

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

**CWP No. 3675 of 2023
Decided on 08th April 2025**

Mahle Anand Filter System Ltd

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting? Yes

For the petitioner: M/s T.K.A. Padmanabhan, Rahul Mahajan, Kaushiky, and Pooja Iyer, Advocates.

For the respondents: Mr. Anup Rattan, Advocate General with Mr. Sumit Sharma, Deputy Advocate General.

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioner has, inter alia, prayed for the following reliefs:-

- (i) Issue a writ of certiorari or a writ order or direction in the nature of certiorari quashing the Impugned Clarification Letter issued by Respondent No.1 to Respondent No.2 vide Office Order No.Rev. Stamp (F)1-1/2005-IV dated 03/08/2022;

- (ii) Issue a writ of certiorari or a writ order or direction in the nature of certiorari quashing the Impugned Directive issued by Respondent No.2 to Respondent No.3 vide Office Order No.PSH/11-NA (Misc-118)/2020-14 dated 09/01/2023;
- (iii) Issue a writ of mandamus, or a writ, order, or direction in the nature of mandamus, declaring that Respondent No. 3 is not entitled to claim, and the Petitioner Company is not liable to pay, any stamp duty for recording the change of name in the revenue records.
- (iv) Direct the Respondents to record the change of name of the Petitioner Company from M/s Purolator India Ltd. to that of M/s. *Mahle Anand Filter Systems Pvt. Ltd. in the Revenue Records.*”

2. In brief, facts necessary for the adjudication of this petition are that the petitioner-Company was initially incorporated in the name and style of Purolator India Limited on 16.04.1966 under the Companies Act, 1956. It purchased two residential plots i.e. MIG 39 and MIG 40 in Housing Colony Sector-1 Parwanoo from Himachal Pradesh Housing Board. The petitioner and Himachal Pradesh Housing Board executed two separate conveyance deeds qua these flats on 17.08.1988.

In the year 2008, M/s Mahle Filter Systems India Private Limited filed a scheme of amalgamation before the Delhi High Court for amalgamating it with Purolator India Limited. The amalgamation scheme was sanctioned by the Delhi High Court on 27.05.2008. In terms of the amalgamation scheme, it was provided that the Transferee Company shall be substituted with the name of Transferor Company and the Transferor Company will make necessary application to the concerned Registrar of Companies and other competent Authorities, if any, to give effect to the said change of name. Pursuant thereto, after completing the necessary formalities in accordance with law, Purolator India Limited approached the Registrar of Companies, National Capital Territory of Delhi and Haryana for change of name and fresh certificate of incorporation consequent upon change of name was issued in favour of the petitioner-Company in terms of Annexure-4, dated 04.09.2008. This was followed by issuance of a fresh certificate of incorporation consequent upon conversion from Public Company to Private Company in the name and style of Mahle Filter Systems India Private Limited as per Annexure-5, dated

31.03.2015 and Mahle Anand Filter Systems Private Limited in terms of the certificate of incorporation pursuant to change of name dated 21.08.2018 (Annexure-6). Presently, the grievance of the petitioner, i.e. Mahle Anand Filter Systems Private Limited (formerly Purolator India Limited) is that it has approached the concerned Authorities for recording the change of name of the petitioner-Company in revenue records as far as the two MIG flats owned by it in Parwanoo are concerned, however, the respondents are demanding stamp duty for fresh registration of the said flats in the name of the petitioner-Company.

3. Learned counsel for the petitioner submitted that the demand of the respondents is completely unjustified. Learned counsel referred to the impugned communications dated 03.08.2022 and 09.01.2023 and submitted that the Authorities are misconstruing the request of the petitioner-Company for the reason that it is not as if the MIG flats were initially belonging to Mahle Filter Systems India Private Limited which amalgamated with Purolator India Limited and as the MIG flats happened to be the original property of Purolator

India Limited, which is now known by the nomenclature of Mahle Anand Filter Systems Private Limited, therefore, it is a simple case of registering the incorporation of the name of the owner as in Company records, which is to be reflected in the revenue record.

4. Learned Advocate General on the other hand by placing reliance on the reply filed by the respondents submitted that as there indeed is going to be a change in the owners of the property in question, therefore, there is no illegality in the demand of the requisite stamp fee in terms of orders dated 03.08.2022 and 09.01.2023. Learned Advocate General has also referred to Section 394(2) of the Companies Act, 1956 and has submitted that the demand of the State is justified even in terms of the said statutory provision.

5. I have heard learned counsel for the parties and have also carefully gone through the pleadings as well as documents appended therewith.

