninety-Seven Thousand Two Hundred and Eighteen only) within 15 days from today.
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> 7. Let respondent no.1 to facilitate the petitioner to deposit the said amount with the State Government through the Stock Holding Corporation of India Ltd.
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> 8. On doing so, let respondents to issue the notice to the petitioner for fresh hearing. Let the petitioner be heard, thereafter, a speaking order be passed. Impugned order stands set aside.
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> 9. All rights and contentions are left open.
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> 10. If the petitioner's grievance is not fully mitigated, he shall be at

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Signing Date:19.11.2026
18:00:29

liberty to take appropriate remedy in accordance with law."

5. However, upon conducting a fresh hearing, respondent no. 1 passed the impugned order dated 02.07.2026, once again imposing the identical penalty of ₹50,00,000/- upon the petitioner, on the ground of delay and the time value of money. As per the petitioner, the impugned order also fails to give credit for the principal stamp duty already deposited by it. Resultantly, the petitioner has approached this Court seeking the aforesaid reliefs.

6. The impugned order dated 02.07.2026 is set out below:

> "M/s AM Mining India Private Limited (hereinafter referred to as "the Company") submitted an online application through the Stock Holding Corporation of India Limited (SHCIL) portal on **06.06.2023** seeking adjudication of stamp duty payable under Article 19 of Schedule 1-A of the Indian Stamp Act, 1899, in respect of the issuance/allotment of equity shares bearing **Distinctive Nos. 1735000001 to 1947200000**.
>
> As per the particulars furnished by the Company, the stamp duty payable on the aforesaid issuance/allotment of shares was calculated at **Rs. 89,97,280/- (Rupees Eighty-Nine Lakh Ninety-Seven Thousand Two Hundred Eighty Only)**. The records further reveal that the Company applied for adjudication approximately one month after the date of issuance of the share certificates and had not paid the stamp duty payable at the time of issuance/allotment of the said shares.
>
> Notices were issued to the Company, and adequate opportunities of personal hearing were afforded from time to time. During the course of the proceedings, the Company was called upon to explain the reasons for non-payment of the requisite stamp duty and to discharge its statutory liability. Despite sufficient opportunities, the Company failed to deposit the applicable stamp duty and did not furnish any satisfactory explanation or legal justification for such non-payment. The details of the notices issued and the hearings conducted have already been recorded hereinabove and are not repeated herein for the sake of brevity.
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> After scrutiny of the application, the documents placed on record, the submissions made by the Company, and the relevant provisions of

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Signing Date:19.11.2026
18:00:29

the Indian Stamp Act, 1899. Article 19 of Schedule I-A of the Indian Stamp Act, 1899, as applicable to the National Capital Territory of Delhi, mandates payment of stamp duty on the issuance/allotment of shares. The liability to pay stamp duty arises immediately upon the issuance/allotment of the shares and is a mandatory statutory obligation.

The records clearly establish that the Company failed to pay the stamp duty payable at the time it became due. Even after initiation of these proceedings and despite repeated opportunities, the Company neither discharged its statutory liability nor furnished any legally sustainable explanation for such default.

The failure of the Company to pay the requisite stamp duty has resulted in delayed realization of Government revenue and constitutes a clear violation of the mandatory provisions of the Indian Stamp Act, 1899.

Section 40 of the Indian Stamp Act, 1899 empowers the Collector to require payment of the proper stamp duty together with an appropriate penalty where an instrument is found to be not duly stamped. In the present case, although the Company subsequently approached the office by filing an application for adjudication, it failed to discharge the stamp duty payable even thereafter and continued to remain in default despite repeated notices and opportunities of hearing. The Company has also failed to establish any bona fide or sufficient cause for such default.

Considering the facts and circumstances of the case, the period of delay, the substantial amount of Government revenue involved, the absence of any satisfactory explanation, and the continued failure of the Company to discharge its statutory obligation despite repeated opportunities, the penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only) is imposed under Section 40 of the Indian Stamp Act, 1899.

Accordingly, in exercise of the powers conferred under Sections 33, 38 and 40 of the Indian Stamp Act, 1899, as applicable to the National Capital Territory of Delhi, it is hereby determined that the Company is liable to pay stamp duty amounting to Rs. 89,97,280/- (Rupees Eighty-Nine Lakh Ninety-Seven Thousand Two Hundred Eighty Only) along with a penalty of Rs. 50,00,000/ (Rupees Fifty Lakh Only). Thus, the total amount payable by the Company is Rs. 1,39,97,280/- (Rupees One Crore Thirty-Nine Lakh Ninety Seven Thousand Two Hundred Eighty Only).

The Company is hereby directed to deposit the aforesaid stamp duty together with the penalty through the prescribed Government challan within the period prescribed under law from the date of receipt of this Order, failing which appropriate recovery proceedings and such other action as may be permissible under the provisions or the Indian Stamp Acl, 1899 and other applicable laws shall be initiated without

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Signing Date:19.11.2026
18:00:29

any further notice."

7. The learned counsel appearing for the petitioner argues that the impugned order is arbitrary, non-speaking, and contrary to the Guidelines for speedy disposal of cases pending for adjudication of Stamp Duty dated 31.01.2024 [hereafter '**Guidelines**'] issued by respondent no. 2, which limits the penalty to 16% per annum in cases of voluntary submission. It is argued that the petitioner had voluntarily approached respondent no. 1 for adjudication of the stamp duty payable, and the delay in doing so was of a mere four days. It is contended that the imposition of a penalty of ₹ 50 lakhs for such a delay, without recording any specific reason for deviating from the Guidelines, reflects a total non-application of mind, more so when respondent no. 1 has, after remand by this Court, re-imposed the very same penalty. It is also argued that the principal stamp duty of ₹89,97,218/- deposited by the petitioner on 23.04.2026 ought to be treated as full and final discharge of its liability towards principal stamp duty and be given due credit.

8. *Conversely*, the learned counsel appearing for the respondents, at the outset, raises a preliminary objection as to the territorial jurisdiction of this Court. It is argued that the petitioner company has its registered office at AMNS Township, Surat, Gujarat, and the core corporate transaction, i.e. the issuance of the shares which triggered the stamp duty liability, took place in Gujarat. It is, thus, contended that the entire cause of action has arisen in Gujarat, and the mere

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Signing Date:19.11.2026
18:00:29

location of respondent no. 1 in Delhi does not confer territorial jurisdiction upon this Court.

9. On merits, the learned counsel for the respondents supports the impugned order and submits that the same has been passed after affording a fresh opportunity of hearing to the petitioner, in terms of the order dated 01.04.2026 passed by this Court in W.P.(C) 4172/2026. It is submitted that Section 40(1)(b) of the Stamp Act empowers the Collector to levy a penalty of up to ten times the amount of the proper duty, and the penalty imposed upon the petitioner, being well within the said limit, has been rightly levied having regard to the delay and the time value of money.

10. *In rebuttal*, the learned counsel appearing for the petitioner, on the question of territorial jurisdiction, argues that the office of respondent no. 1 is situated in Delhi, the adjudication proceedings were conducted and the impugned order was passed in Delhi, and the petitioner had earlier approached this Court against the order dated 17.03.2026 passed in the very same proceedings; therefore, a substantial part of the cause of action has arisen within the territorial jurisdiction of this Court.

11. This Court has **heard** arguments addressed on behalf of both the parties, and has perused the material available on record.

12. In light of the rival contentions raised before this Court, the f issues which arise for consideration are – (i) whether this Court has the territorial jurisdiction to entertain the present petition; *and* (ii) if

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Signing Date:19.11.2026
18:00:29

so, whether the penalty of ₹50,00,000/- imposed upon the petitioner *vide* the impugned order dated 02.07.2026 is sustainable in law.

13. Insofar as the issue of territorial jurisdiction of this Court to entertain the present petition is concerned, it is apposite to note that Article 226(1) of the Constitution of India empowers every High Court, within its territorial jurisdiction, to issue appropriate directions, orders or writs to any person or authority, including the Government, for enforcement of fundamental rights and for any other purpose. Article 226(2), on the other hand, permits a High Court to exercise jurisdiction where the cause of action, wholly or in part, arises within its territorial jurisdiction. The expression 'cause of action' refers to the bundle of material facts which the petitioner is required to plead and establish in order to obtain the relief claimed. The mere existence of a fact having some connection with the dispute is not sufficient. The fact relied upon must have a nexus with the subject matter of the challenge and must be material, essential or integral to the relief sought. This position has been reiterated by the Hon'ble Supreme Court in ***State of Goa v. Summit Online Trade Solutions (P) Ltd.:*** *(2023) 7 SCC 791*, as well as in ***Alchemist Ltd. v. State Bank of Sikkim:*** *(2007) 11 SCC 335* and ***Oil and Natural Gas Commission v. Utpal Kumar Basu:*** *(1994) 4 SCC 711*.

14. In the present case, this Court notes that the challenge is not to the corporate decision of the petitioner to issue preference shares, nor to its liability to pay stamp duty thereon, which liability stands

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:19.11.2026
18:00:29

admitted and the principal duty in respect of which already stands deposited. The *lis* is confined to the legality of the penalty imposed by respondent no. 1 under Section 40(1)(b) of the Stamp Act. The facts which are material, essential and integral to the adjudication of this *lis* are that the petitioner presented the instrument for adjudication before respondent no. 1 at Delhi; respondent no. 1 entertained the said application, conducted hearings and passed the order dated 17.03.2026 at Delhi; and, upon remand by this Court in the earlier writ petition preferred by the petitioner, respondent no. 1 again conducted a fresh hearing and passed the impugned order dated 02.07.2026 at Delhi.