6. Facts as I have narrated hereinabove, are not in dispute. The moot issue which this Court has to determine is as to whether in the given circumstances, for the reflection of the

alternation in the name of the petitioner as owner of the MIG flats is it bound to pay the stamp duty as is being demanded by the respondents or not.

7. In terms of communication dated 03.08.2022, Principal Secretary (Revenue) to the Government of Himachal Pradesh has intimated Deputy Commissioner, Solan, H.P., on the subject "Clarification regarding payment of Stamp Duty consequent upon change of name and amalgamation of a company" that as per Section 3 of Indian Stamp Act, 1899, and Para 5 of the Scheme of Amalgamation/order passed by High Court of Delhi on 27-05-2008 in the C.P No.53/2008 under Section 394 of the Companies Act, 1956, there is no exemption in Stamp Duty & Registration Fee. It is further mentioned in this communication that there are instructions in force, i.e. instruction dated 16-02-2012, in which it has been clarified that the amalgamation scheme sanctioned by the Court, would be an Instrument and Stamp Duty is chargeable on such instrument unless the High Court, while sanctioning a scheme, has directed under Section 394 (2) of the Companies Act 1956 that on transfer of property on sanction of scheme of

amalgamation under Sections 391 to 394, no stamp duty shall be payable. As there no such direction given by the Court while sanctioning scheme of amalgamation, then on such instrument, stamp duty shall be chargeable.

8. Similarly, in terms of communication dated 02.01.2023, which is addressed by District Revenue Officer, Solan, District Solan, H.P., to the Naib Tehsildar, Parwanoo, Dstrict Solan, H.P., on the subject “application for Mutation in Revenue record u/s 37(2) of MIG house No. 39 & 40 at Sector 1, Parwanoo in name of M/s Mahle Anand Filter Systems Pvt. Ltd.,” it is mentioned by referring to the letter of Principal Secretary-cum-F.C. Revenue, dated 03.08.2022 that the Government of Himachal Pradesh has intimated that in terms of Section 3 of Indian Stamp Act, 1899, and Para-5 of the Scheme of Amalgamation, as there is no exemption in stamp duty and registration fee, therefore, the revenue record be updated after depositing the stamp duty and registration fee as per “Indian Stamp and Registration Act.”

9. This Court is of the considered view that the direction which has been issued by the District Revenue Officer

to the effect that the update in the revenue record should be after the deposition of stamp duty and registration fee is not sustainable in law. This is for the reason that the property qua which update is being sought by the petitioner in the revenue record, was not the property originally owned by M/s Mahle Filter Systems (India) Private Limited, which in terms of the scheme of amalgamation sanctioned by the Delhi High Court on 27.05.2008, amalgamated into the then Purolator India Limited. In other words, the demand of stamp duty would have been justified had this property been originally owned by M/s Mahle Filter Systems (India) Private Limited and had it come in possession of the Purolator India Limited pursuant to the amalgamation scheme sanctioned by the Delhi High Court. Thus, these two flats indeed have got nothing to do with the amalgamation scheme. They were the property of M/s Purolator India Limited and they still continue to be property of M/s Purolator India Limited, which company is now known by the nomenclature of Mahle Anand Filter Systems Private Limited, in terms of the certificate of incorporation pursuant to change of name duly issued by the Ministry of Corporate

Affairs, Government of India.

10. In fact, this Court has no hesitation in holding that the Authorities are completely misreading the scheme of amalgamation and their insistence upon the charging of stamp duty on the ground that there is no exemption for the same in amalgamation scheme is completely misconceived, because, the Authorities are not appreciating that the property in issue i.e. the two MIG flats were not part and parcel of the amalgamation scheme. Had they been part of the amalgamation scheme, then, obviously, the contents of the amalgamation scheme would have been read while determining as to whether the stamp duty was payable or not. However, as these two MIG flats have got no concern whatsoever with the amalgamation scheme, therefore, the contents thereof have got nothing to do in determining as to whether on request of the petitioner to update the revenue record whether stamp duty is payable or not.

11. As far as the provisions of Section 394 of the Companies Act, 1956 are concerned, this Court is of the considered view that this Section has got no application in the

facts of this case again for the simple reason that the property qua which update in revenue record is being sought by the petitioner was not a subject matter of the amalgamation.

12. In the light of the findings returned hereinabove, communications dated 03.08.2022 and 09.01.2023, respectively, are hereby quashed and set aside and the respondents are directed to change and update the revenue record by reflecting the MIG flats in issue in the ownership of Mahle Anand Filter Systems Private Limited as expeditiously as possible and not later than 30.05.2025. No order as to costs. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

April 08, 2025
(*Vinod*)