15. The location of the registered office of the petitioner at Surat, and the place where the board resolution was passed or the shares were issued, are, at best, background facts which gave rise to the liability to pay stamp duty, and such facts have no direct bearing on the question as to whether the penalty imposed by respondent no. 1 is in accordance with law. The present case, therefore, is not one where jurisdiction is sought to be founded merely on the basis of situs of the office of an authority; rather, the very order under challenge, which is the outcome of adjudication proceedings conducted in Delhi, has been passed in Delhi. Thus, the adjudicating authority exercised its jurisdiction in Delhi, the adjudication proceedings were conducted in Delhi, and the impugned order was also passed in Delhi. Further, this Court had already entertained the challenge to the earlier order dated 17.03.2026 passed in the very same proceedings, and had remanded

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:19.11.2026
18:00:29

the matter to respondent no. 1 *vide* order dated 01.04.2026. The impugned order is the outcome of the said remand. In such circumstances, this Court is also the most appropriate and convenient forum to examine whether respondent no. 1 has exercised its powers in accordance with law.

16. *Accordingly*, the preliminary objection raised by the respondents as to the territorial jurisdiction of this Court is rejected.

17. Now adverting to the issue as to whether or not the penalty imposed *vide* the impugned order is sustainable, it would first be relevant to take note of Section 40(1)(b) of the Stamp Act, under which the penalty has been imposed upon the petitioner. The said provision reads as under:

> "**40. Collector's power to stamp instruments impounded.—**
>
> (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable with a duty of ten naye paise only or a bill of exchange or promissory note, he shall adopt the following procedure:—
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> ***
>
> (b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit, an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:…"

18. A plain reading of the aforesaid provision makes it evident that the Collector, upon finding an instrument to be chargeable with duty and not duly stamped, is to require payment of the proper duty together with a penalty of five rupees; *or*, if he thinks fit, an amount

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Signing Date:19.11.2026
18:00:29

not exceeding ten times the amount of the proper duty.

19. Clearly, the use of the expressions "if he thinks fit" and "not exceeding" indicates that ten times the proper duty is only the outer limit, and the quantum of penalty to be imposed in a given case is a matter of discretion, which is to be exercised judiciously, having regard to the facts and circumstances of each case. The Hon'ble Supreme Court in ***Chilakuri Gangulappa v. Revenue Divisional Officer, Madanapalle****: (2001) 4 SCC 197* has observed that the penalty of ten times "is the upper limit" and that "the Collector shall take into account all factors concerned in deciding as to what should be the proper amount" of penalty.

20. Again, in ***Trustees of H.C. Dhanda Trust v. State of Madhya Pradesh****: (2020) 9 SCC 510*, the Hon'ble Supreme Court held that "neither imposition of penalty of ten times under Section 40(1)(b) is automatic nor can be mechanically imposed", and that "the amount of penalty not exceeding ten times is not an amount to be imposed as a matter of force". It was further held that the discretion is to be exercised "not on whims or fancies"; that penalty is generally a deterrence and not retribution; and that the imposition of an extreme penalty cannot be based on the mere factum of evasion of duty, the conduct of the party, its intent, and factors such as fraud, deceit or undue enrichment being relevant considerations in determining the quantum of penalty.

21. The principle that a penalty is not to be imposed merely

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Signing Date:19.11.2026
18:00:29

because it is lawful to do so is also well settled. In ***Hindustan Steel Ltd. v. State of Orissa***: *(1969) 2 SCC 627*, the Hon'ble Supreme Court has held as under:

> "8. … An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. **Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances.** Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute.…"
>
> (Emphasis added)

22. Recently, a Coordinate Bench of this Court in ***Galwalia Ispat Udyog Private Limited v. Govt. of NCT of Delhi***: *W.P.(C) 4852/2024*, decided on 14.10.2026, while dealing with a penalty imposed under Section 40(1)(b) of the Stamp Act upon a company which had itself, though belatedly, sought determination of the stamp duty payable under Section 31 of the Stamp Act in respect of allotment of shares, held that such discretion "must be exercised judiciously, reasonably and in a manner that is neither arbitrary nor oppressive"; that the penalty must be commensurate with the nature and gravity of the default, rather than an automatic or punitive response to the mere fact of delay; and that a belatedly preferred application does not, by itself, disclose any intention to deceive.

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Signing Date:19.11.2026
18:00:29

23. In the backdrop of the aforesaid legal position, when the facts of the present case are examined, this Court notes that the petitioner had itself approached respondent no. 1 under Section 31 of the Stamp Act seeking adjudication of the stamp duty payable. The delay in making such application was only four days. The instrument was not impounded by any authority, nor is there any finding that the petitioner had attempted to evade payment of stamp duty or had acted fraudulently or dishonestly. The petitioner had, on its own, approached the competent authority for determination of the duty payable.

24. The impugned order, however, proceeds not merely on the basis of the four-day delay, but also on the ground that the petitioner failed to deposit the stamp duty even after initiation of the proceedings and continued to remain in default despite repeated opportunities. In this regard, the impugned order does not clearly indicate as to the period for which such default is being attributed to the petitioner. Once the petitioner had approached respondent no. 1 for adjudication, the determination of the proper stamp duty payable was within the domain of respondent no. 1. The proceedings thereafter remained pending before respondent no. 1 itself. There is no finding in the impugned order that such pendency was on account of any delay or default on the part of the petitioner. It is, therefore, not clear as to how the period during which the proceedings remained pending before respondent no. 1 could be treated as a continuing default on the part of the petitioner.

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Signing Date:19.11.2026
18:00:29

25. This aspect is also significant when the earlier order dated 17.03.2026 and the impugned order dated 02.07.2026 are considered together. In the earlier order, the penalty of ₹50,00,000/- was imposed after taking into account the four-day delay and the "time value for money". The said order was set aside by this Court as it did not explain why a penalty of ₹50,00,000/- was warranted. In the impugned order, respondent no. 1 has added certain reasons, including the amount of Government revenue involved, absence of satisfactory explanation and the alleged continued default of the petitioner. However, the impugned order does not explain how these factors justify the imposition of the particular penalty of ₹50,00,000/- .

26. The reliance on the "time value of money" also cannot, by itself, justify the penalty imposed. The petitioner had approached respondent no. 1 for adjudication on 05.06.2023, and the proceedings remained pending before respondent no. 1 till the passing of the order dated 17.03.2026. The respondents have not pointed out any conduct of the petitioner which resulted in such delay. The time taken by the authority in adjudicating the matter cannot, therefore, be treated as a period of default on the part of the petitioner for the purpose of imposing penalty.

27. Respondent no. 2 has also issued the Guidelines dated 31.01.2024, which, as pointed out by the learned counsel for the petitioner, contemplate a penalty of 16% per annum in cases of

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Signing Date:19.11.2026
18:00:29

voluntary submission. Since the petitioner had voluntarily approached respondent no. 1 for adjudication, the said Guidelines were clearly a relevant consideration. Even if respondent no. 1 considered it appropriate to depart from the Guidelines, reasons for such departure were required to be recorded. The impugned order does not record any such reason. An authority exercising quasi-judicial powers is required to record reasons reflecting due application of mind to the relevant considerations [Ref: ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan****: (2010) 9 SCC 496*].

28. This Court also cannot lose sight of the fact that, pursuant to the order dated 01.04.2026, the petitioner deposited the admitted principal stamp duty of ₹89,97,218/- on 23.04.2026. The impugned order, passed thereafter on 02.07.2026, nevertheless proceeds on the basis that the petitioner had failed to discharge its statutory liability and had continued to remain in default. The said aspect has not been adequately considered or explained in the impugned order.

29. In view of the aforesaid, this Court is of the opinion that the discretion under Section 40(1)(b) has not been properly exercised by respondent no. 1. However, this Court does not consider it appropriate to itself determine the quantum of penalty, particularly when the power to determine the same is vested with the Collector.

30. The impugned order, insofar as it imposes a penalty of ₹50,00,000/-, is therefore liable to be set aside and the matter is required to be reconsidered by respondent no. 1.

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Signing Date:19.11.2026
18:00:29

31. Respondent no. 1 shall, while reconsidering the matter, take into account the fact that the petitioner had voluntarily approached the authority, the delay of four days, the period for which the adjudication proceedings remained pending before it, the subsequent deposit of the principal stamp duty, the Guidelines dated 31.01.2024 and all other relevant facts and circumstances. If any penalty is imposed, respondent no. 1 shall also record reasons as to why the particular quantum of penalty is warranted in the facts of the present case. Let a fresh reasoned order be passed in this regard, within a period of two months from receipt of copy of this order, after giving an opportunity of hearing to the petitioner.

32. As regards the principal stamp duty, the petitioner had deposited ₹89,97,218/- on 23.04.2026 pursuant to the order dated 01.04.2026 passed by this Court. Due credit for the said amount shall be given by respondent no. 1 while determining the amount, if any, payable towards the principal stamp duty.

33. The present petition is, accordingly, disposed of in above terms. Pending application, if any, also stands disposed of.

34. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

NOVEMBER 19, 2026/ns

